AGENDA

AMERICAN BAR ASSOCIATION

BOARD OF GOVERNORS

Vancouver Convention Centre
Vancouver, British Columbia
January 31 – February 2, 2018

MEETINGS OF THE BOARD AND BOARD COMMITTEES

Thursday, February 1, 2018

Member Services Committee 9:00 a.m. – 5:00 p.m.
Room 119/120, West Level 1

Profession, Public Service and Diversity Committee 9:00 a.m. – 5:00 p.m.
Room 121/122, West Level 1

Finance Committee 9:00 a.m. – 5:00 p.m.
Room 118, West Level 1

Board of Governors Luncheon 12:00 p.m. – 1:30 p.m.
Ocean Foyer, West Level 1

Friday, February 2, 2018

Board of Governors Meeting 9:00 a.m. – 5:00 p.m.
Room 301-305, West Level 3

Board of Governors Luncheon 12:00 p.m. – 2:00 p.m.
Room 306, West Level 3

Board of Governors Meeting Reconvenes 2:00 p.m.
OTHER MEETINGS – MIDYEAR 2018 BOARD MEETINGS

Wednesday, January 31, 2018

Executive Committee Meeting
Room 121, West level 1
1:30 p.m. – 3:30 p.m.

Subcommittee on Investments Meeting
Room 118, West Level 1
2:00 p.m. – 5:00 p.m.

Board Governance Committee Meeting
Room 122, West Level 1
3:00 p.m. – 4:00 p.m.

Strategic Planning Working Group
Room 120, West Level 1
4:00 p.m. – 5:00 p.m.

Thursday, February 1, 2018

Executive Compensation Subcommittee Meeting
Amber Room, Fairmont Pacific Rim
7:30 a.m. to 9:00 a.m.

Saturday, February 3, 2018

Standing Committee on Audit Meeting
Room 105/106, West Level 1
8:00 a.m. to 12:00 p.m.
1. REPORT OF OFFICERS
9:00 a.m. – 9:45 a.m.

1.1 President  
BASS

1.2 President-Elect  
CARLSON

1.3 Chair of the House of Delegates  
ENIX-ROSS

1.4 Immediate Past President  
KLEIN

1.5 Secretary  
SMITH

a.* Approval of Board Minutes  
October 19-20, 2017

b. Executive Committee Minutes  
i. October 18, 2017

ii. November 3, 2017 (email ballot)

iii. November 13, 2017

iv. November 21, 2017

v. December 11, 2017

vi. December 21, 2017 (email ballot)

c. Blanket Authority Report

d.* Fund for Justice and Education  
(Board sitting as members of the Board of the Fund for Justice and Education)

i. Approval of Minutes

ii. Final Acceptance of Grant Awards

e* Request for Adoption of Memorial Resolutions  
i. Joe B. Whisler

ii. Jack F. Dunbar

1.6 Treasurer  
BEHNKE

1.7 Executive Director  
RIVES

* Board action required.
2. MATTERS FOR DIRECT BOARD ACTION

2.1 Discussion Regarding New Membership Model
   a. Presentation by Avenue
      Bob Domenz, Chief Executive Officer, Avenue
      9:45 a.m. – 11:15 a.m.
   b. Overview of the New Membership Model
      Tracy A. Giles, Chair, Standing Committee on Membership
      Jack L. Rives, Executive Director
      James Dimos, Deputy Executive Director
      Michael Kreisberg, Chief Membership Officer
      11:15 a.m. – 11:30 a.m.

2.2* Executive Session
   Jack L. Rives
   11:30 a.m. – 12:00 noon

2.3* House Reports
   Resolution No. 108E
   Resolution No. 112A
   2:00 p.m. – 2:15 p.m.

2.4 Website Update from Code & Theory
   Michael Treff, President
   David DiCamillo, Director of Operations
   Lanya Olmstead, User Experience Design
   2:15 p.m. – 2:45 p.m.

2.5 Reports from Committee Chairs
   a. Profession, Public Service and Diversity
   b. Finance
   c. Member Services
   2:45 p.m. – 3:00 p.m.

2.6* Consent Calendar
   a. Items to be Removed from Consent Calendar
   b. Adoption of Consent Calendar
   3:00 p.m. – 3:15 p.m.

2.7 Report Regarding Fund for Justice and Education
   Robert Clifford, Chair, Fund for Justice and Education
   3:15 p.m. – 3:30 p.m.

2.8 Report Regarding ABA Pathway to the Profession Project
   Robert Gonzales, Chair, ABA Pathway to the Profession Project
   3:30 p.m. – 3:45 p.m.
4.6 Request from Standing Committee on Governmental Affairs to Create ABA Political Action Committee
H. Russell Frisby, Jr., Chair, Standing Committee on Governmental Affairs
William K. Weisenberg, Member, Standing Committee on Governmental Affairs
Thomas M. Susman, Associate Executive Director, Governmental Affairs

3:45 p.m. – 4:15 p.m.

INFORMATIONAL REPORTS

2.25 Informational Report from the Center for Innovation

3.30 Membership Report
### AGENDAS OF BOARD COMMITTEES

#### 3. MEMBER SERVICES

**a) Matters for Review by the Board**

<table>
<thead>
<tr>
<th>Number</th>
<th>Item</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.1</td>
<td>Requests for Bylaw Amendments</td>
<td>3.1</td>
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<tr>
<td>a.</td>
<td>Section of Antitrust Law</td>
<td>3.1</td>
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<td>b.</td>
<td>Section of International Law</td>
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<td>c.</td>
<td>Young Lawyers Division</td>
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<td>d.</td>
<td>Section of Administrative Law and Regulatory Practice</td>
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<td>e.</td>
<td>Tort Trial and Insurance Practice Section</td>
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<td>3.2</td>
<td>Request from Section of International Law to Enter Into Friendship Agreement</td>
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<td>3.3</td>
<td>Request from President Bass to Create a Task Force to Coordinate ABA Educational Outreach in Response to the New Tax Legislation</td>
<td>3.3</td>
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<td>3.4</td>
<td>Request to Amend the Business Conduct Standards</td>
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<td>3.5</td>
<td>Request from President-Elect Carlson to Approve Board Meeting Dates for 2018-2019</td>
<td>3.5</td>
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<td>3.6</td>
<td>Request to Amend the Constitution and Bylaws Regarding New Membership Model</td>
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<td>3.7</td>
<td>Request from President Bass to Create Working Group on Hate Speech and the Internet and to Seek Outside Funding</td>
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<td>3.8</td>
<td>Request from Section of Intellectual Property Law to Enter Into Cooperating Agreement with the Fédération Internationale en Propriété Intellectuelle</td>
<td>3.8</td>
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**b) Matters for Committee Consideration Only**

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<thead>
<tr>
<th>Number</th>
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<tbody>
<tr>
<td>3.20</td>
<td>Approval of Minutes</td>
<td>3.20</td>
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<tr>
<td></td>
<td>October 19, 2017</td>
<td>3.20</td>
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**c) Informational Only**

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<th>Number</th>
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<tbody>
<tr>
<td>3.21</td>
<td>Report from ABA Center on Innovation and Young Lawyers Division</td>
<td>3.21</td>
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<tr>
<td>3.30</td>
<td>Membership Report</td>
<td>3.30</td>
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AGENDAS OF BOARD COMMITTEES

4. PROFESSION, PUBLIC SERVICE AND DIVERSITY

a) Matters for Review by the Board

4.1 Nominations and Request for Reauthorization of Membership
   a. i. Request from Intellectual Property Law Section
       for Reauthorization of Institutional Membership
       in American Intellectual Property Law Education
       Foundation
   ii. American Intellectual Property Law Education
       Foundation (Section of Intellectual Property Law)
   b. Intellectual Property Constituency
       (Section of Intellectual Property Law)
   c. Industry Trade Advisory Committee on Services
       and Financial Industries
       (Section of International Law)

4.2 Request from ABA Fund for Justice and Education to Approve
   Revised Program Support Fund and Endowment Policy
   Finance

4.3 Requests from Rule of Law Initiative
   a. Memorandum of Understanding with Ground Truth
      Solutions and Prince Sultan University
   b. Amendment to List of Approved Countries of Operation
      and Registration, Donors and Thematic Program Areas

4.4 Request from Center for Human Rights for Approval of
   Memorandum of Understanding with International Senior
   Lawyers Department

4.5 Request to Enter Into Agreement Regarding Mind Your Loved
   Ones App

4.6 Request from Standing Committee on Governmental Affairs to
   Create ABA Political Action Committee

4.7 Request to Consider and Evaluate Reinstituting the
   Enterprise Fund in FY2019

4.8 Request from ABA Center for Innovation to Enter Into
   Memorandum of Understanding with the Legal Services
   Corporation
b) **Matters of Independent Jurisdiction**

4.15 Requests for Co-Sponsorship
   a. Section of Antitrust Law
   b. Young Lawyers Division
   c. Rule of Law Initiative (2)
   d. Section of Science & Technology Law
   e. Commission on Homelessness and Poverty
   f. ABA Representatives and Observers to United Nations

4.15g Section of Environment, Energy, and Resources Request to Co-Sponsor and Contribute Funds

4.20 Approval of the Minutes
   October 19, 2017

4.21 ABA Enterprise Fund Projects – FY2018 First Quarter Reports

4.22 Report from Committee on Scope and Correlation of Work and Review Schedule

4.23 Report from Commission on Hispanic Legal Rights and Responsibilities on Phone Banks Conducted

4.30 Informational Report on Action Taken Since Last Meeting

4.31 FY2018 Profession, Public Service and Diversity Committee Roster and Chart of Assignments of Entities Overseen

e) **Supplemental Materials**

4.15g Section of Environment, Energy, and Resources Request to Co-Sponsor and Contribute Funds

*Finance*
AGENDAS OF BOARD COMMITTEES

5. FINANCE COMMITTEE

a) Matters for Review by the Board

4.2 Request from ABA Fund for Justice and Education for Approval of Revised Program Support Fund and Endowment Policy *Profession, Public Service and Diversity* 4.2

4.15a Request from Section of Antitrust Law for Co-Sponsorship *Profession, Public Service and Diversity* 4.15a

4.15g Section of Environment, Energy, and Resources Request to Co-Sponsor and Contribute Funds *Profession, Public Service and Diversity* 4.15g

5.1 Request from Family Law Section to Make Contribution to Jean Crowe Advocacy Center 5.1

5.2 Request from Standing Committee on Audit Report Regarding Acceptance and Approval of Audited Financial Statements 5.2

5.3 Revised Investment Policy 5.3

5.4 Gift Awards/Modification Report (Board Acceptance) 5.4

5.5 Request to Amend the Constitution and Bylaws Regarding the ABA Journal 5.5

5.6 Request from Standing Committee on Audit for Board Endorsement of Bylaw Amendment 5.6

b) Matters for Committee Consideration Only

5.20 Approval of Minutes: Finance Committee October 19, 2017 5.20

5.21 Treasurer’s Report 5.21

5.22 Report of Investments Subcommittee 5.22
5.23 1st Quarter FYTD Variance to Budget Report(s)  5.23
   a. General Counsel
   b. Chief Governance Office Group
   c. CFO/Senior Association Executive Director

5.24 FY2018 General Operations/Revenue Forecast  5.24

5.25 ABA FY2019 Budget:  5.25
   a. Resource Allocation Recommendations
   b. Sections, Divisions and Forums Normalized Funding Guidance
   c. General Operations Budget Target Guidance

5.26 Sections, Divisions and Forums Financial Trends  5.26

5.27 Retirement Plans Updates  5.27
   a. Pension
   b. Thrift Plan

c) **Informational Only**

3.30 Membership Report  3.30
(Separate Distribution)
TO: Board of Governors

FROM: Hilarie Bass

DATE: January 11, 2018

SUBJECT: Report of the President

My activities since the Fall 2017 Board of Governors’ Meeting are as follows:

October 23, 2017

Miami, FL
- Delivered remarks to students and faculty at the University of Miami Hillel lecture series, Woman Power
- Participated in interview with Law 360

October 24, 2017

Miami, FL
- Participated in Hurricane Irma Pro Bono Legal Clinic
- Delivered remarks at the Section of International Law Fall Council Meeting
- Delivered remarks at Southern District of Florida Reception honoring ABA President

October 25, 2017

Tampa, FL
- Participated in the Bay Area’s Volunteer Lawyers Program’s Pro Bono Clinic
- Delivered keynote remarks at the Hillsborough County Bar Association Luncheon

October 27, 2017

Chicago, IL
- Hosted breakfast meeting of Chicago affinity bars to discuss their participation in “CLE in the City” at the ABA’s 2018 Annual Meeting
- Participated in a call with the ABA Working Group on Fines and Fees regarding funding sources

November 1-4, 2017

Marrakech, Morocco
- Attended and delivered remarks at ABA ROLI Marrakech Retreat and Board Meeting
- Hosted Women and the Law Luncheon
- Visited Marrakech courts
- Participated in ROLI program
- Participated in Roundtable Discussion with the Mayor of Marrakech on Strengthening Participatory Governance in Morocco
November 5, 2017  Miami, FL
- Led conversation with Justice Stephen Breyer to discuss his book *The Court and The World*

November 7-8, 2017  Cambridge, MA
- Attended and delivered remarks at the National Summit on Achieving Long-Term Careers for Women in the Law Conference at Harvard Law School
- Hosted a Managing Partner Forum at Greenburg Traurig Boston office

November 9, 2017  New Orleans, LA
- Delivered remarks at the Southeast Louisiana Legal Services 50th Anniversary commemoration
- Delivered remarks to Tulane and Loyola Law Students
- Delivered remarks at Entergy Corporation’s Office of General Counsel

November 10, 2017  New York, NY
- Participated in NYU School of Law and Brennan Center joint conference titled “Courts Under Pressure: Protecting Rule of Law in the Era of trump”; panelist on "Building a Bipartisan Commitment to Rule of Law"

November 13 – 14, 2017  Miami, FL
- ABA conference call with National Affinity Bars
- ABA conference call on Paris Event for 70th Anniversary of UDHR

November 16, 2017  Philadelphia, PA
- Participate on the “A View from the Top: What It's Like to be the Firm's Managing Partner” panel during the Women in Litigation Joint Conference sponsored by the Section of Litigation

November 16, 2017  Washington, D.C.
- Attended National Center for State Courts William H. Rehnquist Award Dinner at United States Supreme Court

November 17, 2017  Washington, D.C.
- Delivered remarks at the 27th Annual Review of the Field of National Security Law sponsored by the Standing Committee on Law and National Security

November 20, 2017  Miami, FL
- Participated in conference call with SCOPE Committee

November 22, 2017  Miami, FL
- Participated in conference call on planned ABA Hate Speech effort

November 28-30, 2017  Sao Paulo, Brazil
- Participated in the ABA International Summit on the Legal Rights of Street-Connected Children and Youth
December 1-2, 2017  
**Paris, France**
- Attended Annual Paris Rentree International Conference and Ceremony
- Hosted Paris City Chapter Breakfast

December 4, 2017  
**London, U.K.**
- Delivered remarks at London South Bank University

December 5, 2017  
**London, U.K.**
- Interview with *Law Society Gazette*
- Delivered keynote address at the Law Society Annual Pro-Bono Awards 2017 Ceremony

December 7-8, 2017  
**Miami, FL**
- Participated in panel on the “Hot Topics in Class Action and Mass Torts” at the University of Miami School of Law Class Action & Complex Litigation Forum

December 11, 2017  
**New York, NY**
- Lunch meeting with Bill O’Dowd and Leslee Dart re proposed program re sexual harassment
- Delivered remarks at New York County Lawyers Association 103rd Annual Dinner Celebrating Outstanding Women in the Legal Profession

December 14, 2017  
**Chicago, IL**
- Hosted CLE in the City Planning Meeting with Chicago law firms for 2018 ABA Annual Meeting

December 22, 2017  
**Miami, FL**
- Participated in conference call with PEW and Center For Innovation
- Participated in conference call with Trish White and Andrea Sinner re Commission on the Future of Legal Education

January 2, 2018  
**Fort Lauderdale, FL**
- Delivered remarks at ABA Journal Board of Editors Meeting

January 3 - 4, 2018  
**San Diego, CA**
- Delivered remarks at 112th Association of American Law Schools (AALS) Annual Meeting and Steering Committee Luncheon
- Attended meeting of the ABA Commission on the Future of Legal Education
- Participated in interview with *San Diego Union-Tribune*

January 7-8, 2018  
**Hong Kong**
- Attended Opening of the Legal Year Ceremony
- Delivered remarks at Presidential Roundtable
January 9-12, 2018  
**Hanoi, Vietnam**
- Met with U.S. Ambassador to Vietnam Daniel Kritenbrink
- Met with President Thinh of Vietnamese Bar Federation
- Met with Vice Minister of Justice of Vietnam Tran Tien Dung
- Meeting with Chief Justice of Vietnamese Supreme Court Nguyen Hoa Binh
- Participated in program on Legal Ethics with 100 Vietnamese lawyers
- Met with Vietnamese Prime Minister Nguyễn Xuân Phúc
- Met with leaders of the Bac Ninh Province

January 18-20, 2018  
**Honolulu, HI**
- Delivered remarks at the 2018 Section of Litigation Winter Leadership Meeting

January 24, 2018  
**New York, NY**
- Moderated panel at the New York State Bar Association 141st Annual Meeting, Presidential Summit
- Interview with *The Wall Street Journal*

January 25, 2018  
**Tallahassee, FL**
- Met with Florida Supreme Court Justices
- Delivered remarks at Florida Supreme Court Historical Society Annual Dinner and Reception

January 29, 2018  
**Henderson, NV**
- Delivered remarks at the Conference of Chief Justices Midyear Meeting

**My upcoming meetings and activities to date are as follows:**

February 7-8, 2018  
**San Francisco, CA**
- Host Managing Partner Forum, Greenburg Traurig Office
- Deliver remarks at Ark Group’s 11th Annual Women Legal Conference

February 9, 2018  
**Miami, FL**
- Attend and deliver remarks at University of Miami Law Review's 2018 Symposium

February 13, 2018  
**Chicago, IL**
- Deliver remarks at University of Chicago Law School Alumni Dinner

February 14-15, 2018  
**Charlotte, NC**
- Live interview on “Charlotte Talks” on WFAE radio, local NPR affiliate
- Deliver keynote remarks at World Affairs Council Conference
- Private dinner with local business, political and community leaders welcoming Hilarie Bass to Charlotte
- Deliver remarks to University of North Carolina-Charlotte students and faculty at International Speakers Forum
February 19, 2018  
**Washington, D.C.**
- Attend Standing Committee on Federal Judiciary Meeting

February 20-21, 2018  
**Washington, D.C.**
- Attend ROLI Board Meeting
- Deliver remarks at Pro Bono Institute

February 22-24, 2018  
**Savannah, GA**
- Attend ABE Board Meeting

February 25-27, 2018  
**Tel Aviv**
- VIP Cocktail for all international guests and speakers by ROBUS
- Deliver keynote at Israeli Bar Association Meeting, sponsored by SIL
- Interview for the Israel Bar Magazine and Meeting with Effie Nave, President of Israel Bar Association
- Speak at the Radzyner Law School at IDC; Topic: *ABA’s Commitment to the Rule of Law*
- Lecture at Tel Aviv University School of Law

March 3, 2018  
**Washington, D.C.**
- Attend Gridiron Club and Foundation Dinner

March 7 – 8, 2018  
**Chicago, IL**
- Attend ABA Techshow
- Deliver remarks at “Grit, Insights from the ABA President and fellow successful women lawyers” sponsored by Chicago Women in IP

March 12 – 13, 2018  
**New York, New York**
- Attend 62nd Annual United Nations Commission on the Status of Women Sessions/Conferences
- ABA Working Group to Advance Well-Being Conference Call

March 14-15, 2018  
**Chicago, IL**
- Attend and deliver remarks at 2018 Bar Leaders Institute (BLI)
- Host Managing Partner Forum

March 24, 2018  
**Des Moines, IA**
- Deliver remarks at Drake Law School and Iowa Supreme Court Joint Dinner

April 4-5, 2018  
**Stanford, CA**
- Attend 2018 CodeX Future of Law Conference

April 6-7, 2018  
**Washington, D.C.**
- Deliver remarks at ABA Section of Dispute Resolution Spring Conference
- Judge Law Student Division National Appellate Advocacy Competition
- Host Managing Partner Forum

Approximate percentage spent in travel budget as of January 11, 2018: 46%
My activities since the last report from the Fall BOG Meeting are as follows:

**October 21 – 23, Memphis, TN**

- Attended Southern Conference of Bar Presidents Meeting

**October 23 – 25, Miami, FL**

- Attended Section of International Law Fall Meeting and delivered remarks at council meeting
- Visited Hurricane Irma pro bono legal clinic with Hilarie Bass

**October 25 – 26, 2017, Toronto, ON**

- Delivered remarks at council meeting during Union Internationale des Avocats (UIA) 61st Annual Congress

**October 26 – 29, 2017, Newport, RI**

- Attended American Bar Endowment Fall Meeting
- Participated in Scope Committee meeting via conference call
November 1 – 4, 2017, Harlingen/Brownsville, TX

- Toured U.S./Mexico border, Port Isabel Detention Center, shelters for unaccompanied immigrant children, and border patrol stations with ABA Commission on Immigration
- Attended Commission’s fall business meeting
- Delivered remarks at “Burgers with the Bench” event, hosted by Cameron County Bar Association

November 6 – 9, 2017, Cambridge, MA

- Attended meetings and events of National Summit on Achieving Long-Term Careers for Women in Law, co-sponsored by ABA and Harvard Law School
- Attended ABA managing partners forum, hosted by Greenberg Traurig

November 13 – 15, 2017, New York, NY

- Participated on ABA Journal Board of Editors strategic planning conference call
- Met with NYC-area bar leaders and delegation of People’s Republic of China to discuss civil code in China
- Delivered remarks at New York ABF Fellows reception and attended dinner

November 15 – 17, 2017, Philadelphia, PA

- Attended Women in Litigation Joint Conference programs and events

November 20, 2017, Butte, MT

- Participated on Presidential Appointments Committee conference call
- Participated on ABA Lawyer Retreat Vail 2018 Steering Committee conference call

November 21, 2017, Butte, MT

- Participated on Executive Committee conference call
- Participated on conference call with ABA Regulation and Global Initiatives Counsel Ellyn Rosen regarding Vietnam Lawyer Exchange and Training Program

November 30 – December 1, 2017, Helena, MT

- Attended State Bar of Montana Board of Trustees meeting and events
December 6, 2017, Butte, MT

- Attended Butte-Silver Bow Bar Association event

December 12 – 14, 2017, Chicago, IL

- Met with ABA Deputy Director Jim Dimos
- Met with Office of the President staff Katy Englehart and Danielle Norwood regarding presidential appointments
- Met with Office of the President staff Ira Pilchen and Sarah Vetrano regarding scheduling
- Attended Annual Meeting site visit and lunch with Associate Directors Alpha Brady and Marty Balogh
- Met with Avenue Marketing and ABA leadership
- Attended ABA leadership dinner and meeting
- Attended CLE in the City planning meeting
- Meet with CMR and OP to discuss strategic planning
- Attended One ABA meeting

January 2 – 4, 2018, Fort Lauderdale, FL

- Attended ABA Journal Board of Directors Winter Meeting events and activities

January 7 – 13, 2018, Hanoi, Vietnam

- Attended Vietnam Lawyer Exchange and Training Program
- Met with USAID Director Michael Greene
- Met with the Supreme People’s Court
- Met with the US Ambassador
- Attended signing agreement of cooperation between ABA and VBF
- Attended lunch with VBF
- Met with Ministry of Justice
- Attended Supreme People’s Court of Vietnam
- Delivered remarks and attended workshops on “Code of Ethics for Lawyers”
- Participated in delegation excursions to Do Temple and Dong Ky
- Met with Bac Ninh Bar Association

January 17 – 19, 2018, Washington, D.C.

- Attended media training with CMR

January 26, 2018, Billings, MT

- Delivered remarks at Yellowstone County Bar Association luncheon
**January 30, 2018, Vancouver, B.C.**

- Attended annual ABA meeting with Canadian Bar Association

**January 31 – February 6, 2018, Vancouver, B.C.**

- ABA Midyear Meeting

**My upcoming meetings and activities scheduled to date:**

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<tr>
<th>Date</th>
<th>Location</th>
<th>Details</th>
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<tr>
<td>February 8 – 10, 2018</td>
<td>San Diego, CA</td>
<td>Section of Taxation Midyear Meeting</td>
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<td>February 12, 2018</td>
<td>Butte, MT</td>
<td>ABA/GP-Solo 2018 Law Student Outreach Program</td>
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<td>February 22 – 25, 2018</td>
<td>Savannah, GA</td>
<td>ABE Meeting</td>
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<tr>
<td>February 26 – 28, 2018</td>
<td>Las Vegas, NV</td>
<td>Midyear Meeting Site Visit</td>
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<td>March 7, 2018</td>
<td>Chicago, IL</td>
<td>ABA TECHSHOW</td>
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<td>March 13 – 16, 2018</td>
<td>Chicago, IL</td>
<td>Affinity Bars Presidents-Elect Meeting &amp; Bar Leadership Institute</td>
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<td>March 18 – 20, 2018</td>
<td>Chicago, IL</td>
<td>Presidential Appointments Committee Meeting</td>
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<td>March 21 – 24, 2018</td>
<td>Santa Barbara, CA</td>
<td>Western States Bar Conference</td>
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<td>April 10 – 12, 2018</td>
<td>Washington, D.C.</td>
<td>ABA Day in Washington</td>
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<td>April 23, 2018</td>
<td>New York, NY</td>
<td>ABA Day at United Nations</td>
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<tr>
<td>May 7, 2018</td>
<td>Chicago, IL</td>
<td>Presidential Appointments Committee Meeting</td>
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<td>May 17 – 18, 2018</td>
<td>Chicago, IL</td>
<td>Business Bar Leaders Conference</td>
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<td>May 31 – June 2, 2018</td>
<td>Medora, ND</td>
<td>51st Annual Jackrabbit Bar Conference</td>
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<tr>
<td>June 7 – 10, 2018</td>
<td>Paris, France</td>
<td>Celebration of the 70th anniversary of the signing of the Universal Declaration of Human Rights</td>
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<td>June 13 – 17, 2018</td>
<td>Louisville, KY</td>
<td>American Bar Endowment Board Meeting</td>
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<td>June 19 – 22, 2018</td>
<td>Denver, CO</td>
<td>Board of Governors Spring Meeting</td>
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**Approximate percentage spent in travel budget as of December 21st: 30%**
MEMORANDUM

To: Members of the Board of Governors

From: Deborah Enix-Ross, Chair of the House of Delegates

Subject: Report of the Chair of the House of Delegates

Date: December 22, 2017

My activities since my September 2017 report include:

ACTIVITIES AND EVENTS

October 18-20  Board of Governors Fall Meeting  Miami
October 25-28  Section of International Law Fall Meeting  Miami
November 13   Board of Governors Executive Committee  Telephonic
November 20   Conference call with ABA President, President-Elect and members of SCOPE  Telephonic
November 30-December 2  Rules & Calendar Committee Meeting  Orlando
December 4    Profession, Public Service and Diversity (PPSD) Committee  Telephonic
December 8    Profession, Public Service and Diversity (PPSD) Committee  Telephonic
December 11   Board of Governors Executive Committee  Telephonic
December 20   Conference call with ABA Staff regarding District 15 Board of Governors Special Election  Telephonic
## UPCOMING ACTIVITIES AND EVENTS

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<tr>
<th>Date</th>
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<td>January 2-4</td>
<td>ABA Journal Board of Editors</td>
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FROM: Linda A. Klein
DATE: December 21, 2017
SUBJECT: Report of the Immediate Past President

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Executive Director Jack L. Rives and the following management staff also attended: Elizabeth Andersen, Martin D. Balogh, Alpha M. Brady, Holly Cook, Barry Currier, James Dimos, H. Maria Enright, Janae LeFlore, Michael Kreisberg, William K. Phelan, Jarisse J. Sanborn, Carol Stevens, and Thomas M. Susman.

President Bass called the meeting to order and welcomed the members of the Board and Association staff.

1. REPORTS OF OFFICERS AND THE EXECUTIVE DIRECTOR

1.1 The Board received the written report of President Bass. She said what a pleasure it has been for her to travel on behalf of the ABA. She complimented the ABA in addressing the immigration crisis and website devoted to the issue. President Bass provided an overview of the issues she will focus on during her year: 1) The internal ABA, OneABA, realignment studies, and financial operation efficiencies. The Board has a fiduciary responsibility to leave the ABA a more sound and viable association. 2) The Commission on the Future of Legal Education is up and running and the Chair, Dean Patricia White, will report to the Board at this meeting. 3) With the many alternative sources of information available today, questions often arise about the factual basis for news and political claims. To address this important need, the ABA has launched ABA Legal Fact Check. This service will provide reliable, nonpartisan information to the public and news media addressing a wide range of legal topics. 4) The ABA will continue to pair homeless shelters with pro bono lawyers who visit the shelters. 5) A conference will be held in November, and focus groups will be created to examine the issue of long-term careers for women lawyers. 6) There will also be a working group created regarding lawyer wellness, specifically addressing addiction and depression. 7) A Task Force will be created to update billing codes used by attorneys and law firms. President Bass and President-Elect Carlson met with managing partners in Miami to inform them of the work the ABA does for law firms, including negotiating with Congress and the Federal Trade Commission. Both she and President-Elect Carlson are committed to visiting cities around
the country to inform them about the work of the ABA. The best way to do that is not have the President always make the statements. Other volunteers should be able to interact with the media and make public statements. A video was shown regarding the work of the Young Lawyers Division: Lessons from Harvey, Irma, and Maria: How to Effectively Implement DLS when a Disaster Strikes. After the video was viewed, the Board adopted the following resolution:

UPON MOTION DULY MADE, SECONDED AND CARRIED:

BE IT RESOLVED, That the Board of Governors of the American Bar Association, meeting on the twentieth day of October, 2017, in Miami, Florida, presented a Certificate of Appreciation to Andrew Jack VanSingel to acknowledge his leadership of the ABA Young Lawyers Division Disaster Legal Services Team, in particular to the actions taken and assistance provided to victims of Hurricanes Harvey, Irma, and Maria and the California Wildfires.

1.2 President-Elect Carlson referred the Board to his written report of activities. He stated that the Board is responsible to lead the association and collaborate with entities inside and outside of the association. He informed the Board that he will not create any new initiatives, but continue to move forward with the programs that have begun. He is working on ABA Blueprint, started by Immediate Past President Klein, with the General Practice, Solo and Small Firm Section, Section of Litigation, and the Young Lawyers Division to promote it and continually update its content. When he and President Bass are in the same town, they visit bar associations and Executive Directors to find ways to collaborate and to emphasize that the ABA is not in competition with them. The presidential appointment process begins now, and he asked the Board members to spread the word to lawyers in their areas.

1.3 Chair of the House of Delegates (“House”) Deborah Enix-Ross referred the Board to her written report of activities. She informed the Board that the deadline for filling Resolutions with Reports for the Vancouver Midyear Meeting is November 15 and that the House of Delegates will meet for one day. Board member A. Vincent Buzard resigned. The process has begun to fill the vacancy by the 2018 Midyear Meeting.

1.4 The Board received the written report of Immediate Past President Klein. She stated that she continues to raise money for veterans legal services and thanked the Board for its support.

1.5a Mary L. Smith, ABA Secretary, presented for approval the minutes of the Board’s August 10-11, 2017 and August 15, 2017 meetings of the Board of Governors held in New York, New York.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Board approved the minutes of the August 10-11, 2017 and August 15, 2017 meetings of the Board of Governors held in New York, New York.

1.5b The Board received the minutes of the Executive Committee’s meetings on August 9, September 7, and 28, 2017 (email ballot).
1.5c The Secretary presented and the Board received the Report on the Exercise of Blanket Authority that summarized the requests for blanket authority received since the Board’s meeting in August 2017.

1.5d **Fund for Justice and Education**

The Board, sitting as members of the Board of the American Bar Association Fund for Justice and Education (“ABA/FJE”) approved the minutes of the August 10, 2017 meeting of the ABA/FJE Board as presented.

1.6 The Board received the written report of ABA Treasurer Michelle Behnke. Ms. Behnke reported that consolidated operating revenue through August 31, 2017 was $207.5 million, which was $3.9 million below budget. Revenue budget variances are primarily due to unfavorability in General Operations of $3.2 million, grants of $0.5 million and Sections of $0.4 million. Offsetting the General Operations revenue shortfall is $1.6 million of designated reserves that was transferred to operations to offset the website development for expenses incurred in FY2017, as approved by the Board, but is not reflected in the budget. Section revenue is unfavorable to budget by $0.4 million due to unfavorability in meeting fees, publications, investment income for operations, and dues, partially offset by royalties and gifts, contributions and sponsorships. Lastly, grant revenue is $0.5 million unfavorable to budget, driven by a slowdown in the political environment for international grants and partly offset by domestic grant favorability. Consolidated operating revenue through August 31, 2017 was $207.5 million, consolidated operating expenses were $215.2 million, resulting in a deficit of $7.7 million, an improvement of $1.0 million over last year’s operating deficit. Despite the operating deficit of $7.7 million and excluding the year end pension liability adjustment, the ABA realized positive net assets change of $4.9 million (surplus) due to strong investment performance. While the ABA has assets of $344.7 million, it has significant liabilities totaling $184.8 million, leaving the ABA with total net assets of $159.9 million. The good news is that the ABA’s Long-Term Investment balance, its largest asset on the balance sheet, increased by $4.8 million despite overreliance on investments to support operations. The pension liability is one of the ABA’s largest obligations on the balance sheet. As of the writing of the report, the pension liability and related debt, currently reported as $87.0 million, has not been updated for FY2017 year end. However, based on estimates from the ABA’s actuary’s (Aon) analysis, it is expected that the pension liability will decrease $11.6 million. The long-term investment balance fluctuates based on market conditions and is also impacted by use of these investments to fund operations. The Association’s consolidated investment balance as of August 31, 2017 is $296.4 million (General Operations / FJE $199.9 million and Sections / NJC $96.5 million), up $4.8 million compared to prior year.

The ABA is proposing purchasing annuities for all retirees who receive an annual pension benefit of $5,000 or less. The annuities would be provided by a reputable high credit quality financial institution. Of the 1,233 plan participants, there are 147 who are currently receiving an annual benefit of less than $5,000. This proposed transaction will decrease administrative premiums by nearly $90,000 in FY2018, and this cost is on the rise making this transaction even more prudent.

1.7 The Board received the written report of ABA Executive Director Jack L. Rives. Mr. Rives commended the Board on its efforts regarding the realignment project and believes it will make the ABA a more efficient organization. The website redesign is on track and he reported it will be launched in 1st quarter 2018. Staff reductions have been made. General Operations provides
financial support for eighty-four entities, but the entities may decide to hire staff or use that money for other projects. The Law Student Division is working on increasing the value proposition. James Dimos, Deputy Executive Director, is leading a study group regarding OneABA, including nine representatives from the Section Officers Conference, and has held two Town Hall meetings with the Section Officers Conference.

2. **MATTERS FOR DIRECT BOARD ACTION**

2.1* Discussion Regarding OneABA and Request for Sense of Board Resolution

The Board received a report from Tracy A. Giles, Chair, Standing Committee on Membership (SCOM); Jack L. Rives; James Dimos; Bob Domenz, Chief Executive Officer, Avenue; and Michael Kreisberg, Chief Membership Officer, regarding OneABA. The Staff Working Group met weekly from the Annual Meeting to September 7, and identified issues and developed framework for OneABA and generated data for use in future discussions. It briefed the Section Officers Conference (SOC) on September 14 and provided a 60-minute presentation, answered questions for another 60 minutes, and had numerous one-on-one and small group discussions. It had discussions with SCOM on September 24 for about 6 hours regarding the framework and receiving input from SCOM. The Working Group also met with individual ABA entities. The Working Group resumed meetings on October 4. The Working Group includes the members of SCOM, 9 members selected by SOC, and other members who desired to participate. Four aspects of the ABA’s technology will need to be modified or updated: Content Management System and e-Commerce platform (website); Association Management System (Personify); reporting systems; and multi-channel marketing system. A compressed time schedule requires multiple, concurrent workstreams. A mix of ABA IT staff and contractors will perform the work which allows the ABA to manage some of the costs. Reporting systems allowing the ABA to track results and perform analysis will be done internally as part of ABA IT staff existing duties for no additional direct costs. The ABA will license an upgraded system that integrates email, social media, texting, and snail mail. As with the website and the back office membership system, the ABA will need to implement business rules to increase efficiency and manage costs. Total current estimate: $2,000,000 in one-time costs and $200,000 to $500,000 in recurring ones.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Board approved the following resolution:

Subject to the Board’s potential finalization and adoption of OneABA, it is the sense of the Board that, for the first two years of the OneABA program, entities that charge dues will receive general revenue funding at the same level as the amount of dues the entity collected in the fiscal year immediately preceding the implementation of OneABA, and that during that two-year period, those dues-charging entities will continue to receive normalized general revenue funding in addition to the general revenues referred to above. Further, it is the sense of the Board that it will consider using only general operations reserves to fund any revenue shortfall in the first two fiscal years that OneABA is in place and that, during the second year, the Board will evaluate incoming revenue, cost savings, and reserves to strike the appropriate balance to operate the Association in subsequent years.
2.2 Report on Commission on the Future of Legal Education

The Board received a report from Dean Patricia White, Chair of the Commission on the Future of Legal Education (Commission) regarding the work of the Commission. The Commission will take a leadership role in anticipating, articulating and influencing what is anticipated to be dramatic changes in the legal profession in the next decade and beyond. The Commission will explore possible changes to methods of training and testing the future generations of law students. It will seek to bring the perspectives of various constituencies to the table including judges, deans, professors and practitioners. Various subcommittees of the Commission will focus specifically on key issues including bar exam passage rates, the role legal education can play in addressing the justice gap, identifying the skills future lawyers will need, and other issues identified by the group. The Commission adds to the ABA’s long-standing commitment to, and support of, quality legal education. This includes the work of the Section of Legal Education and Admissions to the Bar and the Council of that Section.

2.3 Reports from Committee Chairs

Profession, Public Service and Diversity

Chair Hon. Ramona G. See reported that the Committee recommended: The election of Deepinder K Goraya of Washington, DC, as the ABA representative to the Consortium for Citizens with Disabilities; approval of the request from ABA Rule of Law Initiative to amend the List of Approved Countries of Operation and Registration, Donors and Thematic Program Areas; approval of four Memoranda of Understandings; five co-sponsorship requests; and approval of the request from the Section of Real Property, Trust and Estate Law to continue a scholarship prize for a writing competition.

Finance

Chair Ilene Knable Gotts informed the Board that the Finance Committee recommended approval of the request of the Section of Litigation to donate funds to the Maine Volunteer Lawyers Project and recommended approval to amend the A-E-F-C Pension Plan to delegate authority to the Executive Director, before the next scheduled Board meeting, a borrowing transaction to obtain sufficient funds to contribute to the A-E-F-C Pension Plan, provided that the Finance Committee so recommends.

Member Services

Chair Andrew J. Markus reported that the Committee: recommended approval of the requests for bylaw amendments from four entities and two requests for adding member benefits; recommended approval regarding the structure and pricing for the ABA 2018 Annual Meeting; and recommended approval from the Section of International Law to charge a registration fee at the 2018 Midyear Meeting and a Memorandum of Understanding with the International Development Law Organization. The request from the Standing Committee on Amicus Curiae Briefs to amend its Guidelines was also recommended for approval.
2.4  Consent Calendar

The Board approved the Consent Calendar as presented by the Secretary. Action on all items contained on the Consent Calendar is set forth below in items 3 through 5 relating to the reports of the Board Committees.

2.5  Report on Realignment Project

Chair Markus and Chair See reported that their Committees have begun the realignment project, collecting information and reviewing several Association entities in an effort to improve the Association both from a fiscal and a membership perspective. To achieve these goals, the Committees will consider whether entities can be merged, sunned, reconstituted or reduced in size.

2.6  Report on Strategic Planning

William R. Bay, Chair of the Strategic Planning Working Group, provided an overview of the work of the working group. Strategic Planning identifies core strengths, explores the shifting environment and helps the organization respond. It creates a common framework for volunteer and staff decision-making, energizes the Board and creates momentum for change. The Working Group identified areas to develop specific action plans: OneABA, website, realignment, finances, communication, marketing, and membership (new members and retention of members).

2.7  Update Regarding Membership Directory

Benjamin E. Griffith, Board Liaison to Standing Committee on Lawyer Referral and Information Services and James Dimos, Deputy Executive Director, provided an update regarding the Membership Directory. Mr. Dimos stated that he will be attending the upcoming Standing Committee on Lawyer Referral and Information Services (Standing Committee) workshop to meet with the Standing Committee and speak to attendees about the project to explain the project and listen to the Standing Committee’s comments before the ABA sign a contract with CloudLaw.

INFORMATIONAL REPORTS

2.25  ABA Journal Board of Editors Report of Proceedings

a.  The Board received a written report from the ABA Journal Board of Editors regarding the work of the ABA Journal Board of Editors (Board) and the Standing Committee on Publishing Oversight. The Board met on September 12-13, 2017 in Chicago, Illinois. The Board appointed a new Digital Committee to explore the issue of paywalls and how the Journal would be impacted if all or part of the Journal’s content was placed behind a members-only paywall. Through August, the Journal was closing FY2017 better than earlier trends indicated. While initial reports showed the Journal down in revenue by as much as 60% below budget, updated preliminary reports reflect the Journal closing out the year 37% below the revenue budget, which is a substantial improvement from FY2016. Year to date, overall revenue was $1,572,805, but budgeted at $2,510,971 (i.e. $938,166 below budget). In November 2016, responding to the industry-wide freefall is advertising revenue, and to reduce risk and overhead expense, the Journal eliminated its advertising sales positions, and engaged a commission-based outside ad sales agency. For FY2017 the Journal also significantly lowered its expenses. The Journal’s expense budget was $6,162,792 ($976,953 below
FY2016’s budget of $7,139,745). Actuals for FY2017 are $5,325,034 or $837,758 below budget. The ABA’s budgeted apportionment for the Journal was $3,651,821 and actuals are $3,738,872, or $87,051 above budget, according to early year-end figures. For FY2017 the Journal also significantly lowered its expenses. The Journal’s expense budget was $6,162,792 ($976,953 below FY2016’s budget of $7,139,745). Actuals for FY2017 are $5,325,034 or $837,758 below budget.

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The Board’s next meeting is scheduled for January 3-4, 2018, in Fort Lauderdale, Florida. As recommended by the ABA SCOPE Committee, the Board will coincide its spring meeting, June 23-24, with the Board of Governors meeting in Denver, Colorado.

ABA Journal Board of Editors Chair Kathleen Hopkins announced that Board members would be subject to a new cap on Journal-related travel expenses. The new cap, which is consistent with the policies used by numerous other ABA entities, caps reimbursement at $500 for travel and $100/day for lodging.

b. The Board received a letter from Kathleen J. Hopkins, Chair of the ABA Journal Board of Editors

During the ABA Journal Board of Editors (BOE) meeting, it conducted a preliminary discussion on paywalls, and Journal staff presented a high-level review of how paywalls are being used by various other member associations with flagship magazines. The paywall issue had been previously identified for investigation and consideration by the BOE in its strategic planning initiative. However, there is a new sense of urgency to address the issue because on Sept. 13 the BOE learned that member-only access to the Journal and all its electronic products and platforms are being discussed in conjunction with OneABA.

Executive Director Jack Rives addressed the BOE on the topic. The BOE then discussed the issue and concluded that it had insufficient time or data to send a thoughtful and informed resolution to the Board of Governors regarding the application of paywalls to some or all of the Journal’s content. The newly appointed Digital Committee, chaired by Ret. Judge Herbert Dixon, will confer with Journal staff, investigate this topic further, ascertain its ramifications, and then provide informed recommendations to the BOE for action.

2.26 Report on ABA Response to Recent Hurricane Disasters

The Standing Committee on Disaster Response and Preparedness (SCDRP) reported on the status of the ABA’s response to Hurricanes Harvey, Irma, and Maria. SCDRP is working with several member entities to coordinate the ABA response to these disasters in Houston, Florida, Puerto Rico, the US Virgin Islands, and elsewhere. SCDRP endeavors to create an efficient and ongoing response by the ABA to prevent duplication of efforts by the many different entities responding to this enormous and ongoing crisis. SCDRP is dedicated to working with lawyers and law firms in the disaster areas and elsewhere in the ongoing recovery process.
A. MATTERS FOR REVIEW BY THE BOARD

3.1 Requests to Amend Bylaws

a. The Senior Lawyers Division (Division) requested approval to amend its bylaws which are required due to the conversion of the Division from a dues-supported entity to a general revenue supported entity consisting of all Association members over 62 and others interested in the elder law field. The Division presently has over 63,000 members. The amendment amended the age to qualify as a member of the Division from 55 to 63 years old or have been licensed to practice law for 37 or more years in a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States. The Senior Lawyers Division’s membership approved the amendment at the Division’s Annual Meeting held on August 12, 2017 in New York City.

The Member Services Committee recommended approval of the request.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Board approved the request of the Senior Lawyers Division to amend its bylaws which are required due to the conversion of the Division from a dues-supported entity to a general revenue entity consisting of all Association members over 62 or have been licensed to practice law for 37 or more years in a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States, and others interested in the elder law field.

b. The Section of Labor and Employment requested approval to amend its bylaws to clarify that Associates who are elected to the Council have the right to vote and to rename the “Strategic Planning Committee” to “Executive Committee” to more accurately reflect the role of the Committee. The Section Council approved the amendments at the August 11, 2017 and the Section Members at the August 12, 2017 Section Business Meeting.

The Member Services Committee recommended approval of the request.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Board approved the request of the Section of Labor and Employment to amend its bylaws to clarify that Associates who are elected to the Council have the right to vote and to rename the “Strategic Planning Committee” to “Executive Committee” to more accurately reflect the role of the Committee.

c. The Appellate Judges Conference requested approval to amend its bylaws to provide clarification in various Articles including, but not limited to, membership eligibility, meetings, voting and Executive Committee powers and functions. The proposed amendments were approved by the Judicial Division on September 14, 2017.
The Member Services Committee recommended approval of the request.

**UPON MOTION DULY MADE, SECONDED AND CARRIED:**

The Board approved the request of the Appellate Judges Conference to amend its bylaws to provide clarification in various Articles including, but not limited to, membership eligibility, meetings, voting and Executive Committee powers and functions.

d. The National Conference of State Trial Judges requested approval to amend its bylaws to indicate that membership shall be open to any member of the Judicial Division of the American Bar Association (Division) who is a judicial officer of a state court exercising general jurisdiction and to clarify the eligibility for membership for a member that retires from judicial office, a former member in good standing, military judges, and international judges. On August 11, 2017, during the Annual Meeting in New York, New York, the Executive Committee and the Delegation of the Judicial Division’s National Conference of State Trial Judges duly approved the amendments.

The Member Services Committee recommended approval of the request.

**UPON MOTION DULY MADE, SECONDED AND CARRIED:**

The Board approved the request of the National Conference of State Trial Judges to amend its bylaws to indicate that membership shall be open to any member of the Judicial Division of the American Bar Association (Division) who is a judicial officer of a state court exercising general jurisdiction and to clarify the eligibility for membership for a member that retires from judicial office, a former member in good standing, military judges, and international judges.

3.2 Request from Standing Committee on Membership to Add Shred-It to ABA Advantage Program

The Standing Committee on Membership requested approval to add Shred-It to the ABA Advantage Program. Shred-It, founded in the mid-1980’s, is a secure document destruction service that helps firms get rid of outdated paper. The Chicago-based company has more than 5,400 employees in locations around the world, and offers hard drive and media destruction, as well as paper shredding. ABA members will receive a minimum 15% discount on Shred-It services, although local branches may opt to charge even less. Shred-It will pay the ABA royalties of 5% of total revenue and will participate at the Silver ($15,000) marketing level. The initial contract term will be one year, with the option to renew if the offering is successful.

The Member Services Committee recommended approval of the request.

**UPON MOTION DULY MADE, SECONDED AND CARRIED:**

The Board approved the request of the Standing Committee on Membership to add Shred-It to the ABA Advantage Program. ABA members will receive a minimum 15% discount on Shred-It services, although local branches may opt to charge less. Shred-It will pay the ABA royalties of 5% of total revenue and will participate at the
Silver ($15,000) marketing level. The initial contract term will be one year, with the option to renew if the offering is successful.

3.3 Request from Section of Real Property, Trust and Estate Law to Offer Member Benefit from WealthCounsel

The Section of Real Property, Trust and Estate Law (Section) requested approval to offer a benefit to members from WealthCounsel. WealthCounsel provides members access to document drafting solutions, educational programs, and legal marketing resources — all with the support of a nationwide member network. Members pay a monthly fee between $397 and $995 to join. In March 2017, WealthCounsel contacted the ABA Advantage team to investigate entry into the Advantage program. Since the product is focused on a specific practice area, they were referred to the Section. The Section’s executive committee entered into negotiations with WealthCounsel and decided to offer the discounted membership as a benefit to Section members. WealthCounsel does not currently offer any other discounts. The Section members will receive a 15% discount on all regular-priced WealthCounsel products purchased through the Section’s program. WealthCounsel will pay the Section royalties totaling 4% of the net sales made through the Program. Royalty payments will be made quarterly, within 30 days after the end of each contract year quarter. WealthCounsel will pay the Section a marketing fee of $13,500 to market the benefit to Section members. Member Services has been advised that the Office of General Counsel has reviewed and approved the agreement between the Section and WealthCounsel.

The Member Services Committee recommended approval of the request.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Board approved the request of the Section of Real Property, Trust and Estate Law (Section) to offer a member benefit to members from WealthCounsel. The Section members will receive a 15% discount on all regular-priced WealthCounsel products purchased through the Section’s program. WealthCounsel will pay the Section royalties totaling 4% of the net sales made through the Program. Royalty payments will be made quarterly, within 30 days after the end of each contract year quarter. WealthCounsel will pay the Section a marketing fee of $13,500 to market the benefit to Section members.

3.4 Request from Standing Committee on Meetings and Travel Regarding ABA Annual Meeting

The Standing Committee on Meetings and Travel (Standing Committee) requested approval of the format and pricing of the 2018 ABA Annual Meeting. The 2017 Annual Meeting debuted a focused effort (CLE in the City) to attract local attorneys to the ABA Annual Meeting by offering low-cost CLE held at exciting venues and premier law firms in Midtown Manhattan. Programming was developed by the New York legal community to showcase substantive topics and speakers who are experts within that practice area. With some modifications, the Standing Committee proposes that this outreach be repeated at the 2018 Annual Meeting. In addition, the Standing Committee proposes a change to the format of the Annual Meeting with respect to the ABA Expo, as well as slight modifications to the registration and ticket pricing. It proposes eliminating the ABA Expo beginning with the 2018 Annual Meeting and replacing it with a networking area which will allow ABA entities to showcase their products and services. This will also allow for sponsorship
opportunities from vendors that have a more focused interest in the type of registrants in attendance. The Expo is no longer a profitable non-dues revenue source and most remaining vendors have not been pleased with the attendance and return on investment.

The Standing Committee requested approval of the proposed registration fees for the 2018 Annual Meeting. It is a revenue neutral proposal with minor modifications in two registration categories:

1) **Registration Fees**

   Modify the pricing structure for the ABA Annual Meeting to include a $25 increase in the Standard Registration rate, from $225 to $250. This category includes access to the President’s Reception. The adjustment is proposed to better reflect the increase in cost and individual ticket price for this event. All other registration rates would remain the same and as follows:

   **Limited registration rate**
   
   $95 – Member/Affiliate  
   $295 – Non-Member  
   (Includes all governance meetings, Plenary Session/ABA Rally and the General Assembly)

   **Standard registration rate**
   
   $250 – Member/Affiliate  
   $450 – Non-Member  
   (Includes all governance meetings, Plenary Session/ABA Rally, General Assembly, President’s Reception and a 20% discount on ABA tours)

   **All-Access registration rate**
   
   $495 – All-Access CLE Registration  
   $695 – Non-Member  
   (Includes access to all Annual Meeting CLE programs (both entity and showcase), governance meetings, Plenary Session/ABA Rally, General Assembly, President’s Reception and a 20% discount on ABA tours)

2) **Guest Registration**

   Reduce the number of Guest Registration rate options to just one, but at a lower price point of $50. With the elimination of the ABA Expo, the Standing Committee proposes eliminating one social event that was previously included in the $95 Guest Registration which is the reason the Standing Committee proposes a lower price. This price is applicable to all guests, including children.

   **Limited registration rate**
   
   $50 – Member/Affiliate  
   (Includes Plenary Session/ABA Rally and the General Assembly)

3) **Ticket Prices**

   Modify ticket prices to more accurately reflect the value being offered. This involves reducing the Showcase CLE program tickets, reducing the President’s Reception ticket prices and increasing the CLE in the City ticket prices.

   Individual tickets for guests, and those that have purchased the Limited and Standard Registrations will be available for purchase at the following prices:
Showcase CLE Program Tickets
$75 General Attendee – Admittance to one CLE Showcase Program
$35 Judges, Government/Military Lawyers – Admittance to one CLE Showcase Program

Individual Tickets
$185 – President’s Reception
$50 – President’s Reception (17 and under)

Local Attorney Individual Ticket Sales
As was done for the first-time last year, individuals living in the tri-state areas of Illinois, Wisconsin and Indiana will be given the opportunity to purchase a ticket to an ABA event, without paying an Annual Meeting registration fee. This offer is limited to one ABA ticket per attendee, and a service charge of up to $10 will be added to the price of each ticket.

4) CLE in the City
The CLE in the City Series attracted 985 tri-state area lawyers to the New York Annual Meeting, many of whom would not typically attend an ABA meeting. The Standing Committee proposes this outreach be repeated for the 2018 Annual Meeting emphasizing participation and planning by law firms and state and local bar associations, to develop programming that will include 6-10 tracks and showcase experts within the Chicago legal community. CLE in the City attendees did not pay a meeting registration fee, however sessions were priced at $25 and lunch events were $20. The Standing Committee recommends some modification to the format and pricing structure of the CLE in the City as follows: Reduce the number of program tracks to six (or more at the option of the Standing Committee in cooperation with the Annual Meeting Planning Committee) to be held on just one day, Thursday, August 2, 2018. Each track would contain three programs with an informal, networking lunch. The timing would be as follows:

Program #1 - 10:30 a.m. – 12:00 p.m.
Networking Lunch – 12:00 p.m. – 1:00 p.m.
Program #2 – 1:15 p.m. – 2:45 p.m.

a) Increase the cost of the CLE sessions to $35, and $20 for the networking lunches. CLE in the City sessions will also be available to individuals on a complimentary basis who have registered at the All-Access registration rate. A limited number of complimentary CLE session tickets will be made available for hosting law firms.

5.) Scheduling
It remains the Standing Committee’s goal to avoid scheduling conflicts at the Annual Meeting and deliver high-level programming with broad appeal across all levels of the Association. Once again there will be just one black-out time for the General Assembly, Saturday, August 4, 4:30 – 6:00 p.m. During this time, no entity can either hold CLE programs or high-profile events.

The Member Services Committee recommended approval of the request.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Board approved the request of the Standing Committee on Meetings and Travel for the format and pricing of the 2018 ABA Annual Meeting as described above.
3.5 Requests from Section of International Law

a. Registration Fee for 2018 Midyear Meeting

The Section of International Law in conjunction with the Judicial Division requested approval to charge a $50 registration fee for a program to be held at the 2018 Midyear Meeting in Vancouver. The program is entitled *View from the Bench: The State of International Law*. An esteemed panel of judges will explore the current status of international law in judicial decision-making, including cross border enforcement of judgments, international precedent, and the continuing relevance of, and attacks on, the place of international law in American courtrooms.

The Member Services Committee recommended approval of the request.

**UPON MOTION DULY MADE, SECONDED AND CARRIED:**

The Board approved the request of the Section of International Law along with the Judicial Division to charge a $50 registration fee for a program to be held at the 2018 Midyear Meeting in Vancouver. The program is entitled *View from the Bench: The State of International Law*.

b. Memorandum of Understanding with International Development Law Organization

The Section of International Law requested approval to enter into a Memorandum of Understanding (MOU) with the International Development Law Organization (IDLO) to provide pro bono assistance as requested through its work with the Investment Support Programme for the Least Developed Countries (LDCs) and the UN Office of the High Representative for the Least Developed Countries, Landlocked Developing Countries and Small Island Developing States. The Investment Support Programme for the LDCs aims to provide on-demand legal and professional assistance to governments of the LDCs and under-resourced LDC firms to help them in investment-related negotiations and dispute settlement. The Program's objective is to establish an international scheme for legal aid and expert assistance. The MOU contains no financial obligations; neither Section funds nor ABA general revenue are required or expected.

The Member Services Committee recommended approval subject to review and approval of the Memorandum of Understanding by the Office of the General Counsel, and a signed copy filed with the Division for Policy and Planning.

**UPON MOTION DULY MADE, SECONDED AND CARRIED:**

The Board approved the request of the Section of International Law to enter into a Memorandum of Understanding with the International Development Law Organization, subject to review and approval of the Memorandum of Understanding by the Office of the General Counsel, and a signed copy filed with the Division for Policy and Planning.
3.6 Request from Standing Committee on Amicus Curiae Briefs to Amend Guidelines

The Standing Committee on Amicus Curiae Briefs requested approval to amend Section 2 of the Amicus Curiae Brief Guidelines as follows:

2. Filing an Association Amicus Curiae Brief
The filing of an amicus brief in the name of the Association must be authorized by the Board of Governors. The Board will only consider authorizing a proposed brief if it is submitted by Association entities authorized to make recommendations to the House of Delegates or by other organizations represented in the House, and if the Association President has received the Standing Committee's certification, as discussed in Section 1, above.

The brief will be filed only in the name of the Association and not in the name of an Association entity. The Association President appears as counsel of record at the Association headquarters address. The names of the lawyers who wrote the brief are customarily added, along with their law firm affiliation and local addresses, at the option of the drafters and their law firms.

Coordination of the review and filing process has been assigned to the Association’s General Counsel’s Office. Notice requirements and submission of the application and proposed brief to the Board of Governors are the responsibility of the Policy and Planning Division.

Because Association amicus briefs are public communications to the courts, the press, the public and the Association’s members, every effort should be made to ensure that there is sufficient time for thorough consideration of an application and the proposed brief by the Board of Governors, the Standing Committee and Association entities that have an interest in the issues presented. Accordingly, as soon as an entity begins to consider a request that an amicus brief be filed in a matter, the General Counsel’s Office should be contacted.

The Member Services Committee recommended approval of the request.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Board approved the request of the Standing Committee on Amicus Curiae Briefs to amend Section 2 of the Amicus Curiae Brief Guidelines to allow the drafters to include their law firm affiliations and addresses on the briefs.

PROFESSION, PUBLIC SERVICE AND DIVERSITY

A. MATTERS FOR REVIEW BY THE BOARD

4.1 Nomination for Consortium for Citizens with Disabilities

The term of Arnettia S. Wright of Washington, DC, as the ABA representative to the Consortium for Citizens with Disabilities expires in November 2017. The Commission on Disability Rights requested the election of Deepinder (Deepa) K. Goraya of Washington, DC, as the ABA representative to the Consortium for Citizens with Disabilities for a three-year term beginning in November 2017 and expiring in November 2020.

The Profession, Public Service and Diversity Committee recommended approval of the request.
UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Board elected Deepinder (Deepa) K. Goraya of Washington, DC, as the ABA representative to the Consortium for Citizens with Disabilities for a three-year term beginning in November 2017 and expiring in November 2020.

4.2 Request from ABA Rule of Law Initiative/Center for Human Rights to Amend List of Approved Countries of Operation and Registration, Donors and Thematic Program Areas

The ABA Rule of Law Initiative (ROLI) and the Center for Human Rights (Center) requested approval to amend the list of Approved Countries of Operation and Registration, Donors and Thematic Programmatic Areas to include the following donors: The Clooney Foundation for Justice; American Arbitration Association - International Center for Dispute Resolution and Corporación-América S.A.

The Profession, Public Service and Diversity Committee recommended approval of the request.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Board approved the request of ABA Rule of Law Initiative and the Center for Human Rights to amend the list of Approved Countries of Operation and Registration, Donors and Thematic Programmatic Areas to include the following donors:
1. The Clooney Foundation for Justice
2. American Arbitration Association - International Center for Dispute Resolution
3. Corporación-América S.A.

4.3 Request from ABA Rule of Law Initiative for Memoranda of Understandings

a. Central African Republic’s Magistrates Training School:

The ABA Rule of Law Initiative (ROLI) requested approval to enter into a Memorandum of Understanding (MOU) with the Central African Republic’s Magistrates Training School, referred to in French as the Ecole Nationale d’Administration et de Magistrature (ENAM). The MOU will outline expectations and responsibilities of the respective institutions and will facilitate effective collaboration to develop a judicial training curriculum and to strengthen the training capacity of ENAM’s professional staff. In cooperation with ENAM, ROLI will work with experienced judicial actors and judges to develop materials for judicial training guides. The curriculum will serve ENAM to improve the ability of judges to effectively control their courts, to identify the elements of cases, and to administer justice uniformly and consistently. In addition, portions of the curriculum will be employed for the quick-impact training of judicial personnel that are selected to serve on the Special Criminal Court that is to be convened under the auspices of the Judiciary and with international support for the prosecution of perpetrators of heinous crimes committed during Central African Republic’s recent crisis.

The Profession, Public Service and Diversity Committee recommended approval of the request, subject to review and approval of the Memorandum of Understanding by the Office of the General Counsel, and a signed copy filed with the Division for Policy and Planning.
UPON MOTION DULY MADE, SECONDEd AND CARRIED:

The Board approved the request of ABA Rule of Law Initiative to enter into a Memorandum of Understanding with the Central African Republic’s Magistrates Training School, referred to in French as the Ecole Nationale d’Administration et de Magistrature, subject to review and approval of the Memorandum of Understanding by the Office of the General Counsel, and a signed copy filed with the Division for Policy and Planning.

b. Ministry of Women’s and Family Affairs in Tunisia

The ABA Rule of Law Initiative (ROLI) requested approval to enter into an Memorandum (MOU) with the Ministry of Women’s and Family Affairs in Tunisia. The purpose of the MOU is to define cooperation under a grant award. ABA ROLI is currently negotiating with the US Department of State Bureau of Democracy, Human Rights, and Labor to support the implementation of a recently passed law on gender-based violence in Tunisia. Cooperation would be in the areas of training for legal professionals and police, and public education on the new law.

The Profession, Public Service and Diversity Committee recommended approval of the request, subject to review and approval of the Memorandum of Understanding by the Office of the General Counsel, and a signed copy filed with the Division for Policy and Planning.

UPON MOTION DULY MADE, SECONDEd AND CARRIED:

The Board approved the request of ABA Rule of Law Initiative to enter into a Memorandum of Understanding with the Ministry of Women’s and Family Affairs in Tunisia, subject to review and approval of the Memorandum of Understanding by the Office of the General Counsel, and a signed copy filed with the Division for Policy and Planning.

c. General Prosecutor’s Office of the Republic of Tajikistan

The ABA Rule of Law Initiative (ROLI) requested approval to enter into an Memorandum of Understanding (MOU) with the General Prosecutor’s Office of the Republic of Tajikistan (GPO) to further facilitate its working relationship with this government agency as part of its in-country programs. Under ROLI’s current U.S. Government programming in Tajikistan, ROLI cooperates frequently with the GPO. This partnership has enabled stakeholders from the GPO to engage in inter-governmental working groups to discuss legislative reform as well as develop practical training initiatives to equip prosecutors with the skills and knowledge to effectively investigate and prosecute criminal cases. An MOU with the GPO would enable greater, and more direct, cooperation with the government agency. ABA ROLI anticipates working with the GPO to provide technical assistance in areas related to countering violent extremism, combatting human trafficking, reducing pretrial detention, and ultimately, promoting individual rights. ROLI expects to facilitate this cooperation through exchange programs/study tours and the possible placement of a pro bono legal specialist in either ROLI or GPO office to directly and effectively collaborate with the GPO. An MOU with the GPO would formalize this current relationship and ensure further cooperation in the country to assist with justice sector reforms.
The Profession, Public Service and Diversity Committee recommended approval of the request, subject to review and approval of the Memorandum of Understanding by the Office of the General Counsel, and a signed copy filed with the Division for Policy and Planning.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Board approved the request of ABA Rule of Law Initiative to enter into a Memorandum of Understanding with the General Prosecutor’s Office of the Republic of Tajikistan (GPO) to further facilitate its working relationship with this government agency as part of its in-country programs, subject to review and approval of the Memorandum of Understanding by the Office of the General Counsel, and a signed copy filed with the Division for Policy and Planning.

4.4 Request from ABA Center for Human Rights for Memorandum of Understanding with the International Bar Association, International Commission of Jurists, Pan African Lawyers Union, SADC Lawyers Association and East Africa Lawyers Association and to Issue Joint Report

The Center for Human Rights’ (Center) Justice Defenders Program has been closely monitoring threats to the independence of the legal profession in Tanzania since last month, when the Center, in collaboration with ROLI and the Section of International Law, supported the ABA President to issue statements expressing concern on the proposed abolishment of Tanzania’s Law Society and the shooting of the Tanganyika Law Society President. Multiple other bar associations over the world have also publicly expressed concern. Following up on this collective concern, the Center, through its Justice Defenders Program, plans to participate in a joint fact-finding mission to Tanzania in collaboration with the International Bar Association, International Commission of Jurists, Pan African Lawyers Union, SADC Lawyers Association and East Africa Lawyers Association, to assess the state of the independence of the legal profession in Tanzania. Each association will send a volunteer and/or staff person to participate in a series of meetings on October 16-18, 2017 with lawyers, judges, and government officials to discuss those concerns raised in the ABA President’s public statements, which were echoed in statements issued by our peer associations and members of the joint fact-finding mission. The Center requested approval to issue a joint report with the above organizations, subject to the criteria that will be outlined in a Memorandum of Understanding, which will be subject to final review and approval by the ABA’s General Counsel Office.

The Profession, Public Service and Diversity Committee recommended approval of the Memorandum of Understanding subject to review and approval by the Office of the General Counsel, and a signed copy filed with the Division for Policy and Planning, and recommended approval of a joint report subject to review of final report by the Governmental Affairs Office and Media Relations in advance of distribution.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Board approved the request of the Center for Human Rights’ Justice Defenders Program to issue a joint report with the International Bar Association, the International Commission of Jurists, the Pan African Lawyers Union, the SADC Lawyers Association and the East Africa Lawyers Association, subject to the criteria that will be outlined in a Memorandum of Understanding, subject to review and approval by the Office of the General Counsel, and a signed copy filed with the
4.5 Request from Section of Real Property, Trust and Estate Law for Approval to Continue Scholarship

The Section of Real Property, Trust and Estate Law (Section) requested approval to continue a full-tuition scholarship to the University of Miami School of Law’s Heckerling Graduate Program in Estate Planning or Robert Traurig-Greenberg Traurig Graduate Program in Real Property Development for the 2018-2019 or 2019-2020 academic year.

In June 2007, the Board approved an annual writing competition sponsored by the Section, where the prize was cash. In April 2017, the Board approved awarding the winner, in addition to a cash prize, a full-tuition scholarship to the University of Miami School of Law’s Heckerling Graduate Program in Estate Planning or Robert Traurig-Greenberg Traurig Graduate Program in Real Property Development for the 2017-2018 or 2018-2019 academic year.

Students must apply and be admitted to the graduate program of their choice prior to the May 30, 2018 contest deadline to be considered for the scholarship. Applicants to the Heckerling Graduate Program in Estate Planning must hold a J.D. degree from an ABA accredited law school and must have completed the equivalent of both a J.D. trusts and estates and federal income tax course. Applicants to the Robert Traurig-Greenberg Traurig Graduate Program in Real Property Development must hold a degree from an ABA accredited law school or a foreign equivalent non-U.S. school.

The Profession, Public Service and Diversity Committee recommended approval of the request.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Board approved the request of the Section of Real Property, Trust and Estate Law to continue a full-tuition scholarship to the University of Miami School of Law’s Heckerling Graduate Program in Estate Planning or Robert Traurig-Greenberg Traurig Graduate Program in Real Property Development for the 2018-2019 or 2019-2020 academic year.

MATTERS OF INDEPENDENT JURISDICTION

4.15 Requests for Co-sponsorships

The Profession, Public Service and Diversity Committee approved co-sponsorship requests from the following entities. No additional ABA general revenue is requested or required for the co-sponsorships at this time.

The Finance Committee also approved 4.15a and 4.15b.

a. Section of Intellectual Property Law (2):
   (i) to co-sponsor with the Intellectual Property Law Organization of the United States the World IP Day to be held in Washington, DC, on April 26, 2018. The World IP Day is celebrated in numerous locations around the world to foster discussion of the role of intellectual property laws
in encouraging innovation and creativity. Section funds of no greater than $5,000 have been budgeted to cover some of the costs.

(ii) to co-sponsor with the American Intellectual Property Law Association, the Intellectual Property Owners Association, the American Bar Association Section of Intellectual Property Law and the Industrial Designers Society of America Design Day 2018, an annual conference for design patent practitioners and design examiners. The day-long event will be held in the Madison Auditorium at USPTO Headquarters in Alexandria, Virginia, on April 17, 2018. Section funds of approximately $3,000 have been budgeted to cover some of the costs.

b. Section of Antitrust Law: to co-sponsor with New York University School of Law, the Next Generation of Antitrust Scholars Workshop, in January of 2020, 2022 and 2024 at New York University School of Law, New York, New York. The objective of the Next Generation of Antitrust Scholars Workshop is to increase the visibility of antitrust in law schools, as it has languished in the legal academy. The Section will contribute up to $7,500 from Section funds to cover some of the costs.

c. Standing Committee on Professionalism: requested authorization of a three-year renewal of its co-sponsorship of national and international workshops of the National Institute for Teaching Ethics and Professionalism (NIFTEP). NIFTEP is the national organization for professionalism and legal ethics instructors. Its national and international workshops bring together leading academics and practitioners involved in teaching legal ethics and promoting professionalism. The Standing Committee on Professionalism has sponsored all semiannual NIFTEP workshops during each of the previous nine ABA years (FY2009-2017) and now seeks authorization of continuing co-sponsorship of all NIFTEP workshops during ABA fiscal years 2017-2020.

d. President Hilarie Bass: to co-sponsor a forum with the World Justice Project on “The Rule of Law in America” in the next year. Approval is also sought to seek outside funding for the conference. The multidisciplinary forum would take place only if sufficient funds are raised. The forum would provide an opportunity for thought leaders, influencers, and advocates from across the ideological spectrum to exchange insights on the rule of law in the United States. The event would be the first of a series of meetings across the country to expand the national dialogue on the rule of law. The forum would feature objective, original data on the rule of law in the U.S. produced by the World Justice Project, along with other data sets and sources. The date and location of the forum is to be determined.

e. Commission on Hispanic Legal Rights and Responsibilities: to co-sponsor with Spanish media outlets, such as, Univision Chicago and Telemundo Chicago and their various media affiliates, outlets, etc. to facilitate legal phone banks where Spanish speaking ABA attorneys provide pro-bono legal information (not legal services) to callers on various legal issues. The Hispanic Commission uses phone banks and social media platforms to inform the legal profession and the community of timely legal information relevant to happenings that particularly impact the legally underrepresented Spanish speaking demographic and Hispanics. Due to the nature of the topics (i.e. recent court cases, new Executive Orders or government regulations) these phone banks and social media platforms are usually held without a lot of advance notice. For example, most recently Univision Chicago asked that the Hispanic Commission immediately assist with the coordination of a legal phone bank to provide critical legal and policy information to the Hispanic and Spanish speaking community impacted by President Trump’s recent decision to end the Deferred Action for Childhood Arrivals (DACA) program.
FINANCE

A. MATTERS FOR REVIEW BY THE BOARD

5.1 Section of Litigation Request to Contribute Funds

The Section of Litigation (Section) requested to contribute funds to Maine Volunteer Lawyers Project. The Section requested approval to contribute $10,000 from Section funds to the Maine Volunteer Lawyers Project (MVLP) as one-time funds to seed a pro bono pilot project in Maine. The Maine pilot project envisions using the ABA Standing Committee on Pro Bono’s “Free Legal Answers” technology as a “Gateway” for representing the majority of pro bono representations. The MVLP, which promotes pro bono activities throughout Maine, has agreed to administer a program where all Maine pro bono clients can request and receive legal services through the internet using the Gateway. While MVLP will continue to operate legal clinics, most indigent clients do not have the ability to travel to these clinics, but do generally have to access the free internet offered by all libraries in Maine. The plan is to train Maine librarians to assist pro bono clients to use the Gateway, and to train volunteer attorneys to provide high quality representation to the indigent clients who use the Gateway. It is the Section of Litigation’s hope that the Maine pilot project, once successful, will become a national program.

The Finance Committee recommended approval of the request.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Board approved the request of the Section of Litigation to contribute $10,000 from Section funds to the Maine Volunteer Lawyers Project as one-time funds to seed a pro bono pilot project in Maine.

5.2 A-E-F-C Pension Plan Amendment to Provide for Purchase of Annuities for Small Balances (Annual Benefit < $5,000)

The Finance Committee recently considered providing for a small annuity retirement buyout for certain former associates to reduce the American Bar Association’s (ABA) Pension Benefit Guarantee Corp (PBGC) expense associated with the A-E-F-C Pension Plan (Plan). The Finance Committee worked with the Plan’s actuaries, Aon, to determine the best course of action to achieve this objective within the 2018 calendar year. The Finance Committee recommends the Board of Governors adopt a resolution to amend the A-E-F-C Pension Plan (Plan) to (1) allow the Committee to select an annuity provider to provide a Group Annuity Contract to pay benefits; (2) allow a “Pensioner” whose Accrued Benefit payable to be transferred to the Group Annuity Contract who, as of June 30, 2017 is retired and receiving an Accrued Benefit as a Pensioner, has a vested interest in his or her accrued Benefit or has an annual benefit amount equal to or less than five thousand dollars ($5,000). The Group Annuity Contract will provide a full guarantee of payment of the Accrued Benefit Earned, continued payment of the Accrued Payment in the same form that was effective under the plan, and as of the effective date the Plan shall have no further obligation of payment in respect to the Accrued Benefit. The Committee shall send a notice to each Pensioner whose Accrued Benefit payable is transferred, which will include a description of the benefit which the Pensioner is entitled to receive.
The Finance Committee recommended approval of the request.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Board approved the following resolution:

RESOLVED, pursuant to Section 10.1 of the A-E-F-C Pension Plan ("Pension Plan"), that the Board of Governors does and hereby authorizes an amendment to the Pension Plan by adopting the Fourth Amendment and which may be executed by the Executive Director of the Association. *See Attachment A

5.3 Request to Amend the FY2018 Section Budget

Sections are required to stay within 10% of the revenue and expense budgets they presented at the 2017 Annual Meeting. The Section of Dispute Resolution, Judicial Division, Section of Environment, Energy and Resources, Section of Public Contract Law, and the Section of Science and Technology Law submitted final operating budgets in excess of the 10% approved variance. The Finance Committee recommends approval of the following amended FY2018 Section Budget of $53.6 million in revenue and $59.8 million in expenses.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Board approved the following resolution:

RESOLVED, that in consideration that five (5) individual Sections submitted final operating budgets in excess of the 10% approved variance, the Board of Governors approved the amended FY2018 Section Budget of $53.6 million in revenue and $59.8 million in expenses.

5.4 Request for Replacement of Member of A-E-F-C Pension Plan Administration Committee Due to a Resignation

President Hilarie Bass requested the election of Kathryn J. Kennedy of The John Marshall Law School in Chicago as the ABA representative on the A-E-F-C Pension Plan Administration Committee for a three-year term to fill the unexpired term of Sally Doubet King, who resigned. Ms. Kennedy joined The John Marshall Law School as a full-time faculty member after years of private practice. She had practiced with the law firm of McDermott, Will & Emery in Chicago and was an actuary with the actuarial consulting firm of Towers Perrin. Currently, she chairs the Employee Benefits Committee of the ABA Section of Taxation.

The Finance Committee recommended approval of the request.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Board elected Kathryn J. Kennedy of The John Marshall Law School, Chicago, Illinois, as the ABA representative on the A-E-F-C Pension Plan Administration Committee for a three-year term effective immediately and expiring at the conclusion of the 2020 Annual Meeting.
5.5 Request to Increase the Pension Loan

Staff provided the Finance Committee with an update on pension funding and informed the Committee that the Association’s actuarial advisors had advised that the ABA will be required to make additional contributions to the pension plan beginning in April 2018. Further, Staff reviewed the economic benefits of the pension loan transaction which the ABA executed in October 2015 when $40 million was borrowed ($24 million of that amount is outstanding as of FY2017) and the reasons that loan was put into place: 1) existing obligation which must be paid over next few years; 2) debt is most cost-effect means to fund existing obligation based on returns on invested assets; 3) puts pension plan at (or very near) 80% funded status for foreseeable future, allowing the ABA to pay out lump sums to some participants and save PBGC fees; and 4) converts an erratic, volatile series of cash flows to a more predictable one. The Association’s actuarial advisors have informed the Association that additional contributions to the pension plan will be required in the near term and in light of the volatility of the financial markets along with other factors. The Finance Committee recommended that a loan be executed with the funds contributed to the ABA Pension Plan.

After discussion, the Finance Committee concluded that the Association should consider increasing the size of the loan and contributing that amount into the A-E-F-C Pension Plan. Also, given the volatility which exists in financial markets, the Committee would prefer not to wait until the next scheduled Board meeting to consummate such a transaction should it be determined to be beneficial to the Association.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Board approved the request to delegate authority to the Executive Committee to execute, before the next scheduled Board meeting, a borrowing transaction to obtain sufficient funds to contribute to the A-E-F-C Pension Plan, provided that the Finance Committee so recommends.

There being no further business to come before the Board, the meeting was adjourned.

Respectfully submitted,

Mary L. Smith
Secretary
Fourth Amendment to the A-E-F-C Pension Plan

WHEREAS, the American Bar Association (the “Association”) previously adopted the A-E-F-C Pension Plan (the “Plan”); and

WHEREAS, the Plan permits the A-E-F-C Pension Plan Administration Committee (“Committee”), in its discretion, to direct that Plan assets be invested in an insurance contract, including a group annuity contract issued by an insurance company authorized to do business in any State of the United States (a “Group Annuity Contract”), as it selects pursuant to Section 4.6 thereof; and

WHEREAS, the Association reserves the right to amend the Plan pursuant to Article X, Section 10.1 thereof; and

WHEREAS, the Association desires to amend the Plan to provide for a Group Annuity Contract to be purchased via a lift-out structured transaction for the benefit of certain retired Participants with a vested interest in their Accrued Benefits; and

WHEREAS, pursuant to this Amendment, the Committee shall be directed to invest Plan assets in a Group Annuity Contract for the benefit of certain retired Pensioners (or their Beneficiaries, if applicable) with a vested interest in their Accrued Benefits so that such Pensioners (or their Beneficiaries, if applicable) receive their Accrued Benefits directly through a Group Annuity Contract.

NOW, THEREFORE, the Plan as amended and restated effective January 1, 2016, and as amended thereafter, is hereby further amended, effective ___________ __, 2017 by adding the following new subsection 5.15 to the end of Article V as follows:

5.15    Small Annuity Retiree Buyout. The Committee shall direct that Plan assets be invested in a Group Annuity Contract to provide the Accrued Benefits payable to certain retired Pensioners described in Section 5.15(b).

(a)    Selection of Annuity Provider. The Committee is directed to select an annuity provider which shall be an insurance company authorized to do business in any State of the United States to provide a Group Annuity Contract (“Group Annuity Contract”) to pay benefits in accordance with this Section 5.15. The Committee may retain the services of advisors, including a qualified, independent expert, to act as an independent fiduciary to advise the Committee on the selection of the Group Annuity Contract provider subject to confirmation that this reflects the intent of the Association.
(b) Eligibility. Each Retired Pensioner (or his or her Beneficiary), (referred to collectively in this Section 5.15 as a “Pensioner,” which meaning of the term “Pensioner” is exclusively limited to this Section 5.15 of the Plan) whose Accrued Benefit payable will be transferred to the Group Annuity Contract in accordance with this Section 5.15 shall be one who, as of June 30, 2017:

(i) is retired and is receiving an Accrued Benefit as a Pensioner (which, for the sake of clarity, would include a disability pension pursuant to Section 5.6);

(ii) has a vested interest in his or her Accrued Benefit; and

(iii) has an annual benefit amount equal to or less than five thousand dollars ($5,000).

(c) Group Annuity Contract Requirements. The Group Annuity Contract shall provide as follows with respect to each eligible Pensioner as defined in Section 5.15(b):

(i) a full guarantee of the payment of the Accrued Benefit earned by such Pensioner;

(ii) continued payment of the Pensioner’s Accrued Benefit in the same form that was in effect under the Plan immediately before the purchase of the Group Annuity Contract; and

(iii) as of the effective date of the purchase of the Group Annuity Contract, the Plan shall have no further obligation to make any payment with respect to any Accrued Benefit of the Pensioner.

(d) Notice to Pensioners. The Committee shall send a notice to each Pensioner whose Accrued Benefit payable is transferred to the Group Annuity Contract as provided for in this Section 5.15 which shall include a description of the Accrued Benefit which the Pensioner is entitled to receive. After a provider for the Group Annuity Contract has been selected, such provider shall distribute to each such Pensioner a certificate or other document setting forth the Pensioner’s Accrued Benefit entitlement to be paid pursuant to the Group Annuity Contract.

(e) Termination as Plan Participant. As of the effective date of the Group Annuity Contract, each Pensioner whose Accrued Benefit payable has been transferred to the Group Annuity Contract in accordance with this Section 5.15 shall cease to be a Participant covered under the Plan.
The Executive Committee of the Board of Governors of the American Bar Association met Wednesday, October 18, 2017 at 2:00 p.m. President Hilarie Bass presided. Participating in the meeting were Michelle A. Behnke, Michael H. Byowitz, Robert M. Carlson, Deborah Enix-Ross, Ilene K. Gotts, Erica R. Grinde, A. Joshua Markus, Hon. Ramona G. See, Darcee S. Siegel, and Mary L. Smith. Jack L. Rives, James Dimos, Alpha M. Brady, William Phelan, Jarisse Sanborn, Alan Tanenbaum, Rochelle E. Evans, and Annaliese Fleming (participated by conference call for a portion of the meeting) also participated in the meeting.

1. **Executive Session**

In executive session, the Executive Committee discussed a confidential and privileged matter.

2. **Request for Contingent Approval for Filing of Proposed ABA Amicus Brief in Masterpiece Cakeshop v. Colorado Civil Rights Commission (CCRC) in the Supreme Court of the United States**

The Section of Civil Rights and Social Justice requested approval to file an amicus curiae brief in *Masterpiece Cakeshop v. CCRC* in the Supreme Court of the United States. The issue is whether applying Colorado’s public accommodations law to compel Petitioner to create expression that violates his sincerely held religious beliefs about marriage violates the Free Speech or Free Exercise Clauses of the First Amendment.

The proposed brief takes an historical approach and explains that the arguments advanced by the Petitioner in support of a private right to discriminate have been made historically in other civil rights contexts, and have been previously rejected. The proposed brief urges the Court to reject the arguments in the current context and makes the following points:


   b. For centuries, public accommodations laws have protected the basic right of persons to obtain goods and services on equal terms. And since the civil rights
era, Congress and the Court have rejected attempts by commercial entities to claim a constitutional exemption from antidiscrimination laws.

c. Congressional debates preceding the Civil Rights Act of 1964 featured arguments that antidiscrimination principles should be subordinated to the right of business owners to discriminate based on their personal views about their potential customers.

d. After the Civil Rights Act became law, commercial enterprises made the same arguments in the courts, but were unsuccessful. In *Heart of Atlanta Motel, Inc. v. United States*, 379 U.S. 241 (1964), the Court rejected the contention that the Civil Rights Act violated a business’s Fifth and Thirteenth Amendment rights by denying the personal liberty to select customers. The Court reaffirmed that holding in *Katzenbach v. McClung*, 379 U.S. 294 (1964), holding that the Civil Rights Act did not violate due process by interfering with a restaurant owner’s rights to refuse to serve whoever he pleased. And in *Newman v. Piggie Park Enterprises*, 390 U.S. 400 (1968), the Court rejected as “patently frivolous” a business owner’s contention that serving African-Americans violated his free exercise rights.

b. Recognizing Petitioners’ claim to a compelled speech exemption to public accommodations laws would permit virtually any business to assert a First Amendment right to treat any group of persons as second-class citizens by refusing them goods or services. Almost any business activity can be recast as expressive in nature. Permitting compelled-speech claims to override public accommodations laws therefore would vitiate those laws, leaving individuals vulnerable to the stigma of being refused service based on business owners’ beliefs.

c. The Court should refuse the government’s suggestion that any First Amendment speech exemption could be narrowly drawn to protect only opposition to gays and lesbians and same-sex marriage — as opposed to racial discrimination generally or opposition to interracial marriage. That suggestion ignores *Romer* and *Obergefell* and accepting it would drain much of the substance from the Constitution’s guarantee of equal rights.

The Standing Committee on Amicus Curiae Briefs (“Standing Committee”) has reviewed the draft brief and recommends approval for filing, subject to approval of the final language by the Standing Committee and the Office of the General Counsel.
UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Executive Committee approved the filing of an amicus curiae brief in *Masterpiece Cakeshop v. Colorado Civil Rights Commission (CCRC)* in the Supreme Court of the United States, subject to approval of the final language by the Standing Committee on Amicus Curiae Briefs and the Office of the General Counsel.

3. Discussion Regarding Other Matters

a. CloudLaw – The Executive Committee was requested to approve the contract with the ABA and CloudLaw. CloudLaw is the developer of an online legal directory platform for use by bar associations. It is viewed as a good product and currently used in five participating states: Indiana, Illinois, Ohio, Michigan and South Carolina. Each state is responsible for maintaining the directory for their state and for its compliance with state ethics rules. Concerns have been raised by a small segment of members who view the directory as a lawyer referral program. While the Board previously authorized the ABA to enter into the agreement, the Board’s liaison to the Standing Committee on Lawyer Referral and Information Services asked that the execution of the contract wait until the Deputy Executive Director could attend the Standing Committee’s upcoming meeting and conference in Portland, Oregon, to provide additional information to attendees and address any concerns.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Executive Committee determined that it would wait until after the upcoming conference of the Standing Committee on Lawyer Referral and Information Services in Portland, Oregon, to sign the contract with CloudLaw, if still appropriate.

b. Realignment Project – The Executive Committee discussed the Board’s realignment project. It was noted that ongoing discussions have occurred with members of the Committee on Scope and Correlation of Work (“Scope”) regarding the overlap of committees reviewed by both the Board and Scope. While the Chair of Scope requested that a member of Scope be assigned to each subgroup of the Board Committees, members of Scope have only been assigned to the subgroups that included committees that Scope was scheduled to review as part of its normal review process. The Executive Committee was advised that some concern was expressed by Scope regarding the release of the detailed reports of Scope which are highly confidential. Scope was requested to redact the reports and submit to the Board Committee Chairs, which currently has not been done. The Executive Committee was also advised that the Chair of Scope has serious concerns with the process but wants to work with the Board. Scope has been advised that it is the Board’s fiduciary responsibility to review entities as it views necessary regardless of the role of Scope.
c. Key Items on Agendas of Board Committees – Hon. Ramona G. See, Chair of the Board’s Profession, Public Service and Diversity Committee, and A. Joshua Markus, Chair of the Board’s Member Services Committee, reported that the questionnaires for the realignment project were due October 9, 2017 and will be discussed by the Committees at their meetings on October 19, 2017.

d. Other Matters – The Executive Committee was informed that Avenue had been selected as the marketing company to work with the ABA, with funding up to $1 million. The other companies were either more expensive or less expensive without accomplishing the goals necessary for completion of the full project. Bob Domenz, Chief Executive Officer of Avenue, will give a presentation to the Board during its meeting on Friday, October 20, 2017. It is anticipated that the marketing analysis/project will be completed by the end of FY2018.

The Executive Committee was reminded of the media policy and a spokesperson policy interpretation. The policy makes clear that in addition to the President, others may speak about the good work being done on behalf of the Association. Some limitations have been removed from the implementation of policy.

The Executive Committee was advised that the Board would be requested to adopt a resolution/certificate of appreciation to acknowledge the leadership of the Young Lawyers Division Disaster Legal Services Team regarding its work on disaster relief, in particular regarding actions taken and assistance provided to victims of Hurricanes Harvey, Irma and Maria, and the California wildfires.

There being no further business to come before the Committee, the meeting was adjourned.

Respectfully Submitted,

Mary L. Smith
Secretary
The Executive Committee of the American Bar Association Board of Governors, by email ballot on November 3, 2017, approved the request from the Commission on Veterans Affairs to enter into a non-binding agreement with the Department of Veterans Affairs ("VA"), namely the Veterans Consortium on Pro Bono and the National Law School Veterans Clinic Consortium. The agreement would identify key issues, promote model initiatives, and suggest success measures for providers nationwide and to establish goals and guidance to improve legal support for veterans. The agreement is subject to review and approval by the Office of the General Counsel.

Respectfully Submitted,

Mary L. Smith
Secretary
The Executive Committee (“Committee”) of the Board of Governors of the American Bar Association met by telephone conference on Monday, November 13, 2017 at 2:30 p.m. CT. President Hilarie Bass presided. Participating in the meeting were Michelle A. Behnke, Michael H. Byowitz, Deborah Enix-Ross, Ilene K. Gotts, A. Joshua Markus, Darcee S. Siegel, and Mary L. Smith. Jack L. Rives, Jarisse Sanborn, Rochelle E. Evans, and Annaliese Fleming (participated in a portion of the call) also participated in the meeting.

1. Request for Contingent Approval for Filing of Proposed ABA Amicus Brief in *Nantkwest v. Matal* in the Federal Circuit Court of Appeals

The Section of Intellectual Property Law requested approval to file an amicus curiae brief in *Nantkwest v. Matal* in the Federal Circuit Court of Appeals. The issue is whether a party who appeals a decision of the United States Patent and Trademark Office in federal district court should have to pay the government’s attorney fees as “expenses” required by the statute.

The proposed brief will take the position that interpreting “expenses” to include fees is contrary to Congressional intent in enacting the statute, and is an unprecedented departure from the American Rule. The proposed brief will set forth the following points:

a. A discussion of the history and purpose of the American Rule, the bedrock principle with which a court addresses any fee shifting situation.

b. An overview of fee-shifting statutes examining the contexts in which Congress has decided a departure from the American Rule is warranted and explaining that a departure from the American Rule historically has been done only to accomplish a goal in the public interest, and only where there is specific Congressional intent to do so.

c. An explanation that the Federal Circuit is being asked to interpret “expenses” to mean “fees” without an explicit statement of Congressional intent in support. It is particularly troubling to force a party litigating against the government to pay the government’s fees *regardless of outcome* – it chills advocacy and suits for judicial review of agency action, which Congress has otherwise gone to great lengths to encourage. It further denies individual inventors and small business access to justice.
The Standing Committee on Amicus Curiae Briefs ("Standing Committee") has reviewed the draft briefs and recommends approval for filing, subject to approval of the final language by the Standing Committee and the Office of the General Counsel.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Executive Committee approved the filing of an amicus curiae brief in Nantkwest v. Matal in the Federal Circuit Court of Appeals, subject to approval of the final language by the Standing Committee on Amicus Curiae Briefs and the Office of the General Counsel.

2. Request for Contingent Approval for Filing of Proposed ABA Amicus Brief in McCoy v. Louisiana in the Supreme Court of the United States

The Death Penalty Due Process Review Project and the Death Penalty Representation Project requested approval to file an amicus curiae brief in McCoy v. Louisiana in the Supreme Court of the United States. The issue is whether it is unconstitutional for defense counsel to concede an accused's guilt at trial over the accused's express objection.

The proposed brief discusses the importance of trust between attorney and client, and the fundamental and constitutionally-rooted role of the client as master of his or her own defense. The brief sets forth the following:

a. Summary of the ABA policies bearing on the issue, including the Criminal Justice Defense Standards and the Model Rules of Professional Conduct, which stress that a client has fundamental right to direct his defense.

b. Discussion of the widely-accepted and utilized guidance specifically for capital defense lawyers the ABA has provided in the Guidelines for the Appointment and Performance of Defense Counsel in Capital Cases that further clarify the appropriate balance of decision-making in an attorney-client relationship.

c. Explanation of why this case demonstrates a breakdown of a fundamental element of the attorney-client relationship.

The Standing Committee on Amicus Curiae Briefs ("Standing Committee") has reviewed the draft briefs and recommends approval for filing, subject to approval of the final language by the Standing Committee and the Office of the General Counsel.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Executive Committee approved the filing of an amicus curiae brief in McCoy v. Louisiana in the Supreme Court of the United States, subject to approval of the final language by the Standing Committee on Amicus Curiae Briefs and the Office of the General Counsel.
3. **Request for Contingent Approval for Filing of Proposed ABA Amicus Brief in *Walker v. Calhoun* in the Eleventh Circuit Court of Appeals**

The Standing Committee on Legal Aid and Indigent Defendants, the Section of Civil Rights and Social Justice and the Criminal Justice Section requested approval to file an amicus curiae brief in *Walker v. Calhoun* in the Eleventh Circuit Court of Appeals. The issue is whether the district court correctly held that preset misdemeanor money bond schedules, which set bail for pretrial release without taking into account an indigent criminal misdemeanor defendant’s inability to pay, violate the Equal Protection and Due Process Clauses of the Fourteenth Amendment.

The proposed brief argues that the inflexible money bail system at issue discriminates against the indigent, impairs defendants’ rights to meet the criminal charges against them, and does little to advance public safety. The brief discusses the following points:

a. The ABA has promulgated the most influential policy and standards regarding money bail in the United States, its Pretrial Release Standards, which include the following provisions:

   i. Section 10-1.4(a) requires a presumption that misdemeanor criminal defendants will be released on their own recognizance.

   ii. Section 10-1.4(e) prohibits jail-or-pay schemes that fail to account for an individual’s ability to pay.

   iii. Section 10-5.3(a) reinforces the requirement of accounting for an individual’s ability to pay and makes secured money bond a last resort when setting pretrial conditions.

b. Money bail does not accomplish the public safety goals as well as supervised release, and harms criminal defendants, further compounding issues related to poverty.

The Standing Committee on Amicus Curiae Briefs (“Standing Committee”) has reviewed the draft briefs and recommends approval for filing, subject to approval of the final language by the Standing Committee and the Office of the General Counsel.

**UPON MOTION DULY MADE, SECONDED AND CARRIED:**

The Executive Committee approved the filing of an amicus curiae brief in *Walker v. Calhoun* in the Eleventh Circuit Court of Appeals, subject to approval of the final language by the Standing Committee on Amicus Curiae Briefs and the Office of the General Counsel.
4. **Discussion Regarding Recommendation from the Ethics Review Committee**

In executive session, the Executive Committee discussed and took action on a recommendation from the Ethics Review Committee.

There being no further business to come before the Executive Committee, the meeting was adjourned.

Respectfully Submitted,

Mary L. Smith  
Secretary
BOARD OF GOVERNORS
EXECUTIVE COMMITTEE MEETING

Telephone Conference Call
Tuesday, November 21, 2017
10:00 a.m. (CT)

MINUTES

The Executive Committee (“Committee”) of the Board of Governors of the American Bar Association met by telephone conference on Tuesday, November 21, 2017 at 10:00 a.m. CT. President Hilarie Bass presided. Participating in the meeting were Michelle A. Behnke, Robert M. Carlson, A. Joshua Markus, Hon. Ramona G. See, and Mary L. Smith. Jack L. Rives, Alpha M. Brady, William K. Phelan, Jarisse Sanborn, Rochelle E. Evans, and Deborah Bolling also participated on the conference call.

The Executive Committee met to discuss the pension loan transaction. The ABA has a legacy pension obligation. The pension plan has been frozen to new entrants as of January 1, 2007. The low interest rate environment which has existed since 2008 drove up the pension obligation, resulting in the pension being underfunded by $90 million as recently as 2015. Two years ago, the ABA entered into a transaction to begin to address the underfunding. The ABA borrowed $40 million and contributed the proceeds to the pension. The loan interest rate was variable and very low at 1.25% at the time. Since then, rates have increased so current interest rate is 2.25%, and the outstanding balance is now $24 million. This transaction allowed the pension to benefit from the historically low interest rates.

Because the Association’s pension plan is still significantly underfunded, the Finance Committee is recommending that the ABA borrow $20 million for five years, 4 months and contribute funds to the pension plan. The reasons to borrow the money include the following: 1) existing obligation which must be paid over next few years; 2) debt is most cost-effective means to fund existing obligation based on the expected returns on invested assets; 3) puts pension plan at or very near 80% funded status for foreseeable future, allowing the ABA to lump sum out participants and save PBGC fees; and 4) converts an erratic, volatile series of cash flows to a more predictable one. Given recent interest rate uncertainty and expected rate increases over the next 12 months, a fixed rate loan helps limit overall interest rate exposure. Combined with the existing variable rate loan, this fixed rate loan will help mitigate the Association’s overall interest rate risk and warrants urgency for approval.

UPON MOTION DULY MADE, SECONDED AND CARRIED*:

The Executive Committee approved and authorized staff to consummate a transaction to borrow up to an additional $20 million and contribute those proceeds to the AEFC Pension Plan on behalf of the ABA.
There being no further business to come before the Executive Committee, the meeting was adjourned.

Respectfully Submitted,

Mary L. Smith
Secretary

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*Deborah Enix-Ross, Ilene K. Gotts, Erica R. Grinde and Darcee S. Siegel concurred in the action of the Executive Committee.
The Executive Committee (“Committee”) of the Board of Governors of the American Bar Association met by telephone conference on Monday, December 11, 2017 at 12:00 p.m. CT. President Hilarie Bass presided. Participating in the meeting were Michelle A. Behnke, Robert M. Carlson, Deborah Enix-Ross, Ilene K. Gotts, Erica R. Grinde, Darcee S. Siegel, and Mary L. Smith. Jack L. Rives, Alpha M. Brady, Jarisse Sanborn, Rochelle E. Evans also participated on the conference call. R. Larson Frisby, Chris Rocker, Kevin Shepherd, Jennifer Stark, and Thomas Susman, participated in a portion of the call.

The Executive Committee considered a request from the Section of Business Law to approve proposed policy to provide the ABA with an opportunity to present comments to Congress as it works over the next several weeks to reconcile the tax bills of the House of Representatives and Senate to pass a final tax reform bill. It was noted that the Section of Litigation is a cosponsor of the proposed policy. The policy reads as follows:

RESOLVED, That the American Bar Association urges Congress to ensure that any federal legislation that reduces the federal tax rate for pass-through entities and sole proprietorships, or provides other tax benefits to pass-through entities and sole proprietorships, provide the same rate reduction or other benefits to law firms and other professional service businesses that operate as pass-through entities or sole proprietorships, on a non-discriminatory basis.

A “friendly amendment” to the proposed policy was submitted by Michael Byowitz. It was noted that the Section of Business Law is not in favor of the amendment. The Executive Committee did not vote in support of the amendment.

UPON MOTION DULY MADE, SECONDED AND CARRIED*: 

The Executive Committee approved the proposed policy as submitted by the Sections of Business Law and Litigation to provide the ABA with an opportunity to present comments to Congress as it works over the next several weeks to reconcile the tax bills of the House of Representatives and Senate to pass a final tax reform bill.

In executive session, the Executive Committee discussed and took action on a confidential matter.
There being no further business to come before the Executive Committee, the meeting was adjourned.

Respectfully Submitted,

Mary L. Smith
Secretary

*Deborah Enix-Ross abstained from voting with respect to this request.*
MINUTES

AMERICAN BAR ASSOCIATION
BOARD OF GOVERNORS
EXECUTIVE COMMITTEE

Mail Ballot
(E-Mail)

December 21, 2017

The Executive Committee of the American Bar Association Board of Governors, by email ballot on December 21, 2017, approved the request from the Section of Environment, Energy and Resources to cosponsor and make financial contributions annually up to $10,000 from Section funds to the World Justice Forum that was held in 2016-2017 and may be held in the 2017-2018 and 2018-2019 Association years. No ABA general revenue funding is requested or required.

Respectfully Submitted,

Mary L. Smith
Secretary
Since the last report to the Board of Governors at the October Meeting in Miami, Florida, the Secretary has received a total of nine (9) requests for blanket authority. Five (5) requests were regular and four (4) requested expedited procedures. The requests are set forth below in date order of submission.

**Expedited**

1) **Section of Intellectual Property Law – October 3, 2017**

The Section requested expedited blanket authority to submit comments to the United States Trade Representative on amendments to the use requirements of the Canadian Trade-Marks Act by Bill C-31 to be raised with the Canadian representatives during the renegotiation of the North American Free Trade Agreement.

Since no objections were raised, the Section of Intellectual Property Law was authorized to submit the comments.

2) **Expedited**

   **Section of Intellectual Property Law – October 30, 2017**

The Section requested expedited blanket authority to submit comments to the United States Trade Representative on dispute resolution in NAFTA.

Since no objections were raised, the Section of Intellectual Property Law was authorized to submit the comments.

3) **Section of Antitrust Law**

   **Section of International Law – November 2, 2017**

The Sections requested blanket authority to submit comments to the Competition Promotion Branch Competition Bureau regarding its Big Data and Innovation Draft Discussion Paper.

Since no objections were raised, the Sections of Antitrust Law and International Law were authorized to submit the comments.

4) **Section of Antitrust Law – November 6, 2017**

The Section requested blanket authority to submit comments to the Federal Economic Competition Commission regarding its proposed amendment to the Federal Law of Economic Competition, Article 103 BIS, pertaining to the attorney-client privilege.

Since no objections were raised, the Section of Antitrust Law was authorized to submit the comments.
5) **Section of Antitrust Law – November 14, 2017**

The Section requested blanket authority to submit comments to the Irish Department of Business, Enterprise and Innovation regarding its merger control issues.

Since no objections were raised, the Section of Antitrust Law was authorized to submit the comments.

**Expedited**

6) **Section of Antitrust Law – November 15, 2017**

The Section requested expedited blanket authority to submit comments to the European Commission for Agriculture and Rural Development on its initiative to improve the food supply chain.

Since no objections were raised, the Section of Antitrust Law was authorized to submit the comments.

**Expedited**

7) **Section of Taxation – November 20, 2017**

The Section requested expedited blanket authority to submit comments to the Finance Committee and the House Ways and Means Committee regarding the Deductibility of Expenses for Tax Code Compliance.

Since no objections were raised, the Section of Taxation was authorized to submit the comments.

8) **Section of Intellectual Property Law – November 22, 2017**

The Section requested blanket authority to submit comments to the United States Senate Committee on the Judiciary on the nomination of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

The Section of Intellectual Property Law withdrew the comments due to the timing of the Senate Judiciary Committee’s rescheduled confirmation hearing.

9) **Section of Antitrust Law – November 28, 2017**

The Section requested blanket authority to submit comments to the French Competition Authority regarding its Consultation on Modernizing and Simplifying the French Merger Control Law.

Since no objections were raised, the Section of Antitrust Law was authorized to submit the comments.
Respectfully submitted,

Mary L. Smith, Secretary

December 2017

Executive Director Jack L. Rives and the following management staff also attended: Elizabeth Andersen, Martin D. Balogh, Alpha M. Brady, Holly Cook, BarryCurrrier, James Dimos, H. Maria Enright, Janae LeFlore, Michael Kreisberg, William K. Phelan, Jarisse J. Sanborn, Carol Stevens, and Thomas M. Susman.

President Bass called the meeting to order and welcomed the members of the Board and Association staff.

MINUTES OF PREVIOUS MEETING

The ABA Secretary Mary L. Smith, presented the minutes of the August 10, 2017, meeting of the FJE Board.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The minutes of the August 10, 2017, meeting of the FJE Board were approved as presented.

There being no further business to come before the FJE Board, the meeting was adjourned.

Respectfully Submitted,

Mary L. Smith,
Secretary
Date: January 8, 2018

To: Board of Governors of the FJE

From: William K. Phelan

Subject: FJE New Awards/Modifications

Financial Services kindly requests that the Board of Governors of the American Bar Association Fund for Justice and Education review and note the acceptance of the restricted grants listed on the attached report. These grants, totaling $16,918,128 and not previously reported to the Board, were awarded through September 30, 2017.

Should you have any questions – or need further information – my staff and I are available to assist.

WKP:nn

Cc: Jack L. Rives
    Jerry Kiska
<table>
<thead>
<tr>
<th>Grantor</th>
<th>Project Title</th>
<th>Amount</th>
<th>Estimated Obligated</th>
<th>Obligated Period</th>
<th>End date</th>
<th>NICRA Cost</th>
<th>NICRA Cost Rate</th>
<th>Direct Cost</th>
<th>Direct Labor Cost</th>
<th>G &amp; A Cost</th>
<th>ROLI / Entity</th>
</tr>
</thead>
<tbody>
<tr>
<td>U.S. Department of State</td>
<td>Global Reparations Summit: Phase Two Project C</td>
<td>$16,000</td>
<td>$16,000</td>
<td>12/1/2017</td>
<td>5/31/2018</td>
<td>NICRA</td>
<td>$12,132</td>
<td>$1,662</td>
<td>$2,206</td>
<td>ROLI - Rule of Law Initiative - Research, Evaluation, and Learning</td>
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<tr>
<td>U.S. Department of Homeland Security</td>
<td>FEMA Disaster</td>
<td>$13,975</td>
<td>$13,975</td>
<td>8/1/2016</td>
<td>8/31/2017</td>
<td>NICRA</td>
<td>$13,975</td>
<td>0.00%</td>
<td>$0</td>
<td>$0</td>
<td>Domestic - Young Lawyers</td>
</tr>
<tr>
<td>U.S. Department of Homeland Security</td>
<td>FEMA Training</td>
<td>$66,959</td>
<td>$66,959</td>
<td>12/1/2017</td>
<td>11/30/2018</td>
<td>NICRA</td>
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<td>$9,755</td>
<td>Domestic - Young Lawyers</td>
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<td>U.S. Agency for International Development / Freedom House</td>
<td>Armenia Stronger Institutional Guarantees for Human Rights protection</td>
<td>$80,000</td>
<td>$80,000</td>
<td>9/1/2017</td>
<td>8/31/2019</td>
<td>NICRA</td>
<td>$61,380</td>
<td>$8,367</td>
<td>$10,253</td>
<td>ROLI - Rule of Law Initiative - Europe and Eurasia</td>
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## ABA Fund for Justice and Education

### New Awards / Modifications

**Period:** October 1 - December 31 2017

<table>
<thead>
<tr>
<th>Grantor</th>
<th>Project Title</th>
<th>Amount</th>
<th>Period</th>
<th>End date</th>
<th>NICRA Cost</th>
<th>G &amp; A</th>
<th>ROLI / Entity</th>
</tr>
</thead>
<tbody>
<tr>
<td>U.S. Department of Justice</td>
<td>DOJ LAV Training Program</td>
<td>$800,000</td>
<td>10/1/2017 - 9/30/2020</td>
<td>9/30/2020</td>
<td>NICRA $646,013</td>
<td>$49,714</td>
<td>Domestic Violence</td>
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<tr>
<td>U.S. Department of Justice</td>
<td>Evaluating Capacity of Elder Abuse Fatality Review Teams to Improve Victim Services</td>
<td>$235,858</td>
<td>10/1/2017 - 9/30/2019</td>
<td>9/30/2019</td>
<td>NICRA $207,864</td>
<td>$7,655</td>
<td>Domestic Commission on Law and Aging</td>
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<tr>
<td>U.S. Department of Justice / Vera Institute of Justice</td>
<td>Vera NQRP Contract</td>
<td>$479,048</td>
<td>10/1/2017 - 9/30/2018</td>
<td>9/30/2018</td>
<td>NICRA $381,898</td>
<td>$30,972</td>
<td>Domestic Commission of Immigration</td>
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<td>CAA Foundation</td>
<td>Mexico Worker's Rights Program</td>
<td>$503,865</td>
<td>10/1/2017 - 12/31/2019</td>
<td>12/31/2019</td>
<td>NICRA $386,555</td>
<td>$73,668</td>
<td>ROLI - Rule of Law Initiative - Latin America and Caribbean</td>
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<tr>
<td>Justice In Aging</td>
<td>JIA project Year 2</td>
<td>$94,127</td>
<td>9/2/2017 - 9/1/2018</td>
<td>9/1/2018</td>
<td>NICRA $75,506</td>
<td>$6,320</td>
<td>Domestic Commission of Law and Aging</td>
</tr>
<tr>
<td>Redlich Horwitz Foundation</td>
<td>OCFS Kinship Project</td>
<td>$40,000</td>
<td>9/1/2017 - 3/1/2019</td>
<td>3/1/2019</td>
<td>NICRA $32,239</td>
<td>$2,483</td>
<td>Domestic Center of Children and The Law</td>
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<tr>
<td>The Simmons Foundation</td>
<td>Simmons Foundation Project</td>
<td>$100,000</td>
<td>10/1/2017 - 9/30/2019</td>
<td>9/30/2019</td>
<td>0.00%</td>
<td>$95,829</td>
<td>$4,171</td>
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<tr>
<td>The Schmidt Family Foundation</td>
<td>Increasing Access to Justice for Disadvantaged Groups in the Democratic Republic of Congo</td>
<td>$225,000</td>
<td>9/1/2017 - 5/31/2018</td>
<td>5/31/2018</td>
<td>8.00%</td>
<td>$176,084</td>
<td>$33,080</td>
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<tr>
<td>State of Connecticut</td>
<td>Children and Families Project</td>
<td>$10,361</td>
<td>10/1/2017 - 9/30/2019</td>
<td>9/30/2019</td>
<td>NICRA $8,343</td>
<td>$621</td>
<td>$1,396</td>
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</table>

**Subtotal New Awards** | **$7,162,838** | **$7,162,838**
ABA Fund for Justice and Education

New Awards / Modifications
Period: October 1 - December 31 2017

<table>
<thead>
<tr>
<th>Grantor</th>
<th>Project Title</th>
<th>Estimated Amount</th>
<th>Obligated Amount</th>
<th>Period</th>
<th>End date</th>
<th>NICRA Cost</th>
<th>NICRA Rate</th>
<th>Direct Cost</th>
<th>G &amp; A</th>
<th>ROLI / Entity</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>Total award modification:</td>
<td>$310,876</td>
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<td>Total estimated award:</td>
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<tr>
<td></td>
<td>Total awarded to date:</td>
<td>$371,436</td>
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</tr>
</tbody>
</table>

|         | Total award modification:         | $44,785          |                  |         |          |             |            |              |        |                                   |
|         | Total estimated award:            | $394,655         |                  |         |          |             |            |              |        |                                   |
|         | Total awarded to date:            | $394,655         |                  |         |          |             |            |              |        |                                   |

|         | Total award modification:         | $552,225         |                  |         |          |             |            |              |        |                                   |
|         | Total estimated award:            | $4,993,147       |                  |         |          |             |            |              |        |                                   |
|         | Total awarded to date:            | $4,993,147       |                  |         |          |             |            |              |        |                                   |

U.S. Agency for International Development / Interchurch Medical Assistance | DRC Project        | $35,000          | $35,000         | 7/14/2010 | 9/30/2017 | NICRA       | -$12,847    | -$2,961      | $50,808   | ROLI - Rule of Law Initiative - Africa |
|         | Total award modification:         | $35,000          |                  |         |          |             |            |              |        |                                   |
|         | Total estimated award:            | $2,330,165       |                  |         |          |             |            |              |        |                                   |
|         | Total awarded to date:            | $2,330,165       |                  |         |          |             |            |              |        |                                   |

<p>|         | Total award modification:         | $10,500          |                  |         |          |             |            |              |        |                                   |
|         | Total estimated award:            | $12,065          |                  |         |          |             |            |              |        |                                   |</p>
<table>
<thead>
<tr>
<th>Grantor</th>
<th>Project Title</th>
<th>Total awarded to date:</th>
<th>Amount</th>
<th>Estimated Obligated</th>
<th>Amount</th>
<th>Estimated Period</th>
<th>Obligated</th>
<th>End date</th>
<th>NICRA Rate*</th>
<th>Direct Labor</th>
<th>G &amp; A</th>
<th>NICRA Cost</th>
<th>Overhead Cost</th>
<th>NICRA Cost</th>
<th>Domestic</th>
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</thead>
<tbody>
<tr>
<td>Department of Health and Human Services / Vera</td>
<td>Vera CILA CLIN Project</td>
<td>$12,068</td>
<td>$481,298</td>
<td>$481,298</td>
<td>9/30/2015</td>
<td>9/29/2018</td>
<td>NICRA</td>
<td>$451,456</td>
<td>$21,446</td>
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<tr>
<td>Institute of Justice Inc</td>
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<td>NICRA</td>
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<tr>
<td>Department of Homeland Security / Vera Institute</td>
<td>Vera CILA CLIN Project</td>
<td>$7,705,696</td>
<td>$7,705,696</td>
<td>$7,705,696</td>
<td>9/30/2015</td>
<td>9/29/2018</td>
<td>NICRA</td>
<td>$6,384,928</td>
<td>$397,313</td>
<td>$923,455</td>
<td>Domestic</td>
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<td>of Justice Inc</td>
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<td>NICRA</td>
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<tr>
<td>Department of Homeland Security / Vera Institute</td>
<td>ProBAR LOP Project</td>
<td>$277,288</td>
<td>$277,288</td>
<td>$277,288</td>
<td>10/1/2015</td>
<td>4/30/2018</td>
<td>NICRA</td>
<td>$222,729</td>
<td>$17,147</td>
<td>$37,412</td>
<td>Domestic</td>
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<td>of Justice Inc</td>
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<tr>
<td>Department of Homeland Security / Vera Institute</td>
<td>Vera LOPC</td>
<td>$201,840</td>
<td>$201,840</td>
<td>$201,840</td>
<td>9/1/2015</td>
<td>5/31/2018</td>
<td>NICRA</td>
<td>$159,018</td>
<td>$14,280</td>
<td>$28,542</td>
<td>Domestic</td>
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<tr>
<td>of Justice Inc</td>
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<td>of Justice Inc</td>
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<td>Total award modification:</td>
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</tr>
</tbody>
</table>
## ABA Fund for Justice and Education
### New Awards / Modifications
#### Period: October 1 - December 31 2017

<table>
<thead>
<tr>
<th>Grantor</th>
<th>Project Title</th>
<th>Estimated Amount</th>
<th>Obligated Amount</th>
<th>Estimated Period</th>
<th>End date</th>
<th>Indirect NICRA Cost Rate*</th>
<th>Direct Cost</th>
<th>Overhead Cost</th>
<th>NICRA Cost</th>
<th>Domestic ROLI / Entity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Casey Family Programs</td>
<td>Casey Legal Center</td>
<td>$10,000</td>
<td>$10,000</td>
<td>1/1/2017</td>
<td>12/31/2017</td>
<td>0%</td>
<td>$9,550</td>
<td>$450</td>
<td>$0</td>
<td>Domestic Center of Children and The Law</td>
</tr>
</tbody>
</table>

**Total estimated award:** $667,079  
**Total awarded to date:** $667,079

**Total award modification:** $10,000  
**Total estimated award:** $102,000  
**Total awarded to date:** $102,000

### Subtotal Modifications
- **Total:** $9,755,290
- **Received it after Oct 1, 2017:**

### Grand Total Awards July 1 - September 30, 2017
- **Total:** $16,918,128
- **Estimated:** $16,918,128
- **Obligated:** $16,918,128
- **Direct:** $13,826,263
- **Direct Labor:** $1,247,431
- **G & A:** $1,844,434

#### Domestic Total
- **Full NICRA:**
  - Estimated: $10,687,017
  - Obligated: $10,687,017
  - NICRA Variance From Full Rate: $16,376
- **Partial NICRA:**
  - Estimated: $5,231,112
  - Obligated: $5,231,112
  - NICRA Variance From Full Rate: $23,587.45

#### International (ROLI) Total
- **Full NICRA:**
  - Estimated: $6,006,112
  - Obligated: $6,006,112
  - NICRA Variance From Full Rate: $7,212
- **Partial NICRA:**
  - Estimated: $225,000
  - Obligated: $225,000
  - NICRA Variance From Full Rate: $7,212

---

*NICRA - Approved indirect cost rate in the Negotiated Indirect Cost Rate Agreement
**Received it after Oct 1, 2017*
MEMORANDUM

TO: Board of Governors

FR: Mary L. Smith, Secretary

RE: Request for Adoption of Memorial Resolution for Board Member Joe B. Whisler

DT: January 18, 2018

As you know, Joe B. Whisler of Kansas City, Missouri, passed away December 27, 2017, peacefully at home with his family, following a recent illness. He is survived by his wife, Kathleen, one daughter, and two grandchildren.

Joe began serving in the ABA House of Delegates in 2006 as a delegate from the Missouri Bar, was elected as the State Delegate from Missouri for two terms, until he resigned when he was elected to serve on the Board of Governors in 2015.

I request that the Board adopt the following memorial resolution for Joe.

BE IT RESOLVED, THEREFORE, that the Board of Governors of the American Bar Association, meeting on the second day of February, 2018, in Vancouver, Canada, recognizes the accomplishments, standards and achievements of Joe B. Whisler and extends its deepest sympathy to his family.
MEMORANDUM

TO: Board of Governors

FR: Mary L. Smith, Secretary

RE: Request for Adoption of Memorial Resolution for Former Board Member Jack F. Dunbar

DT: January 17, 2018

As you know, former Board member Jack F. Dunbar of Oxford, Mississippi passed away on December 20, 2017 at the age of 84. Jack is survived by his wife Patsy Englehard, three sons, seven grandchildren, and his three loving dogs.

Jack served as the Mississippi State Bar delegate in 1983 and 1999 to 2001. He was elected as the Mississippi State Delegate for three terms – 1987 to 1995. He served on the Board of Governors from 1995 to 1997.

I request that the Board adopt the following memorial resolution for Jack.

BE IT RESOLVED, THEREFORE, that the Board of Governors of the American Bar Association, meeting on the second day of February, 2018, in Vancouver, Canada, recognizes the accomplishments, standards and achievements of Jack F. Dunbar and extends its deepest sympathy to his family.
Treasurer’s Report

The ABA’s FY2018 Finances Through December 31, 2017

American Bar Association Board of Governors
Vancouver, British Columbia
February 2018

Michelle Behnke
Madison, Wisconsin
608.233.9024 mbehnke@behnkeassociates.com
In my report to the Board of Governors as Treasurer, I would like to cover four topics:

1. Final Audited Results for the fiscal year ended August 31, 2017
2. Consolidated FY2018 Operating and Non-Operating Results through December 31, 2017 (including FY2018 Forecast)
3. Pension funding
4. Preview of FY2019 budget challenges

1. Final Audited Results for the fiscal year ended August 31, 2017

The fiscal year-end financial statement audit, including the Single audit on government grants, was successful. We received a clean (unqualified) opinion from our auditor, Grant Thornton. Our auditor proposed no audit adjustments or identified any report or control weaknesses. The results are now considered final. At this Mid-Year Meeting, the BOG will approve the audited financial statements.

As you can see from the chart below, the good news is that the year-end pension adjustment both increased our net assets and reduced our pension liability by $12.2 million, and, along with our strong investment performance, resulted in a positive change in consolidated net assets of $17.1 million. There were no changes to the fiscal year end operating results that I reported to you at the October meeting.

### Consolidated ABA Results for FYE2017

<table>
<thead>
<tr>
<th></th>
<th>Actual</th>
<th>Budget</th>
<th>LY</th>
<th>Variance to:</th>
<th>Budget</th>
<th>LY</th>
</tr>
</thead>
<tbody>
<tr>
<td>Operating Revenues</td>
<td>$207.5</td>
<td>$211.4</td>
<td>$207.7</td>
<td>(3.9)</td>
<td>(0.2)</td>
<td></td>
</tr>
<tr>
<td>Operating Expenses</td>
<td>215.2</td>
<td>220.3</td>
<td>216.4</td>
<td>5.1</td>
<td>1.2</td>
<td></td>
</tr>
<tr>
<td>Operating Deficit</td>
<td>(7.7)</td>
<td>(8.9)</td>
<td>(8.7)</td>
<td></td>
<td>1.2</td>
<td>1.0</td>
</tr>
<tr>
<td>Investment Income not in Operations</td>
<td>15.5</td>
<td>0.5</td>
<td>3.3</td>
<td>15.0</td>
<td>12.2</td>
<td></td>
</tr>
<tr>
<td>Other Non-Operating Items</td>
<td>(2.9)</td>
<td>(0.2)</td>
<td>(0.9)</td>
<td>(2.7)</td>
<td>(2.0)</td>
<td></td>
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<tr>
<td>Results before Pension Adjustment</td>
<td>4.9</td>
<td>(8.6)</td>
<td>(6.3)</td>
<td>13.5</td>
<td>11.2</td>
<td></td>
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<tr>
<td>Year-end Pension Adjustment</td>
<td>12.2</td>
<td>0.0</td>
<td>(13.3)</td>
<td>12.2</td>
<td>25.5</td>
<td></td>
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<tr>
<td>Change in Net Assets</td>
<td>$17.1</td>
<td>(8.6)</td>
<td>(19.6)</td>
<td>$13.5</td>
<td>$11.2</td>
<td></td>
</tr>
</tbody>
</table>

Final audited results will be posted on the ABA web page at the ABA Groups tab, ABA Leadership and then the Office of Treasurer tab.
2. **Consolidated FY2018 Operating and Non-Operating Results through December 31, 2017 (including FY2018 Forecast)**

On a consolidated basis, the ABA reports revenue under four segments: 1) General Operations; 2) Sections, Divisions and Forums; 3) Grants; and 4) Gifts. To view greater detail than summarized in the charts below, please refer to the last few pages of this report. Please note that some minor differences related to rounding may exist.

### Consolidated ABA Results - December 2017 (FY2018 FYTD)

*Amounts in Millions*

<table>
<thead>
<tr>
<th></th>
<th>Actual</th>
<th>Budget</th>
<th>LY</th>
<th>Variance to:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Budget</td>
</tr>
<tr>
<td>Operating Revenues</td>
<td>$60.8</td>
<td>$63.3</td>
<td>$64.3</td>
<td>$ (2.5)</td>
</tr>
<tr>
<td>Operating Expenses</td>
<td>65.4</td>
<td>67.0</td>
<td>68.5</td>
<td>1.6</td>
</tr>
<tr>
<td><strong>Operating Deficit</strong></td>
<td><strong>(4.6)</strong></td>
<td><strong>(3.7)</strong></td>
<td><strong>(4.2)</strong></td>
<td><strong>(0.9)</strong></td>
</tr>
<tr>
<td>Investment Income not in Operations</td>
<td>10.1</td>
<td>0.2</td>
<td>(2.9)</td>
<td>10.0</td>
</tr>
<tr>
<td>Other Non-Operating Items</td>
<td>0.2</td>
<td>0.3</td>
<td>0.3</td>
<td>(0.0)</td>
</tr>
<tr>
<td><strong>Results before Pension Adjustment</strong></td>
<td><strong>5.7</strong></td>
<td><strong>(3.3)</strong></td>
<td><strong>(6.8)</strong></td>
<td>9.0</td>
</tr>
<tr>
<td>Year-end Pension Adjustment</td>
<td>-</td>
<td>0.0</td>
<td>0.0</td>
<td>-</td>
</tr>
<tr>
<td>Change in Net Assets</td>
<td>$5.7</td>
<td>(3.3)</td>
<td>(6.8)</td>
<td>$9.0</td>
</tr>
</tbody>
</table>

**Consolidated Operating Revenue**

*By Segment ($ in millions)*

<table>
<thead>
<tr>
<th></th>
<th>FY18 - FYTD Dec 2017</th>
<th>FY17 - Dec 2016</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Actual FYTD</td>
<td>Budget FYTD</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>General Operations</td>
<td>$28.6</td>
<td>$29.1</td>
</tr>
<tr>
<td>Sections</td>
<td>15.4</td>
<td>16.5</td>
</tr>
<tr>
<td>Grants</td>
<td>15.9</td>
<td>16.8</td>
</tr>
<tr>
<td>Gifts</td>
<td>0.9</td>
<td>0.9</td>
</tr>
<tr>
<td>Total</td>
<td>$60.8</td>
<td>$63.3</td>
</tr>
</tbody>
</table>
Consolidated operating revenue through December 31, 2017 was $60.8 million, which was $2.5 million below budget. Revenue budget variances are primarily due to unfavorability in Sections of $1.2 million, Grants of $0.9 million and General Operations of $0.5 million. Unfavorability in Section revenue is driven by Meeting Fees ($0.6 million), Advertising ($0.3 million), and Gifts, Contributions and Sponsorships ($0.3 million) and is more than offset by favorable Section expenses. Unfavorability in Grants is driven by both Domestic activity ($0.6 million) and International activity ($0.3 million). Grant activity is expected to pick up as the year progresses in both Domestic and International. The main drivers of the General Operations revenue shortfalls to budget are Dues revenue of $0.3 million and timing of some Gifts and Contribution revenue of $0.3 million due to the Center for Innovation contributions not yet received.

Senior management’s full year revenue forecast is $3.3 million unfavorable to budget. The largest portion of the variance relates to dues revenue: As reported to the Finance Committee in December 2017, dues revenue is still expected to be $2.0 million unfavorable to budget for FY2018. Of course, as the fiscal year progresses, we will have better information, but this is a starting point to determining the path for the FY2019 budget. More on this later in my report.

Consolidated operating revenue compared to prior year is $3.5 million unfavorable, mainly driven by unfavorable Grant revenue ($2.0 million) and General Operations revenue ($1.6 million). Grant unfavorability is mainly driven by decreased spending in International grants. The unfavorability in General Operations is driven by a decrease of $1.9 million in investment income and designated reserves for Operations (compliance with our reserve spending policy of 3.5%).

Consolidated Operating Expense
By Segment ($ in millions)

<table>
<thead>
<tr>
<th></th>
<th>FY18 - FYTD Dec 2017</th>
<th>FY17 - Dec 2016</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Actual FYTD</td>
<td>Budget FYTD</td>
</tr>
<tr>
<td>General Operations</td>
<td>$31.3</td>
<td>$29.8</td>
</tr>
<tr>
<td>Sections</td>
<td>17.7</td>
<td>19.4</td>
</tr>
<tr>
<td>Grants</td>
<td>17.7</td>
<td>16.7</td>
</tr>
<tr>
<td>Gifts</td>
<td>(1.3)</td>
<td>1.1</td>
</tr>
<tr>
<td>Total</td>
<td>$65.4</td>
<td>$67.0</td>
</tr>
</tbody>
</table>

Through the same period, consolidated operating expense of $65.4 million was $1.6 million favorable to (under) budget, and $3.1 million favorable to (lower than) the prior year.

Favorable expense budget variances are mainly driven by Gifts ($2.4 million) and Sections ($1.7 million). Gifts favorability reflects a $2.0 million transfer from the Section of Taxation to its quasi-endowment, as well as domestic fixed fee grants that were transferred to program support funds. Section expenses are favorable $1.7 million, driven by nearly all reporting line items, notably,
Meetings & Travel expense ($1.6 million), Publishing ($0.8 million), and Personnel Costs ($0.7 million). This favorability is partially offset by the $2.0 million transfer from the Section of Taxation, as mentioned above.

Partially offsetting the favorability in Gifts and Sections are higher than expected expenses in General Operations of $1.5 million, and Grants of $0.9 million. General Operations unfavorability is driven by Professional Services ($0.8 million – mainly legal fees), Facilities ($0.5 million), and Compensation and Fringe expenses ($0.4 million). Grants unfavorability of $0.9 million reflects $0.8 million in domestic fixed fee grants that were moved to the Gifts segment in FY2018, as mentioned above.

Consolidated operating expenses are $3.1 million favorable to prior year. Compared to prior year, all segments show favorability. Gifts are favorable $1.8 million, reflecting the $2.0 million transfer from the Section of Taxation to its quasi–endowment. Section expense is favorable $0.6 million, reflective of multiple reporting lines (notably, $1.6 million favorable Meetings & Travel expense), and partially offset by the Transfer from Taxation noted above. General Operations expense is favorable to prior year by $0.6 million, driven by Facilities expense ($0.4 million – reflective of savings with the new lease agreement), and Publishing expense ($0.4 million).

Consolidated Revenue over/(under) Expenses

By Segment ($ in millions)

<table>
<thead>
<tr>
<th></th>
<th>FY18 - FYTD Dec 2017</th>
<th>FY17 - Dec 2016</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Actual FYTD Budget FYTD Variance Fav (Unf)</td>
<td>Actual FYTD Variance Fav (Unf)</td>
</tr>
<tr>
<td>General Operations</td>
<td>$ (2.7) $ (0.7) $ (2.0)</td>
<td>$ (1.7) $ (1.0)</td>
</tr>
<tr>
<td>Sections</td>
<td>(2.4) (2.8) 0.5</td>
<td>(2.6) 0.3</td>
</tr>
<tr>
<td>Grants</td>
<td>(1.7) 0.1 (1.8)</td>
<td>0.1 (1.8)</td>
</tr>
<tr>
<td>Gifts</td>
<td>2.2 (0.2) 2.4</td>
<td>0.1 2.1</td>
</tr>
<tr>
<td>Total</td>
<td>$ (4.6) $ (3.7) $ (0.9)</td>
<td>$ (4.2) $ (0.5)</td>
</tr>
</tbody>
</table>

Through December 31, 2017, on a consolidated basis, Net Operating Revenue is less than Expenses resulting in a $4.6 million deficit. This deficit by segment consists of a $2.7 million deficit from General Operations, $2.4 million deficit from Sections, a $1.7 million deficit in Grants, partially offset by a $2.2 million surplus in the Gifts segment. The Section deficit in part reflects the $2.0 million transfer from the Section of Taxation to a quasi-endowment. As I have mentioned on previous occasions, many sections do not include investment income in operations and, as such, as of December 31, 2017, the Sections have $5.1 million of investment income not included in their operating total, but instead reported in non-operating. Bringing uniformity to this investment income within Sections was part of the discussion at the SOC Fall meeting and we continue to work on this to provide more accuracy in our financial reporting. The deficit in Grants is partially related to $0.8 million in domestic fixed fee grants from prior years that were moved to the Gifts segment.
in FY2018. The Gifts segment surplus of $2.2 million is also reflective of the $2.0 million unbudgeted transfer from Taxation as mentioned above.

Non-Operating Results through December 31, 2017

As stated above, consolidated operating revenue through December 31, 2017 was $60.8 million, consolidated operating expenses were $65.4 million, resulting in a deficit of $4.6 million. Despite the operating deficit of $4.6 million, the ABA realized a positive net asset change of $5.7 million since FY2017 fiscal year end due to strong investment performance (recall that Investment Income is reported in both operations and in non-operations). The ABA earned $13.7 million of investment income in the first four months of this fiscal year (FY2018). Of the $13.7 million in investment income, General Operations/FJE and Sections earned $8.0 million ($5.0 million non-operating) and $5.7 million ($5.1 million non-operating), respectively.

Statement of Financial Position (Balance Sheet)

It is also important to understand the components of our Association’s balance sheet in conjunction with the income statement.
While we have assets of $340.0 million, we have significant liabilities totaling $162.2 million, leaving us with total net assets of $177.8 million. The good news is that our Long-Term Investment balance, our largest asset on the balance sheet, increased by $4.2 million compared to August 31, 2017.

Our net assets represent approximately ten months of consolidated annual expenses. Of the $177.8 million total net assets, approximately $108.7 million are Section unrestricted net assets; with the balance of $69.2 million in General Operations and FJE net assets ($13.2 million restricted and $56.0 million unrestricted).
3. Pension Funding

I am happy to report that we made further progress on one of our most significant financial issues – the legacy pension obligation. At our last meeting, the Board of Governors authorized additional borrowing to fund our pension obligations. On December 1, 2017, we closed on a new loan of $20 million and contributed those funds to our pension invested funds. The additional debt was issued at a fixed (as opposed to variable) rate in order to provide a hedge should interest rates rise. The loan now has a variable rate component and a fixed rate component. The variable rate portion of the loan does not have any prepayment penalty.

As you may be aware, the ABA pension plan was frozen to new entrants eleven years ago. However, the extended period of low interest-rate drove up our pension obligation so that the pension was underfunded by $90 million as recently as 2015. In order to increase the funded level and benefit from the historically low interest rates, two years ago we borrowed $40 million (of which $24 million is currently outstanding) to fund the pension. This transaction not only reduced our pension expense, but it also got us to the 80% funded level so that we were able to offer lump sum settlement to former employees and save more than $200,000 annually in Pension Benefit Guarantee Corp. (“PBGC”) premiums.

You will see the reduction in the pension liability and the increase of the loan within the “Pension Liability & Loan to Fund Pension Liability” line items on the balance sheet above. In FY2018, it is projected that the pension net liability will decrease by approximately $30 million because of this $20 million loan and the expected increase in interest rates. We will continue to monitor and evaluate this liability.

4. Preview of FY2019 budget challenges

The FY2019 budget schedule was accepted during the October meeting and is included in the Mid-Year Meeting materials for your reference. Note that the FY2019 budgeting timeline is consistent with timeline used for FY2018. Committees of the Board were created to review the ABA’s cost structure and propose potential structural changes or elimination of activities. As a part of this process, President Hilarie Bass asked our Executive Director and senior staff to also review cost savings opportunities and incorporate the Committees’ findings into the final proposal, which will be presented and discussed at the special April BOG meeting together with the reorganization and realignment. During this Mid-Year meeting, the Finance Committee will work to provide staff with high level budget guidance in establishing the General Operations budget and implementing the newly adopted normalization policy which will set Section/Entity funding. You will recall that we indicated a two year phase in of the normalization policy so that FY19 will be the first year of implementation.

You have all heard of the OneABA concept that, in the most basic sense, calls for a complete collaboration of all parts of the ABA to best serve its members. Given the demographic, cultural and other market changes, there is a consensus that the ABA needs to make changes to stay relevant. The goal is to bring more value, use targeted marketing to tell our story and provide a more simplified dues structure to bring a product to the market that results in maximized revenue through an increase in dues-paying members. If implemented, we will need to determine the funding
options, which will likely include expense reductions to make up for the initial lost revenue. As we continue discussing the OneABA concept during the Mid-Year Meeting and throughout FY2018, we will develop a better sense of the budget implications for this new membership model. You will recall that late in the FY2018 budget process, the BOG approved $1 million in OneABA consultants expense to be paid from reserves, and, at this Mid-Year meeting, Jim Dimos will be providing a status update on this membership initiative.

It is my pleasure to serve as your Treasurer. Thank you.

Michelle Behnke
Consolidated Summary
FY 2018 - December 2017 FYTD
$ in millions

<table>
<thead>
<tr>
<th></th>
<th>FY 2018</th>
<th>FY 2018</th>
<th>vs. Budget</th>
<th>FY 2017</th>
<th>vs. Prior</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Revenue</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>General Operations</td>
<td>$28.6</td>
<td>$29.1</td>
<td>$(0.5)</td>
<td>$30.1</td>
<td>$(1.6)</td>
</tr>
<tr>
<td>Section</td>
<td>15.4</td>
<td>16.5</td>
<td>$(1.2)</td>
<td>15.7</td>
<td>$(0.3)</td>
</tr>
<tr>
<td>Grants</td>
<td>15.9</td>
<td>16.8</td>
<td>$(0.9)</td>
<td>17.9</td>
<td>$(2.0)</td>
</tr>
<tr>
<td>Gifts</td>
<td>0.9</td>
<td>0.9</td>
<td>0.1</td>
<td>0.6</td>
<td>0.3</td>
</tr>
<tr>
<td><strong>Total Revenue</strong></td>
<td>60.8</td>
<td>63.3</td>
<td>$(2.5)</td>
<td>64.3</td>
<td>$(3.5)</td>
</tr>
<tr>
<td><strong>Expense</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>General Operations</td>
<td>31.3</td>
<td>29.8</td>
<td>$(1.5)</td>
<td>31.8</td>
<td>0.6</td>
</tr>
<tr>
<td>Section</td>
<td>17.7</td>
<td>19.4</td>
<td>1.7</td>
<td>18.3</td>
<td>0.6</td>
</tr>
<tr>
<td>Grants</td>
<td>17.7</td>
<td>16.7</td>
<td>$(0.9)</td>
<td>17.8</td>
<td>0.1</td>
</tr>
<tr>
<td>Gifts</td>
<td>$(1.3)</td>
<td>1.1</td>
<td>2.4</td>
<td>0.5</td>
<td>1.8</td>
</tr>
<tr>
<td><strong>Total Expense</strong></td>
<td>65.4</td>
<td>67.0</td>
<td>1.6</td>
<td>68.5</td>
<td>3.1</td>
</tr>
<tr>
<td><strong>Revenues over / (under) Expenses</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>General Operations</td>
<td>$(2.7)</td>
<td>$(0.7)</td>
<td>$(2.0)</td>
<td>(1.7)</td>
<td>$(1.0)</td>
</tr>
<tr>
<td>Section</td>
<td>$(2.4)</td>
<td>$(2.8)</td>
<td>0.5</td>
<td>$(2.6)</td>
<td>0.3</td>
</tr>
<tr>
<td>Grants</td>
<td>$(1.7)</td>
<td>0.1</td>
<td>$(1.8)</td>
<td>0.1</td>
<td>$(1.8)</td>
</tr>
<tr>
<td>Gifts</td>
<td>2.2</td>
<td>$(0.2)</td>
<td>2.4</td>
<td>0.1</td>
<td>2.1</td>
</tr>
<tr>
<td><strong>Total Revenues over / (under) Expenses</strong></td>
<td>$$(4.6)</td>
<td>$(3.7)</td>
<td>$(0.9)</td>
<td>$$(4.2)</td>
<td>$(0.5)</td>
</tr>
</tbody>
</table>
### American Bar Association

#### Consolidated Statements of Activities and Changes in Net Assets - Comparison to Budget and Prior Year

**Period Ending December 31, 2017**  
**($US000's)**

<table>
<thead>
<tr>
<th>Description</th>
<th>Actual FY 2018</th>
<th>% of Revenue</th>
<th>Budget FY 2017</th>
<th>% of Revenue</th>
<th>vs. Budget</th>
<th>Revenue</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Revenues</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Membership Dues</td>
<td>20,445</td>
<td>33.6%</td>
<td>21,011</td>
<td>33.2%</td>
<td>$ (566)</td>
<td>-2.7%</td>
</tr>
<tr>
<td>Meeting Fees</td>
<td>7,743</td>
<td>12.7%</td>
<td>8,033</td>
<td>12.7%</td>
<td>$ (291)</td>
<td>-3.6%</td>
</tr>
<tr>
<td>Advertising</td>
<td>915</td>
<td>1.5%</td>
<td>1,260</td>
<td>2.0%</td>
<td>(346)</td>
<td>-27.3%</td>
</tr>
<tr>
<td>Grants</td>
<td>3,434</td>
<td>5.7%</td>
<td>4,140</td>
<td>6.5%</td>
<td>(705)</td>
<td>-17.0%</td>
</tr>
<tr>
<td>Publications</td>
<td>2,278</td>
<td>3.7%</td>
<td>2,253</td>
<td>3.6%</td>
<td>25</td>
<td>1.1%</td>
</tr>
<tr>
<td>Royalties</td>
<td>2,816</td>
<td>4.6%</td>
<td>2,750</td>
<td>4.3%</td>
<td>65</td>
<td>2.4%</td>
</tr>
<tr>
<td>Accreditation Fees</td>
<td>1,612</td>
<td>2.7%</td>
<td>1,654</td>
<td>2.6%</td>
<td>(42)</td>
<td>-2.5%</td>
</tr>
<tr>
<td>Miscellaneous Other</td>
<td>1,440</td>
<td>2.4%</td>
<td>1,216</td>
<td>1.9%</td>
<td>244</td>
<td>20.1%</td>
</tr>
<tr>
<td>Investment income from Operations</td>
<td>2,938</td>
<td>4.8%</td>
<td>3,050</td>
<td>4.8%</td>
<td>(112)</td>
<td>-3.7%</td>
</tr>
<tr>
<td>Net Assets released from Restrictions</td>
<td>782</td>
<td>1.3%</td>
<td>552</td>
<td>0.9%</td>
<td>230</td>
<td>41.7%</td>
</tr>
<tr>
<td><strong>Total Revenues</strong></td>
<td><strong>$ 60,757</strong></td>
<td><strong>100.0%</strong></td>
<td><strong>$ 63,288</strong></td>
<td><strong>100.0%</strong></td>
<td><strong>$ (2,531)</strong></td>
<td><strong>-4.0%</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Description</th>
<th>Actual FY 2018</th>
<th>% of Revenue</th>
<th>Budget FY 2017</th>
<th>% of Revenue</th>
<th>vs. Budget</th>
<th>Expenses</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Operating</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Compensation</td>
<td>24,341</td>
<td>40.1%</td>
<td>24,046</td>
<td>39.4%</td>
<td>606</td>
<td>2.4%</td>
</tr>
<tr>
<td>Fringe Benefits and Payroll Taxes</td>
<td>10,004</td>
<td>16.5%</td>
<td>9,416</td>
<td>14.9%</td>
<td>(588)</td>
<td>-6.2%</td>
</tr>
<tr>
<td>Professional Services</td>
<td>11,521</td>
<td>19.0%</td>
<td>12,376</td>
<td>19.6%</td>
<td>855</td>
<td>-6.9%</td>
</tr>
<tr>
<td>Meetings and Travel</td>
<td>506</td>
<td>0.8%</td>
<td>633</td>
<td>1.0%</td>
<td>127</td>
<td>20.1%</td>
</tr>
<tr>
<td>Publishing</td>
<td>2,335</td>
<td>3.8%</td>
<td>3,544</td>
<td>5.6%</td>
<td>1,209</td>
<td>34.1%</td>
</tr>
<tr>
<td>Facilities</td>
<td>7,258</td>
<td>11.9%</td>
<td>6,861</td>
<td>10.8%</td>
<td>(397)</td>
<td>-5.8%</td>
</tr>
<tr>
<td>Transfers</td>
<td>1,647</td>
<td>2.7%</td>
<td>1,551</td>
<td>2.5%</td>
<td>(97)</td>
<td>-6.2%</td>
</tr>
<tr>
<td><strong>Total Expenses</strong></td>
<td><strong>$ 65,386</strong></td>
<td><strong>107.6%</strong></td>
<td><strong>$ 66,973</strong></td>
<td><strong>105.8%</strong></td>
<td><strong>$ (1,587)</strong></td>
<td><strong>2.4%</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Description</th>
<th>Actual FY 2018</th>
<th>% of Revenue</th>
<th>Budget FY 2017</th>
<th>% of Revenue</th>
<th>vs. Budget</th>
<th>Net Revenues over (under) Expenses</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Non-Operating</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Net Change in Pension Liability other than Periodic Cost</strong></td>
<td>-</td>
<td>0.0%</td>
<td>-</td>
<td>0.0%</td>
<td>0</td>
<td>-0.0%</td>
</tr>
<tr>
<td><strong>Investment Income</strong></td>
<td>10,390</td>
<td>17.1%</td>
<td>162</td>
<td>0.3%</td>
<td>10,228</td>
<td>0.0%</td>
</tr>
<tr>
<td><strong>Reserve Transfers</strong></td>
<td>(645)</td>
<td>-1.1%</td>
<td>0</td>
<td>0.0%</td>
<td>(645)</td>
<td>-1.1%</td>
</tr>
<tr>
<td>Other Non-operating</td>
<td>12</td>
<td>0.0%</td>
<td>(2)</td>
<td>0.0%</td>
<td>14</td>
<td>87.1%</td>
</tr>
<tr>
<td><strong>Net change in Unrestricted Net Assets</strong></td>
<td>5,229</td>
<td>8.4%</td>
<td>(3,524)</td>
<td>-5.6%</td>
<td>8,653</td>
<td>245.5%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Description</th>
<th>Actual FY 2018</th>
<th>% of Revenue</th>
<th>Budget FY 2017</th>
<th>% of Revenue</th>
<th>vs. Budget</th>
<th>Net change in temporarily Restricted Net Assets</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Net Change in Temporarily Restricted Net Assets</strong></td>
<td>421</td>
<td>0.7%</td>
<td>221</td>
<td>0.3%</td>
<td>199</td>
<td>90.0%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Description</th>
<th>Actual FY 2018</th>
<th>% of Revenue</th>
<th>Budget FY 2017</th>
<th>% of Revenue</th>
<th>vs. Budget</th>
<th>Net change in temporarily Restricted Net Assets</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Net Change in Permanently Restricted Net Assets</strong></td>
<td>181</td>
<td>0.3%</td>
<td>52</td>
<td>0.1%</td>
<td>129</td>
<td>248.0%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Description</th>
<th>Actual FY 2018</th>
<th>% of Revenue</th>
<th>Budget FY 2017</th>
<th>% of Revenue</th>
<th>vs. Budget</th>
<th>Net change in total Net Assets</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Total Change in Total Net Assets</strong></td>
<td>5,230</td>
<td>9.4%</td>
<td>(3,251)</td>
<td>-5.1%</td>
<td>8,981</td>
<td>276.3%</td>
</tr>
</tbody>
</table>
## American Bar Association

General Operations Statements of Activities and Changes in Net Assets - Comparison to Budget and Prior Year

Period Ending December 31, 2017

(U $000's)

### Operating

<table>
<thead>
<tr>
<th>Description</th>
<th>Actual FY 2018</th>
<th>% of Revenue</th>
<th>Budget FY 2018</th>
<th>% of Revenue</th>
<th>w. Budget</th>
<th>Actual FY 2017</th>
<th>% of Revenue</th>
<th>w. FY 2017</th>
<th>% of Prior</th>
</tr>
</thead>
<tbody>
<tr>
<td>Revenue</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Membership Dues</td>
<td>$16,969</td>
<td>59.4%</td>
<td>$17,303</td>
<td>59.5%</td>
<td>($314)</td>
<td>-1.9%</td>
<td>$17,280</td>
<td>57.3%</td>
<td>($31)</td>
</tr>
<tr>
<td>Meeting Fees</td>
<td>$1,747</td>
<td>6.1%</td>
<td>$1,837</td>
<td>5.4%</td>
<td>$163</td>
<td>10.3%</td>
<td>$1,781</td>
<td>5.9%</td>
<td>($34)</td>
</tr>
<tr>
<td>Advertising</td>
<td>$740</td>
<td>2.6%</td>
<td>$797</td>
<td>2.7%</td>
<td>($57)</td>
<td>-5.6%</td>
<td>$521</td>
<td>1.7%</td>
<td>$239</td>
</tr>
<tr>
<td>Gifts, Contributions, and Sponsorships</td>
<td>$1,687</td>
<td>5.9%</td>
<td>$2,006</td>
<td>6.9%</td>
<td>($319)</td>
<td>-15.9%</td>
<td>$1,416</td>
<td>4.7%</td>
<td>$276</td>
</tr>
<tr>
<td>Grants</td>
<td>$0</td>
<td>0%</td>
<td>$0</td>
<td>0%</td>
<td>$0</td>
<td>0%</td>
<td>$0</td>
<td>0%</td>
<td>$0</td>
</tr>
<tr>
<td>Publications</td>
<td>$621</td>
<td>2.2%</td>
<td>$583</td>
<td>2.0%</td>
<td>$39</td>
<td>6.6%</td>
<td>$694</td>
<td>2.3%</td>
<td>($73)</td>
</tr>
<tr>
<td>Royalties</td>
<td>$2,305</td>
<td>8.1%</td>
<td>$2,486</td>
<td>8.6%</td>
<td>($181)</td>
<td>-7.3%</td>
<td>$2,224</td>
<td>7.4%</td>
<td>$80</td>
</tr>
<tr>
<td>Accreditation Fees</td>
<td>$130</td>
<td>0.5%</td>
<td>$135</td>
<td>0.5%</td>
<td>($5)</td>
<td>-3.6%</td>
<td>$130</td>
<td>0.4%</td>
<td>$0</td>
</tr>
<tr>
<td>Miscellaneous Other</td>
<td>$1,418</td>
<td>5.0%</td>
<td>$1,202</td>
<td>4.1%</td>
<td>$216</td>
<td>18.0%</td>
<td>$1,322</td>
<td>4.4%</td>
<td>$0</td>
</tr>
<tr>
<td>Designated Reserve for Operations</td>
<td>$2,289</td>
<td>8.0%</td>
<td>$2,179</td>
<td>8.4%</td>
<td>($150)</td>
<td>-6.7%</td>
<td>$3,630</td>
<td>12.0%</td>
<td>($1,341)</td>
</tr>
<tr>
<td>Total Revenues</td>
<td>$28,551</td>
<td>100.0%</td>
<td>$29,057</td>
<td>100.0%</td>
<td>($507)</td>
<td>-1.7%</td>
<td>$30,149</td>
<td>100.0%</td>
<td>($1,598)</td>
</tr>
</tbody>
</table>

| Expenses | Compensation | $14,483 | 50.7% | $14,218 | 48.9% | ($265) | -1.9% | $17,349 | 57.3% | $2,867 | 16.5% |
| Fringe Benefits and Payroll Taxes | $4,626 | 16.2% | $4,487 | 15.5% | ($129) | -2.9% | $4,799 | 15.9% | $174 | 3.6% |
| Professional Services | $1,985 | 7.0% | $1,228 | 4.2% | ($757) | -60.7% | $1,099 | 3.6% | ($868) | -80.3% |
| Meetings and Travel | $1,765 | 6.2% | $1,754 | 6.0% | ($11) | -0.6% | $1,772 | 5.9% | $7 | 0.4% |
| Advertising and Marketing | $731 | 1.3% | $744 | 1.6% | $13 | 1.8% | $100 | 21.2% | $108 | 22.5% |
| Publishing | $1,079 | 3.8% | $1,450 | 5.0% | $371 | 25.8% | $1,464 | 4.9% | $385 | 26.3% |
| Facilities | $4,322 | 15.1% | $3,858 | 13.3% | ($464) | -12.0% | $4,344 | 15.7% | $422 | 8.9% |
| Transfers | $3,007 | 13.3% | $3,551 | 12.2% | ($544) | -15.5% | $1,076 | 3.6% | ($2,731) | -253.8% |
| Other Expenses | $1,157 | 4.1% | ($1,247) | -4.3% | ($90) | -7.2% | ($910) | -31.3% | $232 | -27.0% |
| Net Operating Expenses | ($6,184) | -21.9% | ($7,225) | -24.5% | ($4,000) | -276.8% | ($1,701) | -5.6% | ($1,830) | -60.6% |

| Net Revenues/Net Incomes | $22,367 | 100.0% | $21,832 | 100.0% | ($535) | -2.5% | $28,449 | 100.0% | ($5,151) | -19.4% |

### Non-Operating

<table>
<thead>
<tr>
<th>Description</th>
<th>Actual FY 2018</th>
<th>% of Revenue</th>
<th>Budget FY 2018</th>
<th>% of Revenue</th>
<th>w. Budget</th>
<th>Actual FY 2017</th>
<th>% of Revenue</th>
<th>w. FY 2017</th>
<th>% of Prior</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net Change in Pension Liability other than Periodic Cost</td>
<td>$ -</td>
<td>0%</td>
<td>$ -</td>
<td>0%</td>
<td>-</td>
<td>0%</td>
<td>$ -</td>
<td>0%</td>
<td>-</td>
</tr>
<tr>
<td>Net Change in Unrestricted Net Assets</td>
<td>$1,701</td>
<td>6.0%</td>
<td>($725)</td>
<td>-25.5%</td>
<td>$2,425</td>
<td>334.5%</td>
<td>($5,810)</td>
<td>-19.3%</td>
<td>$7,511</td>
</tr>
<tr>
<td>Net Change in Temporarily Restricted Net Assets</td>
<td>($8)</td>
<td>0.0%</td>
<td>$3</td>
<td>0.0%</td>
<td>($4)</td>
<td>-127.3%</td>
<td>$12</td>
<td>0.0%</td>
<td>($3)</td>
</tr>
<tr>
<td>Net Change in Permanently Restricted Net Assets</td>
<td>$ -</td>
<td>0%</td>
<td>$ -</td>
<td>0%</td>
<td>-</td>
<td>0%</td>
<td>$ -</td>
<td>0%</td>
<td>-</td>
</tr>
<tr>
<td>Net Change in Total Net Assets</td>
<td>$1,700</td>
<td>6.0%</td>
<td>($722)</td>
<td>-25.5%</td>
<td>$2,422</td>
<td>335.4%</td>
<td>($5,798)</td>
<td>-19.2%</td>
<td>$7,498</td>
</tr>
</tbody>
</table>

### Summary

- **Actual FY 2018**: $28,551,000 (100.0%)
- **Budget FY 2018**: $29,057,000 (100.0%)
- **Actual FY 2017**: $30,149,000 (100.0%)
- **Budget FY 2017 Full Year**: $96,128,000 (100.0%)

**Net Change in Unrestricted Net Assets**: $1,701,000 (6.0%)
### American Bar Association

**Section Statements of Activities and Changes in Net Assets - Comparison to Budget and Prior Year**

**Period Ending December 31, 2017**

**($US 000's)**

<table>
<thead>
<tr>
<th>Description</th>
<th>Actual FY 2018</th>
<th>% of Revenue</th>
<th>Budget FY 2017</th>
<th>% of Revenue</th>
<th>vs. Budget Fav/(Unfav)</th>
<th>Actual FY 2018</th>
<th>% of Revenue</th>
<th>vs. FY 2017 Fav/(Unfav)</th>
<th>Budget FY 2017 Full Year</th>
<th>% of Revenue</th>
<th>vs. FY 2017 Fav/(Unfav)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Operating</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Revenues</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Membership Dues</td>
<td>$3,476</td>
<td>22.6%</td>
<td>$3,707</td>
<td>22.4%</td>
<td>$(231) -6.2%</td>
<td>$3,621</td>
<td>23.1%</td>
<td>$(145) -4.0%</td>
<td>$11,657</td>
<td>11.900%</td>
<td>$(243)</td>
</tr>
<tr>
<td>Meeting Fees</td>
<td>$5,782</td>
<td>37.6%</td>
<td>$6,400</td>
<td>38.7%</td>
<td>$(618) -9.7%</td>
<td>$5,966</td>
<td>37.3%</td>
<td>$(84) -1.4%</td>
<td>$11,794</td>
<td>20,410%</td>
<td>1,384</td>
</tr>
<tr>
<td>Advertising</td>
<td>$76</td>
<td>1.1%</td>
<td>$81</td>
<td>0.5%</td>
<td>$(5) -6.2%</td>
<td>$76</td>
<td>1.1%</td>
<td>$(5) -6.2%</td>
<td>$76</td>
<td>1.1%</td>
<td>$(5) -6.2%</td>
</tr>
<tr>
<td>Grants</td>
<td>$0</td>
<td>0.0%</td>
<td>$0</td>
<td>0.0%</td>
<td>0.0%</td>
<td>$0</td>
<td>0.0%</td>
<td>0.0%</td>
<td>$0</td>
<td>0.0%</td>
<td>0.0%</td>
</tr>
<tr>
<td>Publications</td>
<td>$1,627</td>
<td>10.6%</td>
<td>$1,662</td>
<td>9.7%</td>
<td>$35</td>
<td>2.1%</td>
<td>$1,522</td>
<td>9.7%</td>
<td>$106</td>
<td>6.6%</td>
<td>$3,126</td>
</tr>
<tr>
<td>Royalties</td>
<td>$999</td>
<td>3.3%</td>
<td>$266</td>
<td>1.6%</td>
<td>$(733) -19.6%</td>
<td>$402</td>
<td>3.1%</td>
<td>$17</td>
<td>3.6%</td>
<td>$1,175</td>
<td>1,027%</td>
</tr>
<tr>
<td>Accreditation Fees</td>
<td>$1,481</td>
<td>9.6%</td>
<td>$1,518</td>
<td>9.2%</td>
<td>$(37) -2.4%</td>
<td>$1,400</td>
<td>8.9%</td>
<td>$82</td>
<td>5.8%</td>
<td>$4,204</td>
<td>4,503%</td>
</tr>
<tr>
<td>Miscellaneous Other</td>
<td>$(33)</td>
<td>-0.2%</td>
<td>$4</td>
<td>0.0%</td>
<td>$(29) -725%</td>
<td>$(24)</td>
<td>0.0%</td>
<td>$(1)</td>
<td>-0.1%</td>
<td>$(9)</td>
<td>$(17)</td>
</tr>
<tr>
<td>Revenue Income from Operations</td>
<td>$699</td>
<td>4.2%</td>
<td>$611</td>
<td>3.7%</td>
<td>$(88) -14.4%</td>
<td>$662</td>
<td>4.2%</td>
<td>$(33) -5.0%</td>
<td>$5,539</td>
<td>1,233%</td>
<td>306</td>
</tr>
<tr>
<td>Designated Reserve for Operations</td>
<td>$0</td>
<td>0.0%</td>
<td>$0</td>
<td>0.0%</td>
<td>0.0%</td>
<td>$0</td>
<td>0.0%</td>
<td>0.0%</td>
<td>$0</td>
<td>0.0%</td>
<td>0.0%</td>
</tr>
<tr>
<td>Net Assets Released from Restrictions</td>
<td>$0</td>
<td>0.0%</td>
<td>$0</td>
<td>0.0%</td>
<td>0.0%</td>
<td>$0</td>
<td>0.0%</td>
<td>0.0%</td>
<td>$0</td>
<td>0.0%</td>
<td>0.0%</td>
</tr>
<tr>
<td><strong>Total Revenues</strong></td>
<td>$15,370</td>
<td>100.0%</td>
<td>$16,546</td>
<td>100.0%</td>
<td>$(1,176) -7.1%</td>
<td>$15,658</td>
<td>100.0%</td>
<td>$(288) -1.8%</td>
<td>$53,612</td>
<td>53,006%</td>
<td>$606</td>
</tr>
<tr>
<td><strong>Expenses</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Compensation</td>
<td>$4,707</td>
<td>30.6%</td>
<td>$5,220</td>
<td>31.5%</td>
<td>$(513) -9.8%</td>
<td>$3,011</td>
<td>19.2%</td>
<td>$(1,696) -56.3%</td>
<td>$15,855</td>
<td>8,858%</td>
<td>$(6,997)</td>
</tr>
<tr>
<td>Fringe Benefits and Payroll Taxes</td>
<td>$1,520</td>
<td>9.9%</td>
<td>$1,612</td>
<td>9.7%</td>
<td>$(92) -5.7%</td>
<td>$1,036</td>
<td>6.6%</td>
<td>$(484) -46.7%</td>
<td>$4,893</td>
<td>3,070%</td>
<td>$(1,823)</td>
</tr>
<tr>
<td>Professional Services</td>
<td>$1,079</td>
<td>7.0%</td>
<td>$1,296</td>
<td>7.8%</td>
<td>$(217) -16.8%</td>
<td>$1,260</td>
<td>8.0%</td>
<td>$181</td>
<td>14.4%</td>
<td>$4,236</td>
<td>4,499%</td>
</tr>
<tr>
<td>Meetings and Travel</td>
<td>$6,950</td>
<td>45.2%</td>
<td>$8,500</td>
<td>51.4%</td>
<td>$(1,550) -18.3%</td>
<td>$8,955</td>
<td>54.9%</td>
<td>$1,555</td>
<td>18.3%</td>
<td>$25,463</td>
<td>24,510%</td>
</tr>
<tr>
<td>Advertising and Marketing</td>
<td>$95</td>
<td>0.6%</td>
<td>$148</td>
<td>0.9%</td>
<td>$(53) -36.2%</td>
<td>$161</td>
<td>1.0%</td>
<td>$66</td>
<td>40.9%</td>
<td>$53</td>
<td>$425%</td>
</tr>
<tr>
<td>Publishing</td>
<td>$1,191</td>
<td>7.8%</td>
<td>$2,012</td>
<td>12.2%</td>
<td>$(821) -40.8%</td>
<td>$1,388</td>
<td>8.9%</td>
<td>$196</td>
<td>14.2%</td>
<td>$6,038</td>
<td>5,315%</td>
</tr>
<tr>
<td>Facilities</td>
<td>$1,621</td>
<td>10.5%</td>
<td>$1,813</td>
<td>11.0%</td>
<td>$(192) -10.6%</td>
<td>$1,246</td>
<td>8.4%</td>
<td>$(375) -30.1%</td>
<td>$5,893</td>
<td>4,457%</td>
<td></td>
</tr>
<tr>
<td>Transfers</td>
<td>$(1,008)</td>
<td>-6.6%</td>
<td>$(3,066)</td>
<td>-18.8%</td>
<td>$(2,077) -66.2%</td>
<td>$(1,231)</td>
<td>-0.8%</td>
<td>$836</td>
<td>-72.7%</td>
<td>$(9,089)</td>
<td>$(12,211)</td>
</tr>
<tr>
<td>Other Expenses</td>
<td>$1,586</td>
<td>10.3%</td>
<td>$1,894</td>
<td>11.8%</td>
<td>$(308) -16.3%</td>
<td>$1,866</td>
<td>11.0%</td>
<td>$230</td>
<td>12.7%</td>
<td>$5,064</td>
<td>5,980%</td>
</tr>
<tr>
<td><strong>Total Expenses</strong></td>
<td>$17,740</td>
<td>115.4%</td>
<td>$19,392</td>
<td>117.2%</td>
<td>$(1,652) -8.5%</td>
<td>$18,298</td>
<td>116.9%</td>
<td>$559</td>
<td>3.1%</td>
<td>$59,816</td>
<td>55,923%</td>
</tr>
<tr>
<td><strong>Net Revenues over/(under) Expenses</strong></td>
<td>$(2,370)</td>
<td>-15.4%</td>
<td>$(2,845)</td>
<td>-17.2%</td>
<td>$(476) -16.7%</td>
<td>$(2,640)</td>
<td>-16.9%</td>
<td>$(271)</td>
<td>10.2%</td>
<td>$(6,204)</td>
<td>$(2,917)</td>
</tr>
<tr>
<td><strong>Non-Operating</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Net Change in Pension Liability other than Periodic Cost</td>
<td>$0</td>
<td>0.0%</td>
<td>$(0)</td>
<td>0.0%</td>
<td>0.0%</td>
<td>$0</td>
<td>0.0%</td>
<td>0.0%</td>
<td>$0</td>
<td>0.0%</td>
<td>0.0%</td>
</tr>
<tr>
<td>Investment Income</td>
<td>$5,899</td>
<td>33.1%</td>
<td>$162</td>
<td>1.0%</td>
<td>$4,927</td>
<td>0.0%</td>
<td>$1,062</td>
<td>6.8%</td>
<td>$4,027</td>
<td>379.3%</td>
<td>$541</td>
</tr>
<tr>
<td>Reserve Transfers</td>
<td>$0</td>
<td>0.0%</td>
<td>$(0)</td>
<td>0.0%</td>
<td>$(0)</td>
<td>$0</td>
<td>0.0%</td>
<td>$(0)</td>
<td>0.0%</td>
<td>$0</td>
<td>0.0%</td>
</tr>
<tr>
<td>Other Non-operating</td>
<td>$0</td>
<td>0.0%</td>
<td>$(3)</td>
<td>0.0%</td>
<td>$100</td>
<td>0.0%</td>
<td>$(0)</td>
<td>0.0%</td>
<td>$(0)</td>
<td>0.0%</td>
<td>$(5)</td>
</tr>
<tr>
<td><strong>Net change in Unrestricted Net Assets</strong></td>
<td>$2,719</td>
<td>17.7%</td>
<td>$(2,685)</td>
<td>-16.2%</td>
<td>$54</td>
<td>0.3%</td>
<td>$(579)</td>
<td>-10.1%</td>
<td>$4,298</td>
<td>272.3%</td>
<td>$(5,688)</td>
</tr>
<tr>
<td>Net Change in Temporarily Restricted Net Assets</td>
<td>$0</td>
<td>0.0%</td>
<td>$(0)</td>
<td>0.0%</td>
<td>$(0)</td>
<td>$0</td>
<td>0.0%</td>
<td>$(0)</td>
<td>0.0%</td>
<td>$(0)</td>
<td>0.0%</td>
</tr>
<tr>
<td>Net Change in Permanently Restricted Net Assets</td>
<td>$0</td>
<td>0.0%</td>
<td>$(0)</td>
<td>0.0%</td>
<td>$(0)</td>
<td>$0</td>
<td>0.0%</td>
<td>$(0)</td>
<td>0.0%</td>
<td>$(0)</td>
<td>0.0%</td>
</tr>
<tr>
<td><strong>Net change in Total Net Assets</strong></td>
<td>$2,719</td>
<td>17.7%</td>
<td>$(2,685)</td>
<td>-16.2%</td>
<td>$54</td>
<td>0.3%</td>
<td>$(579)</td>
<td>-10.1%</td>
<td>$4,298</td>
<td>272.3%</td>
<td>$(5,688)</td>
</tr>
</tbody>
</table>
### American Bar Association

**Total Grants Statements of Activities and Changes in Net Assets - Comparison to Budget and Prior Year**

**Period Ending December 31, 2017**

(US $000’s)

<table>
<thead>
<tr>
<th>Description</th>
<th>Year-to-Date</th>
<th>Full Year</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Actual FY 2018</td>
<td>Budget FY</td>
</tr>
<tr>
<td></td>
<td>% of Revenue</td>
<td>% of Revenue</td>
</tr>
<tr>
<td>Revenue</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Membership Dues</td>
<td>-</td>
<td>-0.0%</td>
</tr>
<tr>
<td>Meeting Fees</td>
<td>172</td>
<td>1.1%</td>
</tr>
<tr>
<td>Advertising</td>
<td>-</td>
<td>0.0%</td>
</tr>
<tr>
<td>Gifts, Contributions, and Sponsorships</td>
<td>25</td>
<td>0.2%</td>
</tr>
<tr>
<td>Grants</td>
<td>15,690</td>
<td>98.6%</td>
</tr>
<tr>
<td>Publications</td>
<td>-</td>
<td>0.0%</td>
</tr>
<tr>
<td>Royalties</td>
<td>-</td>
<td>0.0%</td>
</tr>
<tr>
<td>Accreditation Fees</td>
<td>-</td>
<td>0.0%</td>
</tr>
<tr>
<td>Gifts</td>
<td>20</td>
<td>0.2%</td>
</tr>
<tr>
<td>Investment Income from Operations</td>
<td>-</td>
<td>0.0%</td>
</tr>
<tr>
<td>Designated Reserve for Operations</td>
<td>-</td>
<td>0.0%</td>
</tr>
<tr>
<td>Net Assets Released from Restrictions</td>
<td>-</td>
<td>0.0%</td>
</tr>
<tr>
<td><strong>Total Revenues</strong></td>
<td><strong>15,916</strong></td>
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</tr>
<tr>
<td></td>
<td></td>
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<tr>
<td>Expenses</td>
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</tr>
<tr>
<td>Compensation</td>
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<td>Fringe Benefits and Payroll Taxes</td>
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</tr>
<tr>
<td>Professional Services</td>
<td>6,486</td>
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</tr>
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<td>Meetings and Travel</td>
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</tr>
<tr>
<td>Advertising and Marketing</td>
<td>37</td>
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</tr>
<tr>
<td>Facilities</td>
<td>1,242</td>
<td>7.8%</td>
</tr>
<tr>
<td>Transfers</td>
<td>2,143</td>
<td>1.3%</td>
</tr>
<tr>
<td>Other Expenses</td>
<td>906</td>
<td>5.7%</td>
</tr>
<tr>
<td><strong>Total Expenses</strong></td>
<td><strong>17,663</strong></td>
<td>111.0%</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Net Revenues over/(under) Expenses</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(1,747)</td>
<td>-11.0%</td>
</tr>
<tr>
<td>Non-Operating Expenses</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Net Change in Pension Liability other than Period</td>
<td>-</td>
<td>0.0%</td>
</tr>
<tr>
<td>Cost</td>
<td>-</td>
<td>0.0%</td>
</tr>
<tr>
<td>Investment Income</td>
<td>-</td>
<td>0.0%</td>
</tr>
<tr>
<td>Reserve Transfers</td>
<td>-</td>
<td>0.0%</td>
</tr>
<tr>
<td>Other Non-operating</td>
<td>-</td>
<td>0.0%</td>
</tr>
<tr>
<td><strong>Net change in Unrestricted Net Assets</strong></td>
<td><strong>(1,747)</strong></td>
<td><strong>-11.0%</strong></td>
</tr>
<tr>
<td>Net Change in Temporarily Restricted Net Assets</td>
<td>-</td>
<td>0.0%</td>
</tr>
<tr>
<td>Net Change in Permanently Restricted Net Assets</td>
<td>-</td>
<td>0.0%</td>
</tr>
<tr>
<td><strong>Net Change in Total Net Assets</strong></td>
<td><strong>(1,747)</strong></td>
<td><strong>-11.0%</strong></td>
</tr>
<tr>
<td>Direct Expenses</td>
<td>14,699</td>
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<tr>
<td>Direct Labor Grant Overhead</td>
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<tr>
<td>Indirect G&amp;A</td>
<td>2,034</td>
<td>12.7%</td>
</tr>
<tr>
<td>Gen Ops Funding</td>
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<td>-3.8%</td>
</tr>
<tr>
<td><strong>Total Grants Operating Expenses</strong></td>
<td><strong>17,663</strong></td>
<td>111.0%</td>
</tr>
</tbody>
</table>

Total Grants Operating Expenses: $17,663 (111.0%)  $16,735 (99.4%)  $(928) (5.5%)  $17,812 (99.5%)  $(1,877)
## American Bar Association

### Gifts, Contributions, Support Funds, and Endowments Statements of Activities and Changes in Net Assets - Comparison to Budget and Prior Year

**Period Ending December 31, 2017**

**US $000's**

<table>
<thead>
<tr>
<th>Description</th>
<th>Actual FY 2018</th>
<th>% of Revenue</th>
<th>Budget FY 2018</th>
<th>% of Revenue</th>
<th>vs. Budget</th>
<th>% of Budget</th>
<th>vs. FY 2017</th>
<th>% of Prior</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Revenues</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Membership Dues</td>
<td>-</td>
<td>0.0%</td>
<td>-</td>
<td>0.0%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Meeting Fees</td>
<td>42</td>
<td>4.6%</td>
<td>50</td>
<td>5.9%</td>
<td>(8)</td>
<td>-15.6%</td>
<td>3</td>
<td>0.4%</td>
</tr>
<tr>
<td>Advertising</td>
<td>-</td>
<td>0.0%</td>
<td>-</td>
<td>0.0%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Gifts, Contributions, and Sponsorships</td>
<td>20</td>
<td>2.1%</td>
<td>176</td>
<td>20.6%</td>
<td>(157)</td>
<td>-86.9%</td>
<td>37</td>
<td>6.2%</td>
</tr>
<tr>
<td>Grants</td>
<td>-</td>
<td>0.0%</td>
<td>-</td>
<td>0.0%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Publications</td>
<td>29</td>
<td>3.2%</td>
<td>68</td>
<td>8.0%</td>
<td>(39)</td>
<td>-57.0%</td>
<td>65</td>
<td>11.0%</td>
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<td>Royalties</td>
<td>2</td>
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<td>-</td>
<td>0.0%</td>
<td>2</td>
<td>0.0%</td>
<td>3</td>
<td>0.5%</td>
</tr>
<tr>
<td>Accreditation Fees</td>
<td>-</td>
<td>0.0%</td>
<td>-</td>
<td>0.0%</td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Miscellaneous Other</td>
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<td>10</td>
<td>1.2%</td>
<td>36</td>
<td>0.0%</td>
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<td>3.5%</td>
</tr>
<tr>
<td>Investment Income from Operations</td>
<td>-</td>
<td>0.0%</td>
<td>-</td>
<td>0.0%</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Designated Reserve for Operations</td>
<td>-</td>
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<td>-</td>
<td>0.0%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Net Assets Released from Restrictions</td>
<td>781</td>
<td>84.8%</td>
<td>552</td>
<td>64.4%</td>
<td>229</td>
<td>41.6%</td>
<td>464</td>
<td>78.0%</td>
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<tr>
<td><strong>Total Revenues</strong></td>
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<td>100.0%</td>
<td>$ 857</td>
<td>100.0%</td>
<td>$ 64</td>
<td>7.5%</td>
<td>$ 594</td>
<td>100.0%</td>
</tr>
<tr>
<td><strong>Expenses</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Compensation</td>
<td>$ 298</td>
<td>32.9%</td>
<td>$ 284</td>
<td>33.1%</td>
<td>($14)</td>
<td>-5.0%</td>
<td>$ 243</td>
<td>40.9%</td>
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<tr>
<td>Fringe Benefits and Payroll Taxes</td>
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<td>10.7%</td>
<td>90</td>
<td>10.5%</td>
<td>(5)</td>
<td>-5.0%</td>
<td>82</td>
<td>13.8%</td>
</tr>
<tr>
<td>Professional Services</td>
<td>494</td>
<td>53.6%</td>
<td>231</td>
<td>27.0%</td>
<td>($262)</td>
<td>-113.4%</td>
<td>63</td>
<td>10.7%</td>
</tr>
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<td>($161)</td>
<td>-66.2%</td>
<td>141</td>
<td>23.7%</td>
</tr>
<tr>
<td>Advertising and Marketing</td>
<td>0</td>
<td>0.0%</td>
<td>3</td>
<td>0.4%</td>
<td>3</td>
<td>0.0%</td>
<td>0</td>
<td>0.0%</td>
</tr>
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<td>Publishing</td>
<td>34</td>
<td>3.7%</td>
<td>53</td>
<td>6.1%</td>
<td>18</td>
<td>3.4%</td>
<td>14</td>
<td>2.4%</td>
</tr>
<tr>
<td>Facilities</td>
<td>74</td>
<td>8.3%</td>
<td>85</td>
<td>10.0%</td>
<td>11</td>
<td>13.3%</td>
<td>68</td>
<td>11.4%</td>
</tr>
<tr>
<td>Transfers</td>
<td>(3,012)</td>
<td>-327.0%</td>
<td>3</td>
<td>0.4%</td>
<td>3,015</td>
<td>90086.1%</td>
<td>(287)</td>
<td>-48.2%</td>
</tr>
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<td>General and Administrative Expenses</td>
<td>916</td>
<td>84.0%</td>
<td>71</td>
<td>8.3%</td>
<td>($242)</td>
<td>-140.8%</td>
<td>193</td>
<td>32.6%</td>
</tr>
<tr>
<td><strong>Total Expenses</strong></td>
<td>($1,298)</td>
<td>-141.0%</td>
<td>$ 1,064</td>
<td>12.4%</td>
<td>$ 2,363</td>
<td>222.0%</td>
<td>$ 518</td>
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</tr>
<tr>
<td><strong>Net Revenues over/(under) Expenses</strong></td>
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<td>241.0%</td>
<td>($208)</td>
<td>-24.2%</td>
<td>$ 2,427</td>
<td>1168.6%</td>
<td>$ 77</td>
<td>12.9%</td>
</tr>
<tr>
<td><strong>Net Change in Pension Liability other than Periodic Cost</strong></td>
<td>-</td>
<td>0.0%</td>
<td>-</td>
<td>0.0%</td>
<td>-</td>
<td>0.0%</td>
<td>-</td>
<td>0.0%</td>
</tr>
<tr>
<td>Investment income</td>
<td>236</td>
<td>25.7%</td>
<td>236</td>
<td>0.0%</td>
<td>-</td>
<td>0.0%</td>
<td>3</td>
<td>0.3%</td>
</tr>
<tr>
<td>Reserve Fund Transfers</td>
<td>-</td>
<td>0.0%</td>
<td>-</td>
<td>0.0%</td>
<td></td>
<td>-</td>
<td>-</td>
<td>0.0%</td>
</tr>
<tr>
<td>Other Non-operating</td>
<td>-</td>
<td>0.0%</td>
<td>-</td>
<td>0.0%</td>
<td></td>
<td>-</td>
<td>-</td>
<td>0.0%</td>
</tr>
<tr>
<td><strong>Net change in Unrestricted Net Assets</strong></td>
<td>$ 2,456</td>
<td>266.6%</td>
<td>($208)</td>
<td>-24.2%</td>
<td>$ 2,663</td>
<td>1282.3%</td>
<td>$ 80</td>
<td>13.5%</td>
</tr>
<tr>
<td><strong>Net Change in Temporarily Restricted Net Assets</strong></td>
<td>$ 421</td>
<td>45.8%</td>
<td>218</td>
<td>25.5%</td>
<td>203</td>
<td>93.9%</td>
<td>$ 298</td>
<td>50.1%</td>
</tr>
<tr>
<td><strong>Net Change in Permanently Restricted Net Assets</strong></td>
<td>$ 181</td>
<td>19.6%</td>
<td>52</td>
<td>61.3%</td>
<td>129</td>
<td>248.0%</td>
<td>$ 57</td>
<td>9.6%</td>
</tr>
<tr>
<td><strong>Net Change in Total Net Assets</strong></td>
<td>$ 3,058</td>
<td>332.1%</td>
<td>63</td>
<td>7.3%</td>
<td>2,995</td>
<td>4785.1%</td>
<td>$ 435</td>
<td>73.2%</td>
</tr>
</tbody>
</table>
REPORT OF THE EXECUTIVE DIRECTOR TO THE BOARD OF GOVERNORS

(Submitted January 5, 2018)

Introduction

Many have observed that our members are the “lifeblood” of the American Bar Association. Their energy, engagement, and support drive us forward and enable us to be the voice of the legal profession. And our competitively-selected staff provides the necessary “flesh and bone” structure to assure continuity and to sustain our success.

We are fortunate to have a staff of over 900 dedicated members located around the world, primarily at our Chicago Headquarters and in our large Washington, D.C. office. All together, they total combined service of some 8,800 years with the Association. Demonstrating the continuity of staff: 49 have been with the Association for 30 years or more! Such institutional knowledge and dedication is invaluable to our efforts to serve our members, our profession, and our society.

Whenever you are around ABA staff members, I encourage you to reach out and ask any of them what they do for the Association. You’ll be pleased and proud of the responses. Everyone has many positive stories to tell about their experiences with the ABA. I’d like to share a few examples with you.

We have about 585 staff members in Chicago. One of them is Adam Music, who works in the Law Student Division. As noted in previous reports to the Board, the ABA has achieved remarkable success attracting law students to the Association, and Adam helped us accomplish that. As the lead editor of the Before the Bar blog, which provides valuable online information for law students, he has used his creativity to dramatically expand the quality and reach of our Law Student Division website. His efforts have paid off -- in October 2017, the site had more than 100,000 page views compared to 60,000 in October 2016 and 30,000 in October 2015. Not only has Adam increased the visibility of the site among law students, he’s also helped the ABA achieve substantial cost-savings by focusing more on digital and social media engagement, rather than on printed materials.
Our Washington, D.C. office has some 231 staff members. Among other functions, staff there push our advocacy efforts on behalf of our profession and the rule of law. Associate Executive Director Holly Cook serves as the leader of our DC Operations and also as the Principal Deputy Director of the Governmental Affairs Office (GAO). During the last six months, Holly has added to her considerable regular responsibilities, and worked on issues critical to veterans. She has been a prime leader with our negotiations to advance the ABA’s Veterans Legal Services Initiative, which seeks to ensure veterans and their families have access to their well-earned justice and legal services. Holly has also pushed many other veterans’ initiatives, including the development of an online platform to connect legal service providers to veterans and military clients, and she has coordinated no-cost veterans’ events, including several Veterans Legal Career Fairs.

At this time, the ABA Rule of Law Initiative (ROLI) and the Center for Human Rights have active programs in more than 40 countries around the world. The ROLI Country Director in the Democratic Republic of Congo (DRC), Guy Makongo, exemplifies staff commitment, not just to their work, but to making a real difference. In addition to his responsibilities to advance justice and the rule of law in the DRC, Guy started a cycling club in the city of Goma which helps to motivate impoverished youth on positive areas, rather than being focused on the poverty and violence affecting their community. His efforts were highlighted in the British newspaper The Guardian, which noted how Guy has primarily spent his own money buying helmets and shoes for the bicyclists, and using free time on behalf of the club to take youths to competitions in nearby countries.

These are just three examples of the great work our staff members do every day. We are very fortunate to have such a dedicated group of individuals serving our Association.

Membership

As of December 15, the ABA’s overall membership stood at 418,020, about 1.2 percent higher than at the same time last year. Our growth continues to be driven by our highly successful law school outreach -- over the last year, we had a 20.4 percent increase in student members, to 111,712. During the same period, we saw a 4.4 percent drop in our lawyer members to 290,168, and a 4 percent decline in our associates to 16,140. The new membership model being developed by members and staff, internally known as “OneABA,” is designed to reverse these trends and put the ABA on a solid path of growth. Our goal is to attract and retain dues-paying lawyer members. The Board will receive a comprehensive update on our membership proposal at the Midyear Meeting in Vancouver.

Member retention efforts have begun, ahead of the scheduled January 26 drop for non-payment of dues. Those efforts include value-centric messages via email, renewal email messaging highlighting the CLE in the City Webinar series, a direct mail piece showcasing member benefits, dues collection/renewal telemarketing both before and after the drop, along with emails focused specifically on the benefits of the ABA’s Sections, Divisions, and Forums.

Fiscal Year 2018’s “New Member Email Welcome Stream” launched in late October. It consists of 17 emails to be deployed once a week on Monday mornings and personalizes the
messages according to professional tenure and practice specialization, identifying specific resources and benefits that would appeal to an individual member’s interests. The messages also differentiate between active joiners and trial members, with special attention paid toward converting the latter group into dues paying members. With engaging subject lines, sender addresses, messaging and content including video, slideshows, infographics, testimonials, social media integration, quizzes and surveys, we hope to use the email stream increase open rates, click rates, entity membership, and member engagement. One such quiz geared to our new lawyer members asks them a series of fun, pop culture questions designed to help them get the most out of their membership and find their “home” within the Association by matching their career goals and time constraints with available resources.

As of December 15, Group membership stood at 70,639 members, and FY 2018 Group dues revenue stood at $18,179,398, a 2.6 percent increase from the same period the prior year. Full Firm membership includes 25,558 members through December 15, an increase of 5.6 percent over last year, and FY 2018 Full Firm dues revenue were at $4,748,120, down 2.3 percent from the previous year. Collections will rise as several large Groups and Full Firms make payments.

Our Membership staff is working with President Hilarie Bass on a series of Managing Partner Forums being held throughout the country. The first was held in Miami on October 17 at her firm, Greenberg Traurig’s, office. Leaders from 14 National Law Journal (NLJ) 500 firms attended the forum, where President Bass discussed issues affecting the legal profession. As a follow-up to the Miami forum, one of the firms in attendance agreed to join our Full Firm Membership Program. Bilzin Sumberg has 84 attorneys, and as a result of enrolling as a Full Firm, we have added 28 new attorney members from the firm. A second Managing Partner Forum was held in Boston on November 7, with leaders from 11 NLJ 500 firms in attendance. Additional forums are being planned for 2018 in San Francisco in February, Chicago in March, Washington D.C. in April, and dates yet to be determined in Los Angeles and New York.

The ABA and Canadian Bar Association (CBA) have again teamed up this year to offer a 50 percent discount to non-members who join the other’s association. Last year, 140 CBA members joined the ABA with this discounted offer, and four ABA members took advantage of the CBA’s discount offer to join their organization. We’re increasing collaborations with local and state bar associations to help grow our memberships.

We have been working closely with ABA accredited law schools to enroll students into the Full School Enrollment Program, and to date, have successfully partnered with 101 schools. We recently converted seven schools into the program, including Boston University and American University. We will continue to work with member and campus leaders to secure more Full School enrollments. We have placed increased emphasis on the need for our Sections, Divisions, and Forums to develop programs tailored for students to showcase the value of Association membership.

Complementing free membership for law students attending ABA-accredited law schools, the ABA continues to achieve positive results with our Law Student Premium Program, which offers students a range of special benefits and cost-savings for a $25 annual fee. For
example, Premium members save $250 on the popular BARBRI bar review program. The membership team has been working with the Law Student Division to promote the many benefits of upgrading to Premium. By partnering with companies like BARBRI, West Academic, and Quimbee, the ABA has added significant value to support student success in law school. 20,159 students were enrolled in ABA Premium Membership as of the end of December 2017, an impressive increase from the 6,279 Premium members enrolled in December 2016. This success rate can be especially attributed to our enrollment partnerships with BARBRI Bar Review and Quimbee, along with the multi-channel recruitment efforts by the membership team using targeted emails, social media, and the ABA Rep Rewards Program.

ABA Emails

The Association continues to have success with our efforts to reduce the voluminous number of emails we send. According to final projections at the end of FY 2017, the ABA was responsible for 170,624,677 emails, down from 286,147,170 the prior year, a reduction of 40 percent -- more than 115 million. Some specific examples of improved email practices in FY 2017 include:

- Reduced ABA Publishing emails by 70 percent from FY 2016
- Reduced ABA Journal emails by 35 percent from FY 2016
- Required all ABA email senders to complete an anti-spam webinar
- Required all mass emails (more than 150,000 recipients) to be specially authorized by the ABA’s Email Manager; in FY 2018 this number has been reduced to 90,000

Much work remains to be done in this area. This year, we continue to counter “reputational” issues the ABA has developed on Gmail and other email platforms because of the volume and frequency of messages, which are labelled as “spam.” We also have adopted new business practices to lessen the frequency ABA groups send emails to the same recipients. We estimate that at this time, between 20 and 60 percent of ABA emails go directly into spam folders. The industry average is 10 percent. We will continue to work meticulously to reverse this trend.

Website Redesign

Work is progressing for our much improved, mobile-friendly website, which is on track for launch in March. Thus far, we have completed design work and content development. Our eCommerce platform is currently being finalized. Staff training began in late September and is ongoing. Training for meetings and product setup for our webstore is taking place in January. Content is beginning to migrate to the new site, and entity staff has begun to create new high-level pages for their groups. To date, we have trained more than 75 staff in the new email system, and we will offer additional sessions in January. Additionally, web analytics are being set up, content is beginning to be migrated from our old site, and a comprehensive testing and debugging process has begun.
ABA Insurance

ABA Insurance (http://www.abainsurance.com), which now provides more than 20 high quality and competitive offerings, has grown its start-up program to over 2,000 total insured members, including 577 added during the first months of FY 2018. We have seen steady growth in the program, which has increased marketing for solo and small firm lawyers who might benefit from the savings achieved by our offerings, which range from medical, dental, and vision plans to student loan refinancing and identity theft protection.

We recently received a letter from Michael Gross, a solo attorney from St. Louis, in which he shared his positive experience to obtain Medicare supplement coverage through ABA Insurance. He wrote in part: “This afternoon my wife and I arranged for her Medicare supplement and prescription coverage through the ABA Member Health Exchange. We both want to thank you for the extraordinary assistance we received.” Mr. Gross noted that the customer service representative:

… explained options, answered many questions, and guided us through the process ever so patiently and thoroughly. My wife and I have been operating my law firm together for many years. Neither of us ever found the process of choosing and purchasing insurance coverage—especially health insurance coverage—pleasant before today. Neither of us ever has felt as confident that our insurance decisions were as fully informed and correct as the decisions we made this afternoon. Our compliments to the ABA for providing this excellent and most valuable service. Nobody had to convince me that the ABA is a great and professionally beneficial organization, but the outstanding experience that we had today surely enhanced my appreciation of the Association.

Finances

Detailed information on Association finances is provided in the Treasurer’s Report. As of November 30, 2017, the Association generated consolidated operating revenues of $46.7 million and incurred operating expenses of $48.7 million, which resulted in a deficit of $2.0 million. The $1.9 million operating revenue shortfall to budget is more than offset by a $3.4 million favorable expense variance, leaving a $1.5 million favorable net variance with budget.

On Monday, November 24, the ABA ran an all-day Cyber Monday sale on ShopABA featuring a 40 percent discount, plus free shipping. More than 2,400 products were shipped that day, generating $131,663 in revenue. This was an increase of $52,086, or 65.5 percent, over the previous year.

We made further progress on one of our most significant financial issues -- the legacy pension obligation. While the ABA pension plan was frozen to new entrants 11 years ago, the low interest-rate environment has driven up the pension obligation so that the pension was underfunded by $90 million as recently as 2015. In order to increase the funded level and benefit from the historically low interest rates, two years ago we borrowed $40 million (of which $22 million is currently outstanding) to fund the pension. This transaction not only reduced our
pension expense, but it also raised us above the 80 percent funded level, enabling us to offer lump sum settlements to prior employees. Those payments will provide annual savings of more than $200,000 in Pension Benefit Guarantee Corporation (PBGC) premiums. And because interest rates remain low by historic standards, we increased the loan by $20 million on December 1 to further fund the pension plan. These recent actions will ensure the plan is adequately funded for the next several years. The additional debt was issued at a fixed (rather than variable) rate to provide a hedge should interest rates rise.

MCLE

Launched with a limited release (no outreach or marketing) in the summer of 2017, our ABA MCLE Accreditation Service is off to an excellent start. The Service uses existing staff expertise to provide MCLE accreditation to outside CLE-providing entities. Much of the work of our MCLE team is now automated, allowing for greater efficiencies. Among other benefits, the upgraded system permits more timely access to information and provides electronically-supplied certificates.

The Service currently has booked $50,300 in revenue, and it continues to get multiple inquiries each week. Two large law firms, recently reached out to discuss opportunities. The Service has two customers in the contracting stage and more than 25 proposals out to prospective customers.

Center for Innovation

The ABA’s Center for Innovation seeks to encourage and develop new approaches to improve the accessibility, effectiveness, and efficiency of legal services. The Center completed an extremely successful first year; you can read about the many projects in its first Annual Report, including:

- Developing a FloodProof resource as part of a comprehensive effort to aid Louisiana flood victims;
- Collaborating on the creation of Hate Crime Help to direct hate crime victims to geographically relevant information and resources;
- Launching a social entrepreneurship project with the Legal Services Corporation (LSC) that will facilitate LSC grantees’ implementation of cutting-edge tools and services;
- Collaborating on the creation and design of a 21-century Miranda tool to help arrestees understand their rights;
- Creating a Fellowship Program that enables innovators to develop and implement impactful projects; and
- Hosting and organizing national events and programs that spotlight cutting-edge legal services innovations.

The Center recently received a $55,000 grant from the MacArthur Foundation to expand its FloodProof app for use in Houston, Texas and expand the legal issues it covers to include landlord/tenant relations, unemployment, Supplementary Security Income, and others.
Advocacy

On December 20, Congress passed sweeping tax reform legislation known as H.R. 1, the “Tax Cuts and Jobs Act,” which includes several key tax provisions on which the ABA successfully lobbied. The final bill includes ABA-supported language that applies the same 20 percent deduction for “qualified business income” to the owners of all pass-through businesses -- including law firms -- on an equal, non-discriminatory basis, though only up to certain income thresholds. Although the deduction is phased out for owners of professional service businesses which earn more than $315,000 annually (for married taxpayers filing jointly) or $157,500 annually (for individuals), many high-income law firm partners will still benefit from other provisions lowering the top individual income tax rate from 39.6 percent to 37 percent and raising the income thresholds for the top brackets. Consistent with other ABA recommendations, the final tax bill also preserves the existing deductions for student loan interest and upfront litigation-related expenses for lawyers practicing in the 9th Circuit. Perhaps most importantly, the final bill does not include ABA-opposed mandatory accrual accounting proposals that would have required many law firms to pay taxes on their work in progress, accounts receivable, and other “phantom income” long before it is received from clients. After Congress passed the final bill, President Bass sent an email to law firm managing partners and corporate general counsels as part of her “PartnerUp” campaign, and a separate email to ABA members, explaining how these key tax issues were addressed in the final bill.

On October 18, bipartisan legislation was signed into law that supports efforts to better understand, prevent, and combat elder abuse -- P.L. 115-69 (S. 178), the Elder Abuse Prevention and Prosecution Act of 2017. The new law includes goals supported by the ABA to enhance the federal government’s response to elder abuse and financial exploitation of seniors. GAO worked with members of Congress to get the bill through the Congress.

On October 13, the National Creditors Bar Association (NARCA) presented the ABA with its prestigious Donald Kramer Award for “tirelessly working to preserve the independence of the legal profession and the judiciary along with the long-standing tradition of the governance of the practice of law by state supreme courts and the state bar associations.” In extending the award to the ABA, NARCA expressed special gratitude for the ABA’s ongoing efforts to help advance H.R. 1849, legislation that would reaffirm the authority of the courts, not the U.S. government’s Consumer Financial Protection Board or debtor plaintiffs, to oversee and discipline creditor lawyers engaged in litigation activities on behalf of clients. On November 1 and 2, GAO and representatives of NARCA met with Representative Brad Sherman (D-CA) and with the senior counsels to Sen. Joe Manchin (D-WV) and Reps. Vincente Gonzales (D-TX), Al Green (D-TX), David Scott (D-GA), John Delaney (D-MD), and Charlie Crist (D-FL) and urged them to support and cosponsor H.R. 1849.

On November 1, President Hilarie Bass sent a letter to leadership in both the House and Senate urging Congressional action to address the plight of the young persons impacted by the Administration’s decision to terminate the Deferred Action for Childhood Arrivals (DACA) program.
In November, the GAO worked with the ABA Standing Committee on the Federal Judiciary and Senate Judiciary Committee to help lawmakers understand the basis for the four “Not Qualified” ratings given to federal judicial nominees.

On November 30, President Bass sent a letter to Attorney General Jeff Sessions asking him to urge Senators to take diversity into consideration when proposing candidates for nomination to become U.S. attorneys. By taking an active role in the process, Attorney General Sessions would help ensure the cadre of U.S. Attorneys appointed in this administration is more reflective of the legal profession and the nation as a whole.

**ABA Global Programs**

The ABA Rule of Law Initiative (ROLI) and the Center for Human Rights (CHR), together with the Section of International Law (SIL) and Section of Civil Rights and Social Justice (CRSJ) coordinated a statement from President Bass protesting legislative incursions on the independence of the judiciary in Poland, and urging Poland’s President to veto pending legislation. The statement followed on a statement issued last July and a CHR monitoring mission to Poland in early December.

Following a November statement by President Bass, developed by CHR in coordination with ABA ROLI, SIL, and CRSJ, to urge U.S. action on Myanmar’s growing Rohingya refugee crisis, including imposition of sanctions under the Global Magnitsky Act, on December 21, the White House announced its first set of sanctions under the law. The sanctions included targeting a former member of the military of Myanmar allegedly responsible for the ethnic cleansing there.

On December 11, ROLI’s Latin America and Caribbean Division Director and El Salvador Country Director attended the launch of the USAID/WorldVision "Fortalecimiento del Sistema de Justicia Juvenil" (Strengthening of the Juvenile Justice System) project.” ROLI is a sub-grantee on the project which aims to provide technical support to find alternative sentencing for youth offenders, develop referral systems to address the specific needs of each youth, and reduce recidivism rates through life and education planning.

ROLI, in coordination with the Philippines’ Cebu Hall of Justice, hosted a visit to showcase the e-court system and its many features to the new Philippine Mission Director on November 29. A docket clerk from the Office of the Clerk of Court demonstrated how a case is docketed and raffled, while a judge showed how the information kiosk can be used by the public to monitor and track the status of cases.

The Center for Human Rights submitted a General Counsel’s Office-approved draft agreement to the Clooney Foundation for Justice for an expanded trial observation initiative under the Justice Defenders Program. The grant will fund the initiative at $1.3 million over two years to promote international fair trial standards worldwide by identifying and observing trials of human rights defenders; training a large cadre of competent observers; assisting in the development and implementation of a mobile app to facilitate trial observations; and, in so doing, systematically monitoring trial fairness globally. The initiative is expected to be launched in January.
In Taiwan, ROLI hosted an LGBT legal advocacy training from October 25 to 27 for 14 lawyers and advocates from Mainland China. The three-day training consisted of two parts: first, a series of knowledge and experience-sharing sessions by Taiwanese lawyers and LGBT rights advocates; and second, a deliberative democracy exercise where the participants engaged in strategic planning discussions to determine advocacy actions moving forward. The training facilitated the building of a network between the participants and their regional counterparts, and raised participants’ awareness of their role in the regional and global LGBT movement, presenting them with opportunities to share resources with and learn from these movements.

In the Democratic Republic of the Congo (DRC), ROLI was invited to participate in working sessions of the General Assembly of the High Council of Magistrates, the federal government body charged with guaranteeing the independence of judges and the judiciary from executive power in the DRC. The General Assembly convened from October 19 to 26 in the capital of Kinshasa, where they have held discussions on whether to mandate the use of the judicial case database in federal courts and tribunals, and have invited ROLI to participate in committee work, particularly in planning, information, and data management. This action is a result of numerous high-level meetings and advocacy between ROLI, the Department of State Bureau of International Narcotics and Law Enforcement, the Office of Global Women’s Issues, and the Permanent Secretary of the High Council over the use of an electronic database capable of tracking the performance of judges at the national and provincial levels.

On October 3, Secretary of State Rex Tillerson responded to a letter sent September 14 by President Bass, explaining that he shares her desire to support the efforts of strengthening democracy, human rights, and governance. Tillerson reassured the ABA of his commitment to upholding values through U.S. foreign policy, but noted a proposed $1 billion (40 percent) cut in U.S. democracy, rule of law, and human rights programming for FY 2018.

In Mali, ROLI co-hosted an international colloquium on law and slavery in West Africa in October. The colloquium brought together academics, government officials, civil society representatives, and other experts to discuss the problem of slavery and efforts to address it. The Malian Prime Minister gave opening remarks.

From November 27 to 29, ROLI conducted a CLE conference in The Hague, Netherlands for 40 participants and experts representing five CLE centers in Russia, the Federal Chamber of Advocates, and three regional chambers. Representatives from the Council of Europe and the Stavropol Chamber presented their experience in providing online courses in Russia, and a Ukrainian expert presented on the experience of HUMANA, an online educational project. During the conference, the participants learned to develop online classes and utilize accessible Internet tools such as Google. As programming is no longer possible in Russia, such activities in The Hague and the use of these new online tools are critical to our ongoing engagement with and in support of Russian legal professionals.

In November, Jordan’s Attorney General and a group of senior prosecutors attended a meeting for the first time at the country’s anti-human trafficking police unit. The head of Jordan’s Criminal Investigation Division attended as well. The prosecutors and police discussed
the challenges of Trafficking In Persons (TIP) cases and areas in which increased coordination would enhance investigation and prosecution. This was the first in a series of police/prosecutor discussions organized by ROLI to enhance the investigation of TIP cases.

The above efforts to support the rule of law and human rights around the world were supported by $40 million in grant funding last fiscal year. The first month of our new fiscal year, September 2017, saw these programs garner $18.6 million in new grant funding.

Diversity

On November 7, the Office of Diversity & Inclusion Center partnered with the American Institute of Certified Public Accountants to host a half-day summit to discussed mutual challenges, best practices, and solutions to advance diversity and inclusion in the legal and accounting professions. Highlights included a roundtable discussion between staff from some of the ABA’s core diversity entities and the Chief Diversity Officers of the top 10 law firms in Chicago and an ABA Panel Program (with volunteer leaders from the Commission on Women in the Profession, Commission on Disability Rights, Commission on Sexual Orientation and Gender Identity, and Council for Diversity in the Educational Pipeline) sharing critical insight on how the ABA has sought to address and meet our diversity and inclusion challenges.

The Office of Diversity & Inclusion Center facilitated a conference call on November 6 between the President and Executive Director of the Hispanic National Bar Association (HNBA) and volunteer leaders from the Young Lawyers Division and the Executive Director of the Louisiana Civil Justice Center to inform the HNBA on the ABA’s Disaster Legal Services efforts and secure their assistance to: (1) help identify more attorneys that can support the disaster hotline that serves those impacted by Hurricane Maria in Puerto Rico; and (2) negotiate with the Puerto Rico Supreme Court about instituting the Katrina Rule, which would allow attorneys not admitted in the jurisdiction to provide legal services in the territory.

Since 2011, the ABA staff has participated in a voluntary and anonymous Diversity and Inclusion Survey. We’ve asked the same questions every year, giving us a baseline to assess the areas where we’re making progress to enhance diversity and inclusion within the Association, and also to note areas in which we need to improve. This year, 655 ABA employees -- about 72 percent of staff -- participated in the survey. The surveys show that overall, staff believes the ABA has become a more diverse and inclusive workplace as time has gone on. A few examples:

- In 2017, 71 percent of respondents agreed the ABA maintains a welcoming staff environment compared to 66 percent in 2011
- In 2017, 61 percent of respondents agreed the ABA hires a diverse workforce at all its levels, an increase from 46 percent in 2011
- In 2017, 55 percent of respondents agreed ABA retains a diverse workforce at all levels as compared to 42 percent in 2011.

While these trends are positive, we recognize the need to continue to focus efforts in this critical area. The ABA is committed to Goal III’s mission to “eliminate bias and enhance
diversity” within the ABA, in the profession, and in society. We strive to make the ABA an even more diverse and welcoming organization for everyone.

Communications and Media Relations (CMR)

A New York Times op-ed on the alarming rise in number of Immigration and Customs Enforcement (ICE) arrests at U.S. court houses provided an opportunity for President Bass to emphasize the importance of equal access to justice in a CMR-prepared letter to the editor published on December 12. Such enforcement actions by ICE “discourage immigrants from coming to court as witnesses, plaintiffs and defendants and undermine the country’s promise of justice for all,” Bass said, noting ABA policy passed in August that calls on Congress to add court houses to the list of “sensitive locations” in which immigration enforcement actions can be taken only in emergency circumstances.

Equal justice was also the topic of a CMR-prepared speech that President Bass delivered in early December at the LawWorks Annual Pro Bono Awards in London. In her keynote as well as in subsequent CMR-organized media interviews, Bass spoke of the importance of pro bono in bridging a growing justice gap in both the U.K. and the United States. She also outlined the ABA’s unique tactics to urge funding for the Legal Services Corporation, as noted in The (Newcastle, UK) Journal, as well as in stories published by London’s Law Society Gazette on December 6 and two days later, on December 8.

Journalist Dan Abrams’ Law & Crime website has re-printed in full entries from ABA Legal Fact Check prepared by CMR. Free Legal Fact Check is a new ABA site that seeks to use case and statutory law and other legal precedents to separate fact from fiction on topical important legal issues. In the past month, the news outlet has published CMR entries on sexual harassment in the workplace (December 19), the implications of electing Alabama Republican Roy Moore to the Senate (December 11), and the legal basis for religious displays in public places during the holidays (December 1). An archive of ABA Legal Fact Check posts is available on Abrams’ website here.

As the ABA Standing Committee on the Federal Judiciary’s ratings of recent federal judicial nominees became the focus of the Senate Judiciary Committee’s confirmation hearings, the CMR Division wrote and issued a November 1 media statement on behalf of President Bass, answering criticism by some Republican lawmakers that the Committee’s “unqualified” ratings were politically motivated and biased. The ABA “does not take into consideration a nominee’s philosophy, political affiliation or ideology,” the National Law Journal quoted President Bass as saying. “The American Bar Association is proud of the Standing Committee’s comprehensive, nonpartisan reviews of every federal judicial nominee. The quality of our courts and our system of justice depends on it.” Other news outlets reporting on President Bass’ statement included the Washington Times, Reuters, Buzzfeed, the Lincoln-Journal Star, the Omaha World Herald, and several others.

CMR provided support to the Standing Committee throughout the nomination process, fielding calls from reporters and making personal contact with dozens of interested news outlets, including the New York Times, the Washington Post, Slate, Teen Vogue, Huffington Post,
Newsweek, Law360, National Law Journal, and many others. For the Senate’s follow-up hearing on Leonard Steven Grasz on November 15, CMR widely distributed to media in advance of the session the Standing Committee’s supplemental statement on Grasz, and staffed the hearing to provide media support throughout testimony of the committee chair and others. With nearly 200 federal judicial vacancies and pending nominations, CMR support on this topic will be an ongoing priority.

In November, CMR provided comprehensive support and promotion of the ABA’s “National Summit on Achieving Long-Term Careers for Women in Law” on November 7 and 8 at Harvard University. A CMR liaison to President Bass’ women’s initiative was dedicated to covering and promoting the summit, issuing a news release on November 3 to 421 reporters at 328 news outlets nationwide that attracted the attention of several reporters, including those from Law360 and The American Lawyer.

CMR staff traveled to Harvard University to provide onsite support and coverage of the National Summit event, including videotaping, tweeting updates, and producing news stories. CMR coverage of the plenary sessions was posted on the ABA News website and published in the December issue of the member newsletter, YourABA (approximately 275,000 recipients). It was also shared with members and the media via social media channels. CMR’s video manager videotaped many prominent summit speakers and participants to produce educational and promotional video products. Among them, CMR will be preparing a highlights video on the initiative for debut at the 2017 Midyear Meeting in Vancouver. CMR is also working closely with the members on other possible video products, including a CLE based on the women’s initiative.

In October, CMR maintained communication with several media outlets on the latest developments on the Association’s lawsuit against the U.S. Department of Education for failing to honor commitments made through its Public Service Loan Forgiveness Program. Following word of a postponement of an October 6 U.S. District Court hearing, CMR conducted personal outreach to nearly two dozen news outlets, including the New York Times, Wall Street Journal, Inside Higher Ed, Politico, and Slate, which resulted in coverage in The Daily Record, Newstral, Forbes, and U.S. News & World Report.

Professional Services

In December, the Center on Children and the Law facilitated and participated in an event designed to re-examine how federal Child and Family Services Reviews are conducted, with particular emphasis around how the state child welfare agencies are integrating the recommendations from the U.S. Department of Health and Human Services. The Center hosted judges and child welfare agency staff from 13 states, along with leaders in federal government, technical assistance providers and others from across the country who work on improving outcomes for children and families involved in the child welfare court system.

On December 13 to 15, the ABA Working Group on Unaccompanied Minor Immigrants and the Commission on Immigration co-sponsored a national conference with KIND (Kids in Need of Defense) titled “National Conference on Representation and Advocacy for
Exhibit 1.7

**Unaccompanied Immigrant Children.** For the first time in 10 years, legal service providers and pro bono attorneys serving unaccompanied children came together to learn from one another, strengthen relationships, and plan future advocacy. The conference took place at the South Texas College of Law in Houston, a law school that hosts four legal service providers of unaccompanied children, including the ABA’s Children’s Immigration Law Academy (CILA). The conference attracted 194 participants from 17 states, the District of Columbia, Mexico, Guatemala, Honduras, and El Salvador. Attendees participated in more than 30 unique sessions dealing with issues they regularly confront in their practices.

**In The Know,** the Business Law Section (BLS)’s free CLE series for members, continues to be well-attended. The November program, “Commercial Law Developments 2016-2017” had 795 registrants while the December offering, “Ethical Considerations When Counseling the Corporate Client Through Crisis,” had 858 registrants.

The “soft launch” of the new Business Law Today website took place on November 18. This was the culmination of two years of planning, development, and execution by BLS staff, BLS leadership, and BLS content providers.

The Section of Litigation’s Women in Litigation Joint Conference was held November 15 to 17 in Philadelphia, Pennsylvania. There were 360 registrants for the conference that offered programming by the Section’s Woman Advocate Committee, Women in Insurance Network, Women in Products Liability, and Women in Securities Litigation. This was an increase of 50 registrants over the 2015 conference. The keynote speaker was Valerie Jarrett, Senior Advisor to the President of the United States and Assistant to the President for Public Engagement and Intergovernmental Affairs in the Obama Administration.

On November 13, Senator Chuck Grassley (R-IA), Chair of the U.S. Senate Judiciary committee, hosted a briefing for congressional staff on gender based violence and legal systems response including the Violence Against Women Act (VAWA). The Commission on Domestic and Sexual Violence’s Deputy Chief Counsel Rebecca Henry was invited to discuss the legal evolution of VAWA throughout its initial passage and various reauthorizations. Staff from both the United States Senate and House of Representatives were in attendance.

The Death Penalty Representation Project recently held its 2017 Volunteer Recognition & Awards Event in downtown Washington, D.C. The event brought together more than 80 capital defense experts, including federal public defenders, law professors, and pro bono attorneys from several top law firms. The Project raised more than $60,000 through law firm sponsorships and ticket sales. Notable guests included Professor Lee Kovarsky, who presented oral arguments at the U.S. Supreme Court in Ayestas v. Davis the following Monday, and keynote speaker Isaiah McCoy, a recent death-row exoneree from Delaware who won his freedom with the help of a pro bono lawyer who was also a member of the Project’s Steering Committee.

In October, the Section of International Property Law transmitted comments to the U.S. Trade Representative regarding its decision to open a 301 investigation over IP practices in China at the request of the White House. Section 301 of the U.S. Trade Act of 1974 authorizes
Presidents to take all appropriate action, including retaliation, to obtain the removal of any act, policy, or practice of a foreign government that violates an international trade agreement or is unjustified, unreasonable, or discriminatory, and that burdens or restricts U.S. commerce. Section Chair Scott Partridge provided oral testimony on the subject to the United States Trade Representative at a public hearing on October 10.

**Governance and Public Services**

On November 16, the Standing Committee on Legal Aid and Indigent Defendants (SCLAID) released *The Rhode Island Project: A Study of the Rhode Island Public Defender (RIPD) System and Attorney Workload Standards*. The culmination of over two years of work, study found that the RIPD would require 136 full-time equivalent attorneys to provide the necessary minimum level of representation needed for the average 15,000 plus new cases assigned each year. As of July 2017, there were only 49 public defenders in the entire state.

The Commission on Sexual Orientation and Gender Identity (SOGI) has selected three recipients for its 2018 Stonewall Award. The awards will be presented during a reception ceremony on February 3, 2018 during the 2018 ABA Midyear Meeting. The Stonewall Award recognizes lawyers, members of the judiciary, and legal academia who have effected real change to remove barriers based on sexual orientation and gender identity in the legal profession and society. The 2018 recipients are Associate Judge Phyllis Randolph Frye, the Associate Judge for the Municipal Courts in Houston and the first openly transgender judge appointed in Texas; Eduardo Juarez, a supervisory trial attorney with the San Antonio Field Office of the Equal Employment Opportunity Commission; and Jennifer Levi, Director of GLBTQ Legal Advocates and Defenders’ (GLAD’s) Transgender Rights Project.

**Conclusion**

Phil Jackson, the legendary basketball coach, once said, “the strength of the team is each individual member. And the strength of each member is the team.” Our team of 900-plus staff members is critical to our Association’s mission and success.

As I noted in the introduction, our staff is the “flesh and bone” of the ABA. They provide the structure, experience, and expertise that help our volunteer leaders carry out their responsibilities on behalf of our more than 400,000 members. We expect much from them and they overwhelmingly rise to the challenges. I look forward to hearing about your interactions with staff, and I encourage you to contact me with any praises, recognitions, criticisms, or questions you may have.

Respectfully submitted,

Jack L. Rives
Executive Director
a. Discussion Regarding New Membership Model

Presentation by Bob Domenz, Chief Executive Officer, Avenue

b. Overview of the New Membership Model

Tracy A. Giles, Chair, Standing Committee on Membership

Jack L. Rives, Executive Director
James Dimos, Deputy Executive Director
Michael Kreisberg, Chief Membership Officer
Executive Session

Jack L. Rives, Executive Director
MEMORANDUM

To: Board of Governors
From: Alpha M. Brady
Subject: House Reports
Date: January 17, 2018

Section 24.1 of the Association's Bylaws provides the Board of Governors with the option to transmit to the House the reports of sections and committees with any recommendations or comments that the Board may have. For your convenience, a Short-Title Summary of Resolutions is attached to this agenda material. All reports are presently listed with the statement that the Board did not consider the report. If you would like to have a report considered by the Board, please complete, fax or e-mail the attached "Desire Discussion Form" to Carri L. Kerber, at (312) 988-5153 or carri.kerber@americanbar.org, at your earliest convenience. This form indicates those reports which you believe should be considered by the Board.

For those reports which are to be considered, they may be transmitted with one of the following recommendations:

- with the recommendation that it be approved
- with the recommendation that it not be approved
- with the recommendation that it be deferred
- with the recommendation that it be amended and approved

The following three documents are designed to assist you with your review:

1) An alphabetical index to the reports.

2) A Short-Title Summary, which indicates the name of the Board liaison to the entity that submitted the report. If an individual or bar association submitted the report, the index will list the individual's district representative on the Board. Please review the index so that you will be prepared to discuss the reports for which you are responsible. The name of the Board member who will lead the discussion is in bold, which in most instances is the liaison to the entity that submitted the report.

3) Background papers on each report in numerical order.
I wish to have the following reports considered.

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Please return this form to Carri L. Kerber.

Fax: (312) 988-5153.

Name: __________________________
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103A STANDING COMMITTEE ON SPECIALIZATION
Grants accreditation to the Privacy Law program of the International Association of Privacy Professionals of Portsmouth, New Hampshire for a five-year term as a designated specialty certification program for lawyers.

103B STANDING COMMITTEE ON SPECIALIZATION
Grants reaccreditation to the Elder Law program of the National Elder Law Foundation of Tucson, Arizona for a five-year term and extends accreditation to the Medical Malpractice and Legal Malpractice programs of the American Board of Professional Liability Attorneys until August 2018.

104 COMMISSION ON LAW AND AGING
COMMISSION ON DISABILITY RIGHTS
Urges Congress and the Social Security Administration (SSA) to strengthen the safeguards and protections for all individuals receiving benefits via the representative payee program.

105 ABA WORKING GROUP TO ADVANCE WELL-BEING IN THE LEGAL PROFESSION
COMMISSION ON LAWYER ASSISTANCE PROGRAMS
STANDING COMMITTEE ON PROFESSIONALISM
NATIONAL ORGANIZATION OF BAR COUNSEL
Urges stakeholders, where appropriate, to consider the recommendations set out in the report, The Path to Lawyer Well-Being: Practical Recommendations for Positive Change, by the National Task Force on Lawyer Well-Being.

106 COMMISSION ON DOMESTIC AND SEXUAL VIOLENCE
Urges Congress and the President to reauthorize, raise the appropriation level of, and fully fund the Legal Assistance for Victims Grant Program of the Violence Against Women Act, 34 U.S. Code § 20121.

107 YOUNG LAWYERS DIVISION
Urges federal courts to adopt pro bono panels for civil litigants guided by a uniform set of guidelines.
108A  CRIMINAL JUSTICE SECTION
COMMISSION ON DISABILITY RIGHTS
Urges legislative bodies and governmental agencies to enact laws and adopt policies regarding the use of solitary confinement for detainees.

108B  CRIMINAL JUSTICE SECTION
Urges legislatures to enact legislation creating a substantive right and procedures for individuals to challenge their convictions by demonstrating that forensic evidence used to obtain their conviction has subsequently been undermined or discredited.

108C  CRIMINAL JUSTICE SECTION
MASSACHUSETTS BAR ASSOCIATION
Urges the Department of Justice to restore prosecutorial discretion in choosing the charges s/he wishes to pursue and reserve mandatory minimum sentencing to only the most serious drug traffickers and prohibit its use to secure plea agreements.

108D  CRIMINAL JUSTICE SECTION
NATIONAL LGBT BAR ASSOCIATION
Urges courts to extend *Batson v. Kentucky*, 476 U.S. 79 (1986), to prohibit discrimination against jurors on the basis of sexual orientation or gender identity/expression.

108E  CRIMINAL JUSTICE SECTION
Urges the Executive Branch to rescind its decision to end the Deferred Action for Childhood Arrivals (DACA) program and urges Congress to enact legislation protecting DACA recipients and other undocumented immigrants who were brought to the United States as children and who meet age, residency, educational and other qualifications as set forth by the U.S. Citizenship and Immigration Service (“DREAMers”).

109  STANDING COMMITTEE ON THE LAW LIBRARY OF CONGRESS
SECTION OF INTERNATIONAL LAW
SECTION OF DISPUTE RESOLUTION
SECTION OF INTELLECTUAL PROPERTY LAW
Urges Congress to approve appropriations necessary to enable the Library of Congress to adequately staff, maintain, modernize, and enhance its services, collections, facilities, digital projects and outreach efforts.

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Urges each death penalty jurisdiction not to execute or sentence to death anyone who was 21 years old or younger at the time of the offense.

Approves the Revised Uniform Unclaimed Property Act, promulgated by the National Conference of Commissioners on Uniform State Laws (Uniform Law Commission), as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein.

Approves the Uniform Directed Trust Act, promulgated by the National Conference of Commissioners on Uniform State Laws (Uniform Law Commission), as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein.
112C NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS Approves the Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act, promulgated by the National Conference of Commissioners on Uniform State Laws (Uniform Law Commission), as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein. Enix-Ross

112D NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS Approves the Uniform Parentage Act (2017), promulgated by the National Conference of Commissioners on Uniform State Laws (Uniform Law Commission), as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein. Enix-Ross

112E NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS Approves the Uniform Protected Series Act, promulgated by the National Conference of Commissioners on Uniform State Laws (Uniform Law Commission), as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein. Enix-Ross

112F NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS Approves the Uniform Regulation of Virtual-Currency Businesses Act, promulgated by the National Conference of Commissioners on Uniform State Laws (Uniform Law Commission), as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein. Enix-Ross

113 COMMISSION ON HOMELESSNESS AND POVERTY COMMISSION ON YOUTH AT RISK Supports the development of integrated, systemic approaches within administrative, civil and criminal court contexts to address the special needs of youth and young adults experiencing homelessness. Grinde Jenkins

114 STANDING COMMITTEE ON LEGAL AID AND INDIGENT DEFENDANTS NATIONAL LEGAL AID AND DEFENDER ASSOCIATION Urges governments to provide legal counsel as a matter of right at public expense to low-income persons in all proceedings that may result in a loss of physical liberty, regardless of whether the proceedings are: a) criminal or civil; or b) initiated or prosecuted by a government entity. Langrock
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<td>SECTION OF FAMILY LAW</td>
<td>Urges governments to adopt or preserve tax code provisions that allow alimony deduction for payors and treats alimony as taxable income to payees.</td>
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<td>115B</td>
<td>SECTION OF FAMILY LAW</td>
<td>Adopts the <em>ABA Model Act Governing Assisted Reproductive Technology</em> dated February 2018 to replace the Model Act that was adopted in 2008, and urges adoption by appropriate governmental agencies.</td>
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<td>116A</td>
<td>SECTION OF CIVIL RIGHTS AND SOCIAL JUSTICE COMMISSION ON SEXUAL ORIENTATION AND GENDER IDENTITY</td>
<td>Supports an interpretation of Title VII of the Civil Rights Act of 1964 that defines sex discrimination by covered employers to include discrimination on the basis of sexual orientation and gender identity.</td>
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<td>116B</td>
<td>SECTION OF CIVIL RIGHTS AND SOCIAL JUSTICE</td>
<td>Urges Congress to enact legislation overruling <em>Middlesex County Sewerage Auth. v. Nat’l Sea Clammers Ass’n</em>, 453 U.S. 1 (1981) and supports legislation enabling plaintiffs to bring constitutional claims in lieu of a statutory cause of action based upon environmental harm due to governmental acts or omissions.</td>
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<td>117</td>
<td>COMMISSION ON SEXUAL ORIENTATION AND GENDER IDENTITY TORT TRIAL AND INSURANCE PRACTICE SECTION</td>
<td>Urges courts to recognize that service in the United States Armed Forces should not be restricted and that individuals should not be discriminated against on the basis of sexual orientation or gender identity.</td>
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Urges governments and relevant private entities to recognize that transmission of the human immunodeficiency virus (HIV), which causes Acquired Immune Deficiency Syndrome (AIDS), is driven by certain “social determinants of health” that law can address, including, among others, poverty, stigma, discrimination, and racism; housing, food, and transportation insecurity; over-criminalization of HIV non-disclosure; and misinformation about HIV transmission risk.
To:    Mark H. Alcott, NY
       District 15 Representative

Re:   Resolution No. 10A

**Summary of Resolution**

Encourages law firms to develop initiatives to provide women lawyers with opportunities to gain trial and courtroom experience.

**Status of Legislation**

N/A.

**Other Information**

None.
To: E. Fitzgerald Parnell, III, NC  
Board Liaison, Section of Legal Education and Admissions to the Bar

Re: Resolution No. 100

**Summary of Resolution**

Concurs in the action of the Council of the Section of Legal Education and Admissions to the Bar in adopting amendments dated February 2018 to Standard 106 (Separate Locations and Branch Campuses) of the *ABA Standards and Rules of Procedure for Approval of Law Schools*.

**Status of Legislation**

N/A.

**Other Information**

None.
To: David S. Houghton, NE
   Board Liaison, Section of Intellectual Property Law

   Randall D. Noel, TN
   Board Liaison, Section of Litigation

Re: Resolution No. 101A

**Summary of Resolution**

Urges courts and legislative bodies to adopt rules or enact legislation to establish an evidentiary privilege applicable only to clients of patent agents who are registered with the U.S. Patent & Trademark Office (PTO).

**Status of Legislation**

Even though this resolution is not solely directed at legislative proposals, it could apply to legislation offered to amend federal or state statutes. For example, it could be used to amend the Federal Rules of Evidence (either by Congress or by the Supreme Court with Congressional approval) or 35 U.S.C. § 2(b)(2)(D) in which Congress authorized the U.S. Patent & Trademark Office to license and regulate the practice of patent attorneys and patent agents before it, but only as the evidentiary privilege would apply in PTO proceedings. It could also be used to amend state laws and rules of evidence, such as rule 503 of the Texas Rules of Evidence at issue in *In re Silver*, 247 S.W. 3d 644 (Tex. 2016), the recent case in which the Texas Court of Appeals affirmed a lower court’s holding that communications between an inventor and a patent agent were not protected because no Texas statute or rule recognizes an evidentiary privilege for client communications with a patent agent. *Id.* at 647. That case is on appeal to the Supreme Court of Texas, *In Re Andrew Silver*, Case No. 16-0682, and a decision is pending following oral argument in November.

There are no bills pending.

**Other Information**

As noted in the first paragraph of the report, the Resolution is modeled after and closely related to Resolution 106 urging courts and legislative bodies to adopt rules to establish an evidentiary privilege for lawyer referral services and their clients that passed the House of Delegates in August 2016.

There is some discussion over whether the proposed resolution appears to conflict with an ABA Resolution adopted by the Board of Governors’ Executive Committee in March 1998 that “opposes legislation…which would extend the attorney-client privilege to accountants and others not licensed to practice law.” (emphasis added)
The proposed resolution’s background report states that the resolution is modeled after and closely related to **ABA Resolution 106** (adopted by the House of Delegates in August 2016), which urges courts and legislative bodies to adopt an evidentiary privilege for confidential communications between a client and a lawyer referral service (LRS) that are made for the purpose of helping the client to retain or obtain legal advice from a lawyer. (See proposed resolution and report at pages 1 and 8.) However, while the proposed resolution would extend the evidentiary privilege to non-attorney patent agents (and thus expand the existing scope of the privilege beyond attorneys and their agents), Resolution 106 would merely apply the privilege to lawyer referral services, which serve as agents for the attorneys to whom the clients are referred. In addition, Resolution 106 sought to implement the substance of previous **ABA Resolution 10D** (adopted by the HOD in August 1993), which endorsed the principle that “a disclosure of information to a lawyer referral service for the purpose of seeking legal assistance shall be deemed a privileged lawyer-client communication.” (see Resolution 106 and related report at pages 1 and 5-8.)

On November 7, 2017, the U.S. Patent & Trademark Office issued a final rule to amend its rules of practice before the Patent Trial and Appeal Board to recognize that communications between non-attorney U.S. patent agents and their clients are privileged to the same extent as communications of that sort conducted between clients and U.S. attorneys.
To: David S. Houghton, NE  
Board Liaison, Section of Intellectual Property Law

Re: Resolution No. 101B

**Summary of Resolution**

Supports efforts in Congress and federal courts to allow the filing of a copyright infringement once a proper application for registration of a copyright has been delivered to the Copyright Office.

**Status of Legislation**

Even though this resolution is not solely directed at legislative proposals, it could apply to legislation offered to amend the federal copyright statute, 17 U.S.C. §411(a), to redefine “preregistration” to mean the filing of a proper application for registration and to require courts to allow the filing of a civil action for infringement of copyrights once the copyright owner has filed a proper application for registration, and not require that the copyright owner wait until the Copyright Office has completed examination of the application or decided to register the work as a prerequisite to filing an infringement suit.

There are no bills pending.

**Other Information**

There is currently a split in the circuits regarding the interpretation of 17 U.S.C. §411(a). Some circuits favor a “registration approach” that requires a copyright owner to apply and then wait to obtain a certificate of registration (or a refusal to issue one) from the Copyright Office prior to instituting an action. Other courts have found the statute ambiguous and favor an “application approach” that requires only that the deposit, application, and fee required for registration be submitted to the Copyright Office prior to instituting an action.
To: Lorelie S. Masters, DC
   Board Liaison, Standing Committee on Paralegals

Re: Resolution No. 102

Summary of Resolution

Grants approval to two programs, grants reapproval to thirteen programs, withdraws the approval of five programs at the request of the institutions, and extends the term of approval to several paralegal education programs.

Status of Legislation

N/A.

Other Information

None.
To: Ilene K. Gotts, NY  
Board Liaison, Standing Committee on Specialization

Re: Resolution No. 103A

**Summary of Resolution**

Grants accreditation to the Privacy Law program of the International Association of Privacy Professionals of Portsmouth, New Hampshire for a five-year term as a designated specialty certification program for lawyers.

**Status of Legislation**

N/A.

**Other Information**

A similar resolution was submitted and subsequently withdrawn at the 2017 Midyear and Annual Meetings. The Section of Science and Technology Law had communicated opposition to prior versions of this resolution, principally because of the composition of the membership of the sponsoring organization, and the inadequacy of the definitions of “Privacy Law” in the program materials. But those reasons for prior opposition have been discussed with interested entities (see pages 4 and 5 of the accompanying Report), and as of the date of the submission of this Resolution and Report no formal opposition to this Resolution has been communicated to the Specialization Committee.
To:    Ilene K. Gotts, NY  
Board Liaison, Standing Committee on Specialization

Re:    Resolution No. 103B

**Summary of Resolution**

Grants reaccreditation to the Elder Law program of the National Elder Law Foundation of Tucson, Arizona for a five-year term and extends accreditation to the Medical Malpractice and Legal Malpractice programs of the American Board of Professional Liability Attorneys until August 2018.

**Status of Legislation**

N/A.

**Other Information**

None.
To: Darcee S. Siegel, FL  
Board Liaison, Commission on Disability Rights

Re: Resolution No. 104

**Summary of Resolution**

Urges Congress and the Social Security Administration (SSA) to strengthen the safeguards and protections for all individuals receiving benefits via the representative payee program.

**Status of Legislation**

There is no current federal legislation relevant to this resolution; however, we anticipate that the Social Security Administration may address representative payees through rulemaking.

**Other Information**

This resolution is consistent with current ABA policy that calls for strong protections for organizations that represent social security payees.
To:    David S. Houghton, NE  
       Board Liaison, Commission on Lawyer Assistance Programs 

       E. Fitzgerald Parnell, III, NC  
       Board Liaison, Standing Committee on Professionalism 

Re:    Resolution No. 105 

Summary of Resolution 

Urges stakeholders, where appropriate, to consider the recommendations set out in the report, *The Path to Lawyer Well-Being: Practical Recommendations for Positive Change*, by the National Task Force on Lawyer Well-Being.

Status of Legislation

N/A.

Other Information

None.
To: Lorelie S. Masters, DC  
      Board Liaison, Commission on Domestic and Sexual Violence

Re: Resolution No. 106

Summary of Resolution

Urges Congress and the President to re-authorize, raise the appropriation level of, and fully fund the Legal Assistance for Victims Grant Program of the Violence Against Women Act, 34 U.S. Code § 20121.

Status of Legislation

There is currently no legislation addressing reauthorization and funding for the Legal Assistance for Victims Grant Program of the Violence Against Women Act (VAWA); however, VAWA authorization expires in March of 2018 so we expect reauthorization legislation soon.

Other Information

This resolution builds on ABA’s longstanding support for VAWA by specifying that the ABA wants full funding of the Legal Assistance for Victims Grant Program.
To:         C. Edward Rawl, Jr., SC  
            Board Liaison, Young Lawyers Division  
Re:        Resolution No. 107  

**Summary of Resolution**  

Urges federal courts to adopt pro bono panels for civil litigants guided by a uniform set of guidelines.  

**Status of Legislation**  

No federal legislation has been introduced regarding pro bono panels of federal courts.  

**Other Information**  

The resolution urges federal courts’ pro bono service panels to coordinate to produce guiding principles for structure, organization, and function of such panels, thus easing implementation for other courts.  

The idea should be relatively non-controversial, perhaps hearing the criticism that the states and territories are best when functioning of laboratories of democracy rather than centrally organized. The reply to that criticism could be that this initiative would encourage using the best-practices lessons from each of the pro bono service panels across the nation.
To: Frank H. Langrock, VT  
   Board Liaison, Criminal Justice Section  
   Darcee S. Siegel, FL  
   Board Liaison, Commission on Disability Rights  

Re: Resolution No. 108A

**Summary of Resolution**

Urges legislative bodies and governmental agencies to enact laws and adopt policies regarding the use of solitary confinement for detainees.

**Status of Legislation**

While no legislation has been introduced this Congress to prohibit the use of solitary confinement for certain adults, on November 21, 2017, Representative Bobby Scott (D-VA) introduced H.R. 4261, the SAFE Justice Act, that requires the Director of the Bureau of Prisons to submit an annual report that states, in part, the number of offenders in solitary confinement (including their age), the total time in solitary, and the number of those offenders with mental health issues, cognitive defects, substance abuse issues, or combat-related post-traumatic stress disorder.

**Other Information**

None.
To: Frank H. Langrock, VT
   Board Liaison, Criminal Justice Section

Re: Resolution No. 108B

Summary of Resolution

Urges legislatures to enact legislation creating a substantive right and procedures for individuals to challenge their convictions by demonstrating that forensic evidence used to obtain their conviction has subsequently been undermined or discredited.

Status of Legislation

No legislation has yet been introduced at the federal or state level creating a mechanism for people to prove their innocence when non-DNA evidence used to convict has been subsequently discredited. Passage of this resolution would allow the ABA to start advocating for such a substantive right.

Other Information

None.
To: Frank H. Langrock, VT  
   Board Liaison, Criminal Justice Section

   W. Anthony Jenkins, MI  
   District 2 Representative

Re: Resolution No. 108C

**Summary of Resolution**

Urges the Department of Justice to restore prosecutorial discretion in choosing the charges s/he wishes to pursue and reserve mandatory minimum sentencing to only the most serious drug traffickers and prohibit its use to secure plea agreements.

**Status of Legislation**

N/A.

**Other Information**

In August 2017, the ABA passed a new policy opposing the imposition of mandatory minimum sentences. Including the second resolve in this resolution, urging charging policies that “prohibit seeking mandatory minimum sentences unless required by law” or otherwise justified by certain factors, has raised questions on whether this provision is inconsistent with and may supersede current ABA policy. The Governmental Affairs Office (GAO) raised this concern with the Criminal Justice Section and recommended that they consider deleting the second resolve completely because it just elaborates on the ABA Standards on the Prosecution Function being urged to follow in the first resolve of 108C.
To: Frank H. Langrock, VT  
Board Liaison, Criminal Justice Section

Re: Resolution No. 108D

Summary of Resolution

Urges courts to extend *Batson v. Kentucky*, 476 U.S. 79 (1986), to prohibit discrimination against jurors on the basis of sexual orientation or gender identity/expression.

Status of Legislation

The Juror Non-Discrimination Act (H.R. 1515) and the companion Jury ACCESS Act (S. 635) were reintroduced in the first session of the 115th Congress.

Other Information

Section 7 of the General Information Form suggests that the Governmental Affairs Office (GAO) would “…advocate on the behalf of courts.” GAO does not advocate on behalf of courts and is not typically involved in advocacy in judicial matters. GAO's role in ABA-related matters before the courts (e.g., *amicus curiae* briefs) is to determine whether the ABA has policy to support the position being offered. Section 7 should be clarified to more accurately describe the implementation plans for this policy.
To: Frank H. Langrock, VT  
Board Liaison, Criminal Justice Section

Re: Resolution No. 108E

**Summary of Resolution**

Urges the Executive Branch to rescind its decision to end the Deferred Action for Childhood Arrivals (DACA) program and urges Congress to enact legislation protecting DACA recipients and other undocumented immigrants who were brought to the United States as children and who meet age, residency, educational and other qualifications as set forth by the U.S. Citizenship and Immigration Service (“DREAMers”).

**Status of Legislation**

There are a number of bills that have been introduced in Congress to provide legal status for Deferred Action for Childhood Arrivals (DACA) recipients and other undocumented persons who entered the United States as children (collectively referred to as “dreamers”). The primary bill supported by immigration advocates is S.1615/H.R.3440, the Dream Act of 2017, cosponsored by Senators Lindsey Graham (R-SC) and Richard Durbin (D-IL) in the Senate and Representatives Lucille Roybal-Allard (D-CA) and Rep. Illeana Ros-Lehtinen (R-FL) in the House (among many others). Other bills would impose stricter or more lenient eligibility requirements. Those requirements are a major topic of negotiations, as is which other immigration measures may need to be included in a bill in order for it to pass Congress and be signed by the President.

**Other Information**

There are still concerns in the immigration community about including language in Resolution 108E addressing any “exclusion based on criminal conduct.” The Criminal Justice Section does not want to delete the third resolve and has recommended changing the end of it to instead read “and carefully delineate the criteria to assess whether criminal convictions should be a basis for exclusion.” The Governmental Affairs Office (GAO) understands this was acceptable to people on one CJS email coordination chain, but GAO has not yet heard that the revised language is acceptable to the Commission on Immigration.

The ABA has existing policy, adopted in 2006, supporting “a path to lawful permanent residence and U.S. citizenship for undocumented persons who entered the United States as minors and have developed significant equitable ties to the U.S, subject to a good moral character requirement and security screening.” GAO is currently utilizing this policy to advocate for adoption of the Dream Act or similar legislation.
To: Tom Bolt, USVI  
Board Liaison, Standing Committee on the Law Library of Congress and Section of Environment, Energy, and Resources

Eileen A. Kato, WA  
Board Liaison, Section of International Law

Lee A. DeHihns, GA  
Board Liaison, Section of Dispute Resolution

David S. Houghton, NE  
Board Liaison, Section of Intellectual Property Law

Orlando Lucero, NM  
Board Liaison, Law Practice Division

Maryann E. Foley, AK  
Board Liaison, Law Student Division

Lynne B. Barr, MA  
Board Liaison, Seniors Lawyers Division

Linda L. Randell, CA  
Board Liaison, Infrastructure and Regulated Industries Section

Re: Resolution No. 109

Summary of Resolution

Urges Congress to approve appropriations necessary to enable the Library of Congress to adequately staff, maintain, modernize, and enhance its services, collections, facilities, digital projects and outreach efforts.

Status of Legislation

The FY2019 federal budgeting process is underway and appropriations subcommittee hearings will begin not long after the 2018 ABA Midyear Meeting. The resolution affirms support for, and identifies what is meant by, full or adequate funding for the Law Library of Congress to carry out its mission. Direct support for the Law Library is particularly needed because the Law Library does not have a line in the federal budget—its funding comes from the larger Library of Congress, which must make budgetary and outlay decisions that benefit the whole of the Library’s mission. In essence, to guarantee adequate funding for the Law Library, the larger Library of Congress must be adequately funded. The Library of Congress has experienced cuts to its budget in recent years, however.
Other Information

The policy resolution was prepared based on conversations and consultation with Law Library staff concerning their greatest priorities and needs. In addition to a fuller definition of what is meant by adequate funding, the specific language is an appreciated showing of ABA support to the staff and supporters of the Library and Law Library of Congress.
To: Eileen A. Kato, WA
    Board Liaison, Section of International Law

    David S. Houghton, NE
    Board Liaison, Section of Intellectual Property Law

Re: Resolution No. 110

Summary of Resolution


Status of Legislation

N/A.

Other Information

This policy builds upon existing ABA policy adopted in 1997 which supports commerce through electronic networks that are global in nature and require international communication and cooperation among all nations, including developing nations; encourages continued discussion in open international forums to remove unnecessary legal and functional obstacles to electronic commerce; and encourages cooperation to establish a legal framework within which global electronic commerce can flourish in an environment that provides appropriate legal protection to all interested parties, while eliminating unnecessary legal and functional barriers to electronic commerce.
To: W. Anthony Jenkins, MI  
   Board Liaison, Death Penalty Due Process Review Project  
   
   John L. McDonnell, CA  
   Board Liaison, Section of Civil Rights and Social Justice  

Re: Resolution No. 111  

Summary of Resolution  

Urges each death penalty jurisdiction not to execute or sentence to death anyone who was 21 years old or younger at the time of the offense.

Status of Legislation  

There are no known federal or state legislative proposals to raise juvenile protections from the death penalty to 21 years of age. The policy would be used if any state proposes such legislation or any significant death penalty cases involving juvenile reach a court where an amicus curiae submission is possible.

Other Information  

While the Criminal Justice Section is not listed as a cosponsor, it supports this resolution.
To: Deborah Enix-Ross, NY
   Board Liaison, National Conference of Commissioners on Uniform State Laws

Re: Resolution No. 112A

**Summary of Resolution**

Approves the Revised Uniform Unclaimed Property Act, promulgated by the National Conference of Commissioners on Uniform State Laws (Uniform Law Commission), as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein.

**Status of Legislation**

N/A.

**Other Information**

None.
To: Deborah Enix-Ross, NY
    Board Liaison, National Conference of Commissioners on Uniform State Laws

Re: Resolution No. 112B

**Summary of Resolution**

Approves the Uniform Directed Trust Act, promulgated by the National Conference of Commissioners on Uniform State Laws (Uniform Law Commission), as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein.

**Status of Legislation**

N/A.

**Other Information**

None.
To: Deborah Enix-Ross, NY  
    Board Liaison, National Conference of Commissioners on Uniform State Laws

Re: Resolution No. 112C

**Summary of Resolution**

Approves the Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act, promulgated by the National Conference of Commissioners on Uniform State Laws (Uniform Law Commission), as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein.

**Status of Legislation**

N/A.

**Other Information**

None.
To: Deborah Enix-Ross, NY
   Board Liaison, National Conference of Commissioners on Uniform State Laws

Re: Resolution No. 112D

**Summary of Resolution**

Approves the Uniform Parentage Act (2017), promulgated by the National Conference of Commissioners on Uniform State Laws (Uniform Law Commission), as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein.

**Status of Legislation**

N/A.

**Other Information**

None.
To: Deborah Enix-Ross, NY
    Board Liaison, National Conference of Commissioners on Uniform State Laws

Re: Resolution No. 112E

Summary of Resolution

Approves the Uniform Protected Series Act, promulgated by the National Conference of Commissioners on Uniform State Laws (Uniform Law Commission), as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein.

Status of Legislation

N/A.

Other Information

None.
To: Deborah Enix-Ross, NY
Board Liaison, National Conference of Commissioners on Uniform State Laws

Re: Resolution No. 112F

Summary of Resolution

Approves the Uniform Regulation of Virtual-Currency Businesses Act, promulgated by the National Conference of Commissioners on Uniform State Laws (Uniform Law Commission), as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein.

Status of Legislation

N/A.

Other Information

None.
To: Erica R. Grinde, MT  
Board Liaison, Commission on Homelessness and Poverty  

W. Anthony Jenkins, MI  
Board Liaison, Commission on Youth at Risk  

Re: Resolution No. 113  

**Summary of Resolution**  

Supports the development of integrated, systemic approaches within administrative, civil and criminal court contexts to address the special needs of youth and young adults experiencing homelessness.  

**Status of Legislation**  

There is no legislation concerning this proposal. The resolution does not focus on calling for federal legislation, except for some future prospect that perhaps congressional funding, among other sources, might be available.  

**Other Information**  

The form and length of this policy resolution are intentional. Among other purposes, the resolution is expected to be used in connection with fundraising purposes, for which specific terms, art, or demographics need to be expressly identified and affirmed.
To: Frank H. Langrock, VT
   Board Liaison, Standing Committee on Legal Aid and Indigent Defendants

Re: Resolution No. 114

Summary of Resolution

Urges governments to provide legal counsel as a matter of right at public expense to low-income persons in all proceedings that may result in a loss of physical liberty, regardless of whether the proceedings are: a) criminal or civil; or b) initiated or prosecuted by a government entity.

Status of Legislation

No federal legislation has been introduced regarding the right to counsel in all proceedings, including civil, that may result in a loss of liberty. However, U.S. Representative John Sarbanes (D-MD) has been asked to consider introducing legislation regarding right to request counsel in federal civil proceedings and the factors that should be considered by a court in evaluating such a request. The request comes to Representative Sarbanes through the National Coalition for a Civil Right Counsel (Terry Brooks of the ABA Standing Committee on Legal Aid and Indigent Defendants, is on the national coalition's steering committee, along with Don Saunders of the National Legal Aid and Defender Association).

Rep. Sarbanes has asked the ABA whether the draft legislation reads okay, or whether it raises flags, e.g., exceeds the right to request counsel and/or introduce significant costs for the court.

Other Information

The resolution provides that counsel should be provided at public expense. This addition to ABA policy is in line with past “civil Gideon” resolutions and briefs, such as Resolution 112A of 2006 (https://goo.gl/kcSVSY)—in many ways it is an oversight that is being corrected.

The report includes no discussion or analysis of what public expense would be expected should the right be found judicially or mandated in legislation. While the reasoning for such a right does not involve financial considerations, the practicalities of creating such a right would involve financial considerations. A financial analysis should make it easier to enact, if the reasonable cost estimate were low. If the cost were to be high, jurisdictions should likewise be informed.

While legislation to this effect was just passed in 2017 in Louisiana, New Hampshire, and Utah, perhaps some initial observations may be obtained as to the resultant cost. The political composition of these three states bodes favorably for enactment of the concept at the state level in many states.
To: Maryann E. Foley, AK  
Board Liaison, Section of Family Law

Re: Resolution No. 115A

**Summary of Resolution**

Urges governments to adopt or preserve tax code provisions that allow alimony deduction for payors and treats alimony as taxable income to payees.

**Status of Legislation**

On December 22, 2017, President Trump signed P.L. 115-97 (H.R. 1), the Tax Cuts and Jobs Act of 2017. Section 11051 of the new law repeals the existing Tax Code provisions that had stated that alimony and separate maintenance payments are deductible by the payor spouse and constitute taxable income to the payee spouse. The new provision is effective for any divorce or separation instrument executed after December 31, 2018, or for any divorce or separation instrument executed on or before December 31, 2018, and modified after that date, if the modification expressly provides that the amendments made by this section apply to such modification.

No other legislation seeking to repeal or modify the provisions of Section 11051 or otherwise relating directly to the proposed resolution has been introduced in Congress since the enactment of P.L. 115-97.

**Other Information**

None.
To: Maryann E. Foley, AK
    Board Liaison, Section of Family Law

Re: Resolution 115B

Summary of Resolution

Adopts the ABA Model Act Governing Assisted Reproductive Technology dated February 2018 to replace the Model Act that was adopted in 2008, and urges adoption by appropriate governmental agencies.

Status of Legislation

N/A.

Other Information

This resolution replaces the ABA support for the 2008 Model Act Governing Assisted Reproduction Technologies. The new Model Act is needed because it contains updated definitions to include gender and sexual-orientation neutral terms.
To: Maryann E. Foley, AK  
Board Liaison, Section of Family Law

William C. Carpenter, Jr., DE  
Standing Committee on Legal Assistance for Military Personnel

Re: Resolution No. 115C

**Summary of Resolution**


**Status of Legislation**

There is no legislation yet introduced on this proposal. The National Defense Authorization Act of FY2018 (P.L 115-91) included (Section 624) technical corrections to the “frozen benefit rule” codified through the prior year’s Defense authorization legislation. At the time of its enactment, the new federal rule contradicted the rule in the vast majority of states concerning the division of military retirement pay. That new rule contradicted the rule or undermined the methodology in the vast majority of states concerning how military retirement pay would be determined for divorce purposes. There was no compelling case to warrant the change, yet the change resulted in harm to former military spouses.

**Other Information**

The frozen benefit rule was one of nine “consensus” reforms from a longer list advanced by the Department of Defense in 2009. Military service organizations representing service members and their spouses agreed to support these nine proposals, although only the frozen benefit rule was introduced. Organizations representing military spouses agreed to support this stand-alone proposal on the condition that other proposals that more greatly benefitted military spouses would be quick to follow. To-date, none of the other eight proposals have been introduced.
To: John L. McDonnell, CA  
    Board Liaison, Section of Civil Rights and Social Justice

    Eileen A. Kato, WA  
    Board Liaison, Commission on Sexual Orientation and Gender Identity

Re: Resolution No. 116A

**Summary of Resolution**

Supports an interpretation of Title VII of the Civil Rights Act of 1964 that defines sex discrimination by covered employers to include discrimination on the basis of sexual orientation and gender identity.

**Status of Legislation**

N/A.

**Other Information**

In 2014, the Department of Justice (DOJ) under the Obama administration issued guidance stating that a person’s gender identity was covered under the term “sex discrimination” in Title VII. In recent months, the Trump DOJ has reversed that position, stating that workplace discrimination on the basis of gender identity is not protected under Title VII. The ABA issued a statement, but was very careful not to address the Title VII interpretation due to lack of policy.
To: John L. McDonnell, CA  
Board Liaison, Section of Civil Rights and Social Justice

Re: Resolution No. 116B

Summary of Resolution

Urges Congress to enact legislation overruling Middlesex County Sewerage Auth. v. Nat’l Sea Clammers Ass’n, 453 U.S. 1 (1981) and supports legislation enabling plaintiffs to bring constitutional claims in lieu of a statutory cause of action based upon environmental harm due to governmental acts or omissions.

Status of Legislation

The Environmental Justice Act of 2017 (S. 1996/H.R. 4114) is currently pending in Congress; however, the legislation only has democrat support and therefore is not expected to advance anytime soon. The Governmental Affairs Office (GAO) is in the process of trying to garner support from republicans.

Other Information

This resolution builds upon several previous resolutions that call for allowing victims of environmental harm to be able to seek redress through the civil court system by specifically calling for Congress to overrule the holding from Middlesex County Sewerage Auth. v. Nat’l Sea Clammers Ass’n.
To: Eileen A. Kato, WA  
Board Liaison, Commission on Sexual Orientation and Gender Identity

Mark H. Alcott, NY  
Board Liaison, Tort Trial and Insurance Practice Section

Re: Resolution No. 117

Summary of Resolution

Urges courts to recognize that service in the United States Armed Forces should not be restricted and that individuals should not be discriminated against on the basis of sexual orientation or gender identity.

Status of Legislation

There were attempts to add an amendment to the FY2018 National Defense Authorization Act (NDAA) to protect transgender individuals already serving in the military and prevent those individuals from being discharged solely on the basis of gender identity. That amendment, offered by Sen. Susan Collins and Sen. Kirsten Gillibrand was not allowed a vote. However, Sen. Gillibrand, along with Sens. Collins, McCain and Reed immediately introduced standalone legislation (S. 1820) with similar language providing for the retention and service of transgender members of the Armed Forces. A companion bill (H.R. 4041) has also been introduced in the House.

Other Information

On October 30, 2017 a federal judge of the U.S. District Court for the District of Columbia ruled that the ban cannot be enforced while the case is being reviewed in court. On November 21, 2017 a judge of the Federal District Court for Maryland also ruled that the Trump Administration’s ban cannot be enforced because it likely violated equal protection provisions of the Constitution. The November ruling went further than the previous ruling by also blocking the implementation of a Trump administration policy prohibiting gender-reassignment surgery for service members at the government’s expense. Subsequent efforts by the administration to have the lower court rulings set aside were rejected by federal courts in Virginia and Washington.

On December 30, 2017, the administration announced that it would not challenge the rulings, thus allowing new transgender troops to enter the military effective January 1, 2018. Upon the president’s initial announcement, Defense Secretary Mattis indicated that transgender troops would be permitted to continue serving until the completion of a formal study of the issues. A committee of senior officers was convened in September 2017 to carry out the evaluation. That committee will have until February 21, 2018, to report its findings.
To: John L. McDonnell, CA
    Board Liaison, Section of Civil Rights and Social Justice

    Frank H. Langrock, VT
    Board Liaison, Criminal Justice Section

    Lee A. DeHihns, GA
    Board Liaison, Center for Human Rights

    Darcee S. Siegel, FL
    Board Liaison, Commission on Disability Rights

Re: Resolution No. 300

Summary of Resolution

Urges governments and relevant private entities to recognize that transmission of the human immunodeficiency virus (HIV), which causes Acquired Immune Deficiency Syndrome (AIDS), is driven by certain “social determinants of health” that law can address, including, among others, poverty, stigma, discrimination, and racism; housing, food, and transportation insecurity; over-criminalization of HIV non-disclosure; and misinformation about HIV transmission risk.

Status of Legislation

N/A.

Other Information

None.
Website Update from Code & Theory

Lanya Olmstead
David DiCamillo
Michael Treff
Reports From Committee Chairs

Hon. Ramona G. See, Chair
Profession, Public Service and Diversity

Ilene K. Gotts, Chair
Finance

Andrew J. (Josh) Markus, Chair
Member Services
MEMORANDUM

TO: Members of the Board of Governors
FR: Alpha M. Brady
RE: Consent Calendar
DT: January 18, 2018

The Consent Calendar is comprised of the Report of the Committee Chairs of the Board. This Report will be distributed to you at the Board meeting on Friday, February 2, 2018. Following the oral reports from each of the Chairs of the Board Committees, the Consent Calendar will be approved without discussion except for those items that have been removed from the Consent Calendar.

Should you wish to remove an item from the Consent Calendar, please notify me the morning of Friday, February 2, 2018.
Reports Regarding Fund for Justice and Education

Robert Clifford, Chair
Fund for Justice and Education
President Paulette Brown requested that the Board of Governors (BOG) create the ABA Diversity & Inclusion 360 Commission (360 Commission). The 360 Commission had a one-year mission, in FY 2015-2016, to review and design tools, policies, and solutions to move the ABA and the profession forward in a significant way on diversity and inclusion issues.

Toward this end, the 360 Commission asked the ABA’s eight core Goal III entities—Commission on Disability Rights; Commission on Hispanic Legal Rights & Responsibilities; Commission on Racial and Ethnic Diversity in the Profession; Commission on Sexual Orientation and Gender Identity; Commission on Women in the Profession; Center for Racial and Ethnic Diversity (now the Diversity and Inclusion Center); Coalition on Racial and Ethnic Justice; and Council for Racial and Ethnic Diversity in the Educational Pipeline (now the Council for Diversity in the Educational Pipeline)—to collaboratively develop and coalesce around transformative initiatives that would significantly move the needle forward with respect to diversity and inclusion in the legal profession. The result was the ABA Pathway to the Profession Project (Pathway Project), a bold, cohesive compilation of three diversity and inclusion initiatives:

- **National Pre-Law Project**: Three-year pilot pipeline project to develop a new metrics-driven model that colleges and universities nationwide can employ to increase the number of diverse underrepresented students entering law school and ultimately the legal profession;

- **Metrics-Driven Bias Interrupters Project**: Data-driven project to determine the kinds of biases LGBT lawyers and lawyers with disabilities face and to develop strategies and best practices for interrupting these biases to enhance their professional advancement; and

- **Digital Justice Project**: Project involving a series of Hackathons that convene community, legal, technology, and law enforcement stakeholders to devise technological solutions to conflicts between law enforcement and communities of color and persons with disabilities.

Given that the 360 Commission would sunset in August 2016, the BOG provided the financial support needed to move forward with the Pathway Project. In FY 2016-2017, the Goal III entities formed an internal ad hoc Goal III Working Group (Working Group), comprised of volunteer leaders and staff from each of the Goal III entities and chaired by Robert Gonzales. Subcommittees were created to work on each project.

The attached report provides an overview, details, and deliverables/outcomes of each project.
Report on the ABA Pathway to the Profession Project

The American Bar Association (ABA) has a longstanding commitment to Goal III—Eliminate bias and enhance diversity in the Association, the legal profession, and the judicial system. Recognizing the legal profession’s need to make more meaningful progress in advancing diversity and inclusion, President Paulette Brown requested that the Board of Governors (BOG) create the ABA Diversity & Inclusion 360 Commission (360 Commission). The 360 Commission had a one-year mission, in FY 2015-2016, to review and design tools, policies, and solutions to move the ABA and the profession forward in a significant way on diversity and inclusion issues.

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The Working Group held its first meeting via conference call in September 2016, and then met in person at the ABA’s Headquarters in Chicago in December 2016. Throughout the remainder of the bar year, the Working Group and its subcommittees held multiple in-person and telephonic meetings, including convening at the 2017 ABA Midyear and Annual Meetings to discuss

¹ Commission on Disability Rights; Commission on Hispanic Legal Rights & Responsibilities; Commission on Racial and Ethnic Diversity in the Profession; Commission on Sexual Orientation and Gender Identity; Commission on Women in the Profession; Center for Racial and Ethnic Diversity (now the Diversity and Inclusion Center); Coalition on Racial and Ethnic Justice; and Council for Racial and Ethnic Diversity in the Educational Pipeline (now the Council for Diversity in the Educational Pipeline).
development and implementation of their respective initiatives. Below is a summary of each of the above-mentioned projects.

**Pilot Pipeline Program**

*Overview*

The ABA, in partnership with Indiana University Robert H. McKinney School of Law (IU McKinney), has developed and is implementing a three-year pilot pipeline program (Pilot Pipeline Program), which seeks to make a significant nationwide impact on the number of diverse and underrepresented undergraduate students entering law school and the legal profession. Currently, a pre-law program of this scale does not exist.

To achieve this goal, the Pilot Pipeline Program provides diverse and underrepresented undergraduate students—from their sophomore to senior years—with progressive and targeted online and in-person pre-law instruction, along with annual in-person mentoring. Targeting these students at an earlier stage of their college career is key. Most pre-law students do not think about law school admission until their junior year. In addition, unlike medical schools, law schools do not specify what undergraduate courses students should take or what skills they need to build in preparation for law school, other than basic writing and critical thinking skills.

The ABA will invest $250,000, which facilitates all aspects of developing and launching the program, including curriculum development and instruction by law professors. Expenses associated with the program were projected at well over $500,000. To defray costs, IU McKinney will secure the remaining $250,000 in grant funds.

Once the Pilot Pipeline Program is complete, the ABA and IU McKinney will publish a report outlining the findings and success metrics. The report will allow the ABA to market the project to colleges nationwide, encouraging them to integrate the curriculum and project template.

*Details*

The Goal III National Online Pre-Law Curriculum Subcommittee (Pre-Law Subcommittee)—comprised of volunteer leaders and staff from the Council on Diversity in the Educational Pipeline, Commission on Racial and Ethnic Diversity in the Profession, Coalition for Racial and Ethnic Justice, and Commission on Hispanic Legal Rights and Responsibilities—is charged with executing the Pilot Pipeline Program.

The Pre-Law Subcommittee identified IU McKinney as a partner to develop and implement a four-course pre-law curricular sequence of online instruction taught by law faculty and designed to develop skills in legal writing, reading comprehension, critical thinking and analysis, study and test preparation, professionalism, and basic legal knowledge. This instruction will prepare diverse and underrepresented undergraduate students to enter, succeed in, and reap long-term professional benefits from law school. The courses are designed in conjunction with E-Learning Design Services, the primary online design of IU’s Office of Online Education. A mentorship program runs parallel to the curricular sequence, providing students frequent interaction and
guidance from law school staff, recent law graduates, and top law students. In addition, a plan is in place for assessing the progress of students during the Pilot Pipeline Program, through their law school admissions process, and up to their taking the bar examination.

The Pre-Law Subcommittee focused on recruitment and retention to ensure participation by a substantial population. For Year One, 100 diverse and underrepresented undergraduate students have been selected to yield the required 50 participants completing the program in Year Three.

**Deliverables**

The following is a high-level summary of deliverables completed in FY 2016-2017, as well as ongoing work slated for FY 2017-2018:

**FY 2016-2017**

- **(12/16)** Request for Proposals (RFP) finalized
- **(1/17)** RFP posted on ABA website, with February deadline
- **(3/17)** Subcommittee selected and contracted with ABA-accredited IU-McKinney. IU-McKinney, in collaboration with Indiana University–Purdue University Indianapolis School of Liberal Arts and Ivy Tech Community College of Indiana, agreed to develop online pre-law tool comprised of:
  - Suggested courses with sample syllabi:
    - Introduction to the Legal Profession
    - Legal Writing Skills
    - Critical Thinking and Comprehension Skills
    - Advanced Critical Thinking and Comprehension Skills;
  - Mentoring component (selection of faculty and students);
  - Plan for tracking student progress; and
  - Research report (empirical data) summarizing findings.
- **(8/17)** IU-McKinney had:
  - Completed first of sequence courses—Introduction to the Legal Profession—with IP licensing; curricular map; and syllabi for course sequence;
  - Entered memorandums of understanding with developing faculty regarding instructors at Indiana University–Purdue University Indianapolis School of Liberal Arts, and Ivy Tech Community College of Indiana;
  - Received administrative approval of the course and mentoring plan; and
  - Developed a plan for recruitment of students.

**FY 2017-2018**

- **(9/17)** Pilot Pipeline Program launched.
- **(9/17—8/18)** IU-McKinney will:
Collect and analyze data from course sequence and student-mentor interactions to evaluate the success of students;
Hold focus group research targeting students;
Conduct literature review to determine success of existing pipeline programs and best practices for preparing diverse undergraduate students for success in the legal profession; and
Provide status reports.

(TBD 2018) The ABA will explore conducting a site visit to meet with IU McKinney faculty, administrators, undergraduate students, and other key stakeholders charged with executing or partaking in the pipeline program.

**Metrics-Driven Bias Interrupters Project**

**Overview**

The goal of this data-driven project is to determine the kinds of biases (implicit and explicit) that LGBT lawyers and lawyers with disabilities encounter in the legal profession, and to develop strategies and best practices that legal organizations can integrate into their workplaces to change behaviors and interrupt/overcome these biases. Doing so will foster an inclusive environment where diverse attorneys can thrive and grow in their legal careers.

This project seeks to advance the Commission on Women in the Profession’s bias project and expand it as it relates to LGBTQ and disability. The Commission recently completed a research report documenting gender bias in legal workplaces, with an emphasis on how gender bias differs by race. This report is expected to be released first quarter of 2018 and will include specific strategies that law firms and in-house legal departments can implement to reduce bias.

**Details**

The Bias Interrupters Subcommittee met in person and via conference calls to discuss the project, in particular who would be retained to develop the online survey, analyze the data, and draft an executive summary. The Burton Blatt Institute (BBI) at Syracuse University submitted a proposal, requesting $175,000 in funding and agreeing to make an in-kind contribution of about 10 to 20 percent of time during the academic year to the project. After reviewing the proposal and talking with Peter Blanck, Chairman of the BBI, the subcommittee selected BBI to develop a first-of-its kind nationwide online survey to collect data on biases encountered by these lawyers.

The survey, which was voluntary and confidential, was sent to ABA members on December 12, 2017. BBI staff is currently analyzing the data and will then begin drafting an executive summary describing the study’s purpose, methodology, and quantitative and qualitative findings.

**Deliverables**

Below is a summary to date of BBI’s extensive survey development activities:
• (1/17—3/17) Conducted a comprehensive literature search and review of research, reports, and surveys and measures related to this area of study.

• (5/17—8/17) Attended in San Francisco the 2017 ABA Section of Litigation LGBT Forum in May and the Lavender Law Conference in August (featured an “LGBT Disability” workshop), as well as spoke about the survey at the Reed Smith 2017 Diversity Summit in Philadelphia (featured workshops on disability and LGBT topics), interviewing speakers and experts for information and guidance; followed up with in-person and telephone meetings with ABA experts and leaders in California, D.C., Florida, Hawaii, Illinois, Iowa, New York, Oregon, Pennsylvania, and Texas, among other states.

• (4/17—6/17) Identified potential individuals to develop a diverse, leading, and national group of professionals with expertise in relevant areas, and invited them to be a member of the Working Group.

• (3/17—6/17) Developed overarching research questions based on the literature review and in-depth interviews.

• (3/17—8/17) Developed a survey designed to answer the overarching research questions identified. Included open-ended, qualitative questions to add narrative dimensions to the potential findings, and to ensure adequate answer responses to questions that do not lend themselves to a purely quantitative approach: (1) experiences of overt and subtle forms of bias in the workplace; (2) experiences witnessing overt and subtle forms of bias; and (3) strategies and practices in the workplace individuals have experienced and witnessed that have been effective in lessening overt and subtle forms of bias.

• (8/17) Completed and submitted the University Human Subjects Internal Review Board (IRB) application for approval to implement the survey from the Syracuse University Office of Research Integrity and Protections.

• (8/17—9/17) Completed design of the initial version of the accessible online survey. Tested the survey extensively with individuals with an array of disabilities regarding survey accessibility and its length of time to complete.

• (9/17—11/17) Pilot-tested the online survey with Working Group members to ensure the appropriateness of the survey logic, as well as the agreed upon time for completion by participants (15 minutes or less for most participants). Received a 33 percent response rate. Incorporated feedback and submitted survey changes/updates to IRB for approval.

• (12/17) Invited ABA members to participate in the survey and provided URL link to it.

• (8/18-10/18) Meet with LGBT and disability legal professionals and discuss project status and next steps.
• (TBD) Share executive summary with Working Group members, key constituents, and ABA leadership for comment.

• (TBD) Convene the Working Group to:
  - Review and comment on survey findings;
  - Consider implications for developing bias reduction strategies and best practice approaches (bias mitigation);
  - Develop outreach strategy for dissemination of findings and best practice bias reduction strategies; and
  - Discuss objectives and deployment of online survey Phase 2.

• (TBD) Develop three follow-up surveys focused on distinct issues related to bias mitigation: (1) Make Your Organization the Best It Can Be; (2) Excellence in Diversity and Inclusion (D&I) for lawyers with disabilities and LGBT lawyers; and (3) Strategies for Mitigating Bias and Enhancing D&I in the Legal Profession.

**Digital Justice Initiative Project (DJI)**

**Overview**

The Digital Justice Initiative Project (DJI) is a project facilitated by the Coalition on Racial & Ethnic Justice that uses social justice Hackathons to bring together communities of color, persons with disabilities, and the legal, law enforcement, and technology sectors to resolve conflicts between law enforcement and communities of color and persons with disabilities through technology (including mobile apps).

The goals of DJI are to: (1) collect and analyze national, state, and local data to determine the core issues underlying the tensions between communities of color and persons with disabilities and their police forces; (2) hold outcome-oriented public engagement through a series of ABA JusticeHacks that propose and develop action plans and practical ways to resolve the issues with the assistance of the key stakeholders; (3) develop a collaborative initiative that utilizes the talents, knowledge, and resources of the legal community, communities of color, persons with disabilities, technology communities, and law enforcement entities; and (4) evaluate the ideas and technology solutions (including apps) developed during each Hackathon for inclusion in a best practices resource guide to be used by local governments, law enforcement agencies, communities of color, persons with disabilities, bar associations, the legal community, and other interested stakeholders.

**Details**

During each full-day hackathon, teams comprised of seven to twelve participants representing diverse backgrounds develop technology and innovative concepts to ease designated tension points between law enforcement and one of the pre-defined various types of users, including youth, immigrants, bystanders, impacted individuals, and persons with disabilities.

During the BUILD session, teams work through the following:
• Refine the problem;
• Test the solution;
• Identify a data set (if applicable);
• Isolate application (mobile app, website, or other platform);
• Develop an execution plan;
• Identify testing needs; and
• Create deployment strategy.

A team of expert judges evaluate concepts on four main criteria: user experience, innovation, impact, and feasibility—as well as collaboration and scale.

Hackathon #1: ABA JusticeHack Miami (February 2 & 4, 2017)

• **Highlights:** ABA JusticeHack Miami attracted over 200 diverse participants from community members and leaders, law enforcement representatives, police academy students, judges, lawyers, college and law students, law professors, bar association leaders, technologists, and ministers. Venture Cafe Miami hosted a storytelling listening event on 2/2/17, as well as the full day hackathon on 2/4/17, held in conjunction with the 2017 ABA Midyear Meeting.

• **Partnerships:** Sponsored by John S. and James L. Knight Foundation, Venture Café Miami, Cambridge Innovation Center, the New Leaders Council Miami, the Community Justice Project, Blue1647, and the ABA Goal III entities (co-sponsored in name only).

• **Winning Teams:**
  o **Juvo** (Winner), which means to provide help in Latin: The app is designed to help individuals who are fearful of law enforcement, particularly immigrants, to have more productive and meaningful interactions with law enforcement. Unique features of the app include its ability to speak to the user in a friendly style and to anonymously report an incident and connect the user to a local law enforcement officer. University of Miami School of Law team leaders Feras Ahmed and Ellen Degnan directed this effort;
  o **See Something, Say Something** (2nd place): This web- and mobile-based application is designed to disrupt the existing function of a neighborhood watch by democratizing access to all community members to anonymously report crimes or improper policing conduct using GPS-based location notification. This platform also provides access to resources for bystanders or the families of victims; and
  o **Blue Cap** (3rd place): This application is designed to provide a positive rating system on law enforcement interactions to improve professionalism and civility and encourage accountability.

Hackathon #2: ABA JusticeHack NYC (August 12, 2017)

• **Highlights:** ABA JusticeHack attracted over 160 diverse lawyers, community and industry leaders, students, experts from law enforcement and legal communities, designer
and technologists. Fordham University School of Law served as the venue host in conjunction with the CLE in the City initiative during the 2017 ABA Annual Meeting.

- **Partnerships**: Paul Weiss Law Firm NYC, North Carolina Central University School of Law, Dechert LLP, Drucilla Stender Ramey, Legal Server, Lillian Moy, Asian American Bar Association of New York City, JUST TECH, and Venture Café Miami donated a total of $5,000 for the event. The ABA Goal III entities co-sponsored in name only.

- **Winning Teams**:
  - **I’m Stopped** (Winner): This voice-activated application notifies registered next of kin when an individual is stopped by law enforcement. The application uses GPS location to triangulate the location of the booking precinct and includes Know Your Rights videos;
  - **Motion & Noise: Smart Policing** (2nd place): This application uses stress-based monitoring technology (i.e., blood pressure and heart rate) to evaluate a law enforcement officer’s biological responses to escalated circumstances to trigger an audible alarm to commence mindfulness-based stress reduction interventions and uses SMART (Self-Monitoring Analysis and Reporting Technology) or IOT (internet of things) to remote lock his or her firearm; and
  - **VERBIS** (3rd place): This application provides real-time sign language translation and a proximity-based notification for a law enforcement officer who is or will interact with hearing impaired individuals, using an RFID (Radio Frequency Identification Device) tile. The application also uses facial recognition to provide assistive interpretation.

**Outcomes**

- Juvo, I’m Stopped, and VERBIS apps are currently under development and scope refinement, with an anticipated availability for public pilot and demonstration in 2018.
- To view the Miami hackathon recap video: [Click Here](#)
- COREJ is currently working on:
  - Collaboration with ABA Center for Innovation, Legal Technology Resource Center, Law Practice Division, and a number of other ABA entities;
  - Expanding future program cities;
  - Marketing, branding, and storytelling impact;
  - Formalizing processes for execution of future hackathons;
  - Developing individual applications referenced above;
  - Creating a web-based portal for dissemination of lessons learned and ease of access to participate in future hackathons;
  - Memorializing case studies of success; and
  - Deployment of pilot projects.
- Future hackathons are scheduled for North Carolina School of Law (April 2018) and ABA Annual Meeting, Chicago (August 2018).
MEMORANDUM

To: ABA Board of Governors

From: ABA Standing Committee on Governmental Affairs
Russell Frisby, Chair

Date: January 2018

Re: Executive Summary of Recommendation for an ABA Political Action Committee

The ABA Standing Committee on Governmental Affairs recommends the establishment of the American Bar Association Political Action Committee (ABA PAC). The PAC would be organized as a separate segregated fund – a nonprofit political organization separate and apart from the ABA – organized under applicable federal election laws.

That over 8,600 PACs registered with the Federal Election Commission in the last federal election cycle, raising and spending over $4 billion, is compelling evidence that a large number of associations, corporations, unions, and other organizations understand the benefit of having a PAC. Doctors (the American Medical Association), dentists, accountants, architects, teachers, and lawyers (such as the American Association for Justice and seven state bars) have all had active PACs in support of their legislative objectives. It is time that the ABA acknowledge the value of a PAC in opening doors and cementing relationships with legislators. A full explanation follows in the next document.

Challenges continue to evolve in communicating effectively with federal policymakers. Control of Congress shifts back and forth between political parties. Senators and Representatives increasingly rely upon staff who rapidly turn over. Legislative staff increasingly rely upon email and social media, eschewing in-person discussion. A PAC is a means to overcome these obstacles by helping to improve direct, personal access to legislators. Increased access facilitates better explanation of ABA policy goals.

Federal law prohibits corporate contributions to federal candidates and political parties. A PAC enables an incorporated entity to establish a separate entity to raise voluntary contributions from qualified members for direct and in-kind election-related candidate and political party support. The separation is key. PAC activities are subject to various federal rules and restrictions, and federal law requires ongoing reporting of finances to the Federal Election Commission. An overview of applicable rules regarding PACs is contained in a separate document (“General Legal Guidance on PAC Establishment and Administration”) as Attachment A, along with a set of draft Bylaws at Attachment B.
The Committee recommends that the ABA PAC be governed and administered by a diverse and balanced Board and officers appointed by ABA presidents in a system approved by the Board of Governors. Representatives from the Board of Governors and the House of Delegates could be included.

Support from ABA leadership, including financial support, will be important, as the PAC’s goal will be to obtain sufficient voluntary PAC contributions to make at least $150,000 in contributions to federal candidates and political party committees every (two-year) election cycle.

The Committee also recommends specific approaches to the PAC’s operations. To maintain the impartiality valued in ABA advocacy and expertise, the PAC would contribute equally to candidates and committees of the two major political parties. The PAC should combine outreach to Members with whom the ABA seeks to establish new relationships and appreciation for beneficial relationships already established. Consideration should be taken of committee assignments, congressional jurisdiction for ABA priorities, Members’ leadership positions, and the issue activity and opportunity for issue activity of Members. Finally, the PAC should contribute to candidates based on a limited set of criteria adopted by the ABA, such as: (1) support for the independence of the legal profession and the judiciary; (2) support for the “rule of law”; (3) support for legal services for the poor and underserved; and (4) advancement of diversity and inclusion.

Answers to ABA PAC “Frequently Asked Questions” are attached as Attachment C, and Attachment D addresses the question of the impact of an ABA PAC on judicial members.
MEMORANDUM

To: ABA Board of Governors
From: ABA Standing Committee on Governmental Affairs
Date: January 2018
Re: ABA Political Action Committee: A Needs Analysis and Recommendation

The use of political action committees (PACs) has exploded to the point that PACs are now considered indispensable governmental-affairs tools.

Legal changes, shifting political landscapes, shrinking legislative staffs, and the rise of electronic communication diminish avenues for an organization and its leaders to maintain and enhance relationships with policymakers. These changes magnify the value of a PAC.

This memorandum sets forth the Committee’s recommendation for the ABA to create its own PAC, described below as “ABA PAC.”

Background on PACs

Federal election laws prohibit corporations such as the ABA from making contributions to federal candidates and political parties out of the corporation’s general treasury funds. The laws prohibit direct corporate contributions, as well as a campaign’s use of corporate facilities, goods, or services without receiving fair market value. Without proper oversight, these may become unwitting illegal corporate contributions.

At the same time, post-Watergate-scandal, political-reform laws allow corporations to organize political action committees, which may make contributions to and expenditures on behalf of federal candidates.

Therefore, a professional association such as the ABA must form a separate entity if it wants to improve its collective action to achieve shared objectives. Officially, PACs established and administered by corporations under the federal election laws are referred to as “separate segregated funds (SSFs)” or “connected PACs,” while often colloquially called “corporate PACs.”

Generally speaking, corporate PACs may accept contributions from certain employees, stockholders, and family members. This population is referred to as the PAC’s “restricted class.” In the case of the ABA, employees and members will be able to participate as part of the restricted class if certain specific criteria are met.
A corporation forming a PAC must follow several registration and reporting regulations. A few of these rules are as follows:

- The PAC must register with the Federal Election Commission (FEC) within 10 days of its formation by its sponsor corporation.\(^1\)
- The name of the committee must reflect the name of the sponsor corporation.
- Funds raised for the PAC from voluntary contributions of restricted class members must be kept separate from the sponsor corporation’s funds. Therefore, separate bank accounts must be established and maintained to hold a PAC’s assets.
- A PAC can only solicit contributions from certain groups as permitted by federal law.
- A PAC is not required to report certain administrative or fundraising expenses that are paid for by its sponsor corporation, but \(\text{i}s\) required to report the voluntary contributions to the PAC and the PAC’s contributions to candidates.

One of the fundamental goals of federal campaign finance law is to provide transparency into how political organizations raise and spend funds to influence elections. Not only does the FEC make contribution data public, but organizations such as the Sunlight Foundation (https://sunlightfoundation.com/) and the Center for Responsive Politics (https://www.opensecrets.org/) provide detailed analyses regarding contribution amounts from all contributors and levels (individuals, corporations, other PACs, etc.), SEC filings, FEC registrations, and other related information on candidates and their contributors.

The regulations and associated public scrutiny place a premium on proper PAC administration.

**ABA’s Need for a PAC**

New laws, shifting political landscapes, dramatically downward staffing trends, current procedural realities, and the rise of electronic interaction in lieu of face-to-face encounters have diminished avenues for an organization and its leaders to maintain and enhance relationships with policymakers. These changes have magnified the value of a political action committee.

**New laws**

The Ethics Reform Act of 1989\(^2\) halted honoraria for speaking engagements by Members and senior staff. Naturally and as intended, the law did have some effect on the interest in, the number of, and the selection of speaking engagements. Lobbyists thereby lost a tool to engage Members.

The Honest Leadership and Open Government Act of 2007 (HLOGA)\(^3\) prohibited lobbyists from providing gifts or travel to Members of Congress, as they had previously done. This prohibition proved transformational for lobbying.

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1 The registration for an SSF is FEC Form 1. (For details regarding the FEC Form 1: [www.fec.gov/pdf/forms/fecfrm1.pdf](http://www.fec.gov/pdf/forms/fecfrm1.pdf)).
3 Public Law 110–81, 121 Stat. 735, enacted September 14, 2007. The Honest Leadership and Open Government Act of 2007 (HLOGA) prohibited lobbyists from providing gifts or travel to Members of Congress with knowledge that the gift or travel is in violation of House or Senate Rules, required lobbyists to certify they have not given gifts or travel that would violate Senate or House rules, increased civil penalties for knowing and willful violations of the Lobby Disclosure Act from $50,000
Gifts

Previously lobbyists could give Senators and House Members two gifts per year, each under $50. The common practice before HLOGA was to begin by taking a Member to lunch or dinner—under $50. Since staffers could also receive the same number and value of gifts, staffers would routinely attend such lunches or dinners. Introductions would be made and relationships begun.

At that time, often the second gift in a year would be a ticket to a sporting event—under $50 (as luxury box tickets were commonly priced on the face of the ticket), so that the Member and staffers and lobbyists had a couple of hours together to chat. The second meeting would ensure that the lobbyist’s name and face were remembered, and it would deepen the connections.

Every year the lobbying community could then repeat these gifts with more attendant meetings and more facetime.

Travel

HLOGA also cracked down on “officially connected” travel that had been provided to Members by private sources without advance approval. No longer could lobbyists accompany Members on these flights and share that precious, extended facetime.

National Convention Parties Honoring Members

HLOGA prohibited Members from attending parties held in their honor at national party conventions. Yet another opportunity for lobbyists to connect was thus eliminated.

The elimination of these relationship opportunities has magnified the potential value for and appeal of a PAC.

Shifting Political Landscapes

Washington has experienced complete shifts in political landscapes. As a historical baseline, from 1933 through 1994, Democrats controlled the chambers of Congress a stable 89% of the time.

In contrast, the last 15 years have seen political upheaval. In 2003-2006, Republicans controlled the U.S. Senate, U.S. House, and the presidency. In 2007-2008, Democrats controlled the U.S. Senate and U.S. House, but Republicans held the presidency. In 2009-2010, Democrats swept the Senate, House, and presidency. In 2011-2014, Senate and House control were split. In 2015, Republicans swept the House and Senate, but the presidency remained in Democratic hands. In 2017, Republicans took control of all branches of the federal government.

Power shifts result in committee changes. Congressional committee structures are not as simple as seeing a change in party control result in the committee Chair’s becoming a Ranking Member and vice versa. Rather, rules limiting service duration affect Members differently. Inevitably, when ascending to power, some committee Ranking Members will move to chair a different committee. A cascading form of leapfrog for chair positions ensues.

to $200,000, imposed a criminal penalty of up to five years for knowing and corrupt failure to comply with the Act, and required the Government Accountability Office to audit annually lobbyist compliance with disclosure rules.
Now, every few years, lobbyists are left with having to establish a whole new suite of connections to
advance their issues. The ABA PAC would open doors to these new connections.

*Fewer Policy Staffers*

Over the decades, Congress has gradually shrunk the number of policy staff based in Washington, DC,
in favor of more constituent-facing staff at home in congressional district offices.

The Sunlight Foundation, which observes governmental trends, states: “[I]n 1976, nearly three-quarters
of House personal office staff were based in Washington; that decreased to one-half [49%] in 2005. In
other words, the total number of staffers in Washington has decreased by 1,500 to 3,354 from 1976 to
2005.”

Additional scholarship goes further: “As of 2014, the U.S. House employed 9,175 individuals (along
with 435 Members). That is fewer than the 9,341 staff the U.S. House employed in 1980 when the
demands on Congress were far less. … The most notable declines have been in committee staff. This is
particularly problematic, because committees are where the substantive work of policy development and
oversight happen. The declines in committee staffing have been especially striking in the House, where
*committees are now at about half of their 1980 staffing levels.*” [Emphasis added.]

The titanic loss of policy staff translates to increased competition for staffers’ time and attention.
Lobbyists must vie strongly to achieve access to fewer policy staffers, especially fewer committee staff.
The ABA PAC can effectuate access to these fewer policy staffers.

*Rapid Staff Turnover*

Frequent turnover among congressional staff exacerbates the diminution of meaningful discussion of
legislative goals with the offices of elected officials. These challenges make it increasingly difficult to
cultivate and maintain long-term relationships with Members of Congress and staff that are often key to
successful policy advocacy.

Scholar Lee Drutman of the think tank New America reports that “turnover on the Hill has steadily
increased because it's just really hard for folks to justify taking these low salaries for an extended period
of time. So you constantly have a new batch of staffers coming in, learning the ropes, and they don't
have the time, they don't have the capacity, they don't have the knowledge. And where they turn is to the
many lobbying shops who come and knock on their door and say, let us tell you how to think about
energy policy or pharmaceutical policy. And this is what you see over and over again in Washington, is
that the lobbyists are basically writing the bills. And it's because they're the ones with the expertise and
the knowledge.”

In congressional offices, the median tenure for Counsels is 1.1 years. The median tenure for Legislative
Correspondents is 0.8 years. The median tenure for Legislative Assistants is 1.2 years. The median

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4 “Keeping Congress Competent: Staff Pay, Turnover, and What It Means for Democracy,” page 5, December 21, 2010,
Blogpost.pdf.

5 “Explaining High Congressional Staff Turnover,” Lee Drutman (New America), Alexander Furnas (University of
Michigan), Brian Guinia (The Johns Hopkins University), August 27, 2016, accessed on 10-23-2017 at

http://www.npr.org/2016/03/29/472309542/should-Congressional-staffers-get-a-pay-bump
tenure for Legislative Directors is 1.7 years.7

With turnover of that frequency, lobbyists are supremely challenged to stay connected. Institutional memories are lost rapidly. Lobbyists need to provide unending education to legislative staff. Annual meetings with staff are a must, but are not sufficient for key committee Members, especially Chairs and Ranking Members. The ABA PAC would help ensure that the educational information can be delivered to these Members and their staff.

Rise of Electronic Interaction

The ABA also faces another challenge—heightened dependence on digital communication to increasingly busy lawmakers in lieu of personal meetings.

On their handheld devices and at their desks, Members and staff now read email, check texts, tweet, Facebook, Instagram, seek websites’ white papers and infographics, hit news aggregator sites, watch TV, connect via LinkedIn, Skype, Facetime, Snapchat, access national media brands online, research via search engines, receive e-newsletters, pull up electronic Congressional Research Service reports, and listen to talk radio. More than ever, Congress’ information comes from the internet.

National Journal recently released data from their most recent annual online survey Washington in the Information Age8 fielded from May to June 2017. One of the ten key takeaways states:

In-person interactions are still critical in Washington. Despite the prevalence of digital tools, half of all insiders rely on in-person communications to share important news and information, and events and briefings continue to play a key role in policy formulation. Face-to-face interactions are perhaps more important in Washington during the current period of retrenchment, with insiders turning to known (trusted) quantities to support decision-making.

Achieving these face-to-face interactions and becoming a known and trusted quantity are the critical challenges, made much tougher by the digital diversions. A PAC is an essential part of the answer.

New Procedural Realities

In our current legislative reality, only two bills each year can be certain to pass: an omnibus appropriations act and a national defense authorization act. That phenomenon results from Washington’s increased polarization over recent decades, making legislating increasingly difficult.

Myriad sources, including the U.S. House and Senate Budget Committees themselves, complain that the budget process is broken. Authorizing and oversight committees can rarely muster stand-alone legislation of any great consequence. Nowadays, support from the administration and majorities in the Senate and House seem required for authorizing legislation, and we are witnessing how difficult that is even now.

Bill enactment is power, and the resultant desirability of the Appropriations Committee and the Armed Services Committee merit their designation as “Super A” committees. Senators and Representatives routinely await appointment to these committees for large portions of their congressional careers.

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Organizations wanting to get something accomplished are well advised to have an appropriations strategy or an armed services strategy or both.

Consequently, much lobbying is focused on these committees. The time and attention of these Members and staffers are at a premium. The ABA PAC would help attract the time and attention of members of those committees as well as Judiciary, Finance and Ways & Means, and other committees with jurisdiction over ABA priorities.

Intelligence

Policymakers shed light on the outlook for issues important to our members, their clients, and the country. At every fundraising event the candidate explains what is going on in Congress and what issues the candidate is tackling personally. Candidates will routinely offer their views about how issues are likely to be resolved and roughly when. Access to all of the intelligence and information that a candidate provides is worthwhile for formulating and adjusting lobbying strategies.

The establishment of an ABA PAC will assist the ABA in developing and maintaining long-term relationships, gaining the additional access needed to deliver the ABA’s key messages to Congress effectively and thereby strengthening the voice of the over 400,000 members of the Association. A PAC can also help the ABA contribute to shaping and sustaining a legislature of policy-makers with shared perspectives on issues of importance to our profession.

Increased Competition Among Lobbyists

Competition among lobbyists for access and influence has increased markedly over the past 15-20 years. According to the Center for Responsive Politics’ review of lobbyist filings, the amount spent on lobbying has more than doubled since 1998, from $1.45 billion to $3.15 billion in 2016. That does not include PAC spending.

PACs’ Popularity

It should be no surprise that the popularity of PACs continues to expand. Based on reports filed with the Federal Election Commission, 8,666 PACs were registered with the Commission from 2015 through 2016, compared with the 7,311 PACs registered with the Commission from 2011 through 2012.

Compare 8,666 PACs with the 10,963 current federal lobbying registrations—that’s approaching one PAC for every registered lobbyist or lobbying organization.

PACs in the 2015-2016 cycle reported total disbursements of $4 billion and combined cash-on-hand of $565.5 million. PACs in the 2011-12 cycle reported spending just over $2.2 billion—about half of what we see only two election cycles later.

Combining lobbying expenses and PAC money, the total is between $7 billion and $8 billion spent

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during the last election cycle.

Based on these statistics, it is clear that numerous corporations, trade associations, and labor organizations place weight on the ability of a PAC to help achieve their policy objectives.

**ABA Success**

ABA success on Capitol Hill can be attributed to a number of factors, including a large and sophisticated membership; recognized expertise on key legal issues and a reputation as the national representative of the legal profession (especially on significant legal issues); an active governmental affairs program; close coordination with state and local bar and grassroots allies and other coalition partners; an innovative social media advocacy strategy; and long-term relationships with Members of Congress and their staffs.

The ABA’s legislative successes have been achieved through a series of active national lobbying campaigns coordinated by the Governmental Affairs Office (GAO). Some of these were herculean efforts that elicited strategically timed state and local bar, grassroots, and other constituent support from those willing and well-placed to get the attention of key players in Congress.

Despite ABA lobbying victories in recent years, the ABA must continue to examine how it might communicate even more effectively with elected officials on Capitol Hill to maximize the Association’s influence on issues that are critical to its membership and the legal profession. The ABA has historically accomplished its congressional program based on persuasion on the merits, personal relationships, grassroots outreach involving ABA leaders and its state and local bar allies, and coalition-building with other influential organizations.

The PAC will help the ABA continue to develop many new key relationships in a Congress where many Members do not already know the ABA and will help gain the additional access that we need to communicate our message more effectively.

**Advantages of a PAC**

A PAC offers advantages over alternative ways of providing financial support for federal candidates and political entities, such as collaborative contributions from individual members of the ABA.

*Brand Identification*

One advantage is achieving ABA brand identification in connection with contributions.

*Higher Contribution Limits Than for Individuals*

Another advantage is that a PAC can contribute more per candidate than an individual. For the most recent election cycle, a multi-candidate PAC could contribute up to $5,000 per election,15 while an individual was limited to contributing only $2,700 per election.16 These limits may increase, as they are

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15 Primaries, general elections, and runoffs are considered separate elections; therefore, the maximum contribution is $5,000 for each of these.

16 PACs initially may contribute only $2,700 per candidate per election; however, a PAC eventually qualifying as a multi-candidate PAC may contribute up to the higher limit of $5,000 per candidate per election. Multi-candidate PACs must be registered for 6 months, receive contributions from at least 50 persons, and make contributions to 5 or more federal candidates. A qualifying PAC may register for this status with the FEC.

https://transition.fec.gov/info/contriblimitschart1718.pdf
often adjusted in the odd year of an election cycle.\textsuperscript{17} PACs facilitate the pooling of resources and, in turn, enable the association (and participating employees and members) to make larger and more focused contributions than individual members otherwise would be entitled to make. By combining financial resources, the Association will have a more influential voice and play a more visible role in assisting candidates who support ABA interests to get elected.

\textit{Ease of Group Decisions}

A PAC also provides an easier structure for group decision-making on candidate contributions, in contrast to collaborative decisions on individual contributions to candidates. They are a convenient and legitimate way to allow organizations like the ABA (that otherwise would not be able to make contributions or expenditures in connection with federal elections) and their employees and members to join together to participate in the political process. PACs can also facilitate the organization of fundraising events that may be attended by state and local bar associations and their lobbyists. These events may be more difficult for an organization lacking a PAC.

\textit{Evidence of Evenhandedness}

The presence of a totally bipartisan PAC – with each party’s Members receiving half of the contributions made in an election cycle – would be concrete evidence that the association does not tilt politically in one direction or the other. In recent months the ABA has been criticized as a liberal Democratic-leaning organization when the Standing Committee on the Federal Judiciary (FJC) determined several administration judicial nominees to be “Not Qualified.” Evenhandedness of the PAC’s contributions would be one additional, credible response to criticism of the FJC.

\textit{Comparable Associations Utilize PACs}

Many professional associations that are directly comparable to the ABA have made the decision to create PACs.

Within our profession, the National Bar Association and American Association for Justice (formerly the Association of Trial Lawyers of America—now AAJ) have PACs. At the state level, seven bar associations, including Pennsylvania, Iowa, Illinois, Tennessee, Arkansas, North Carolina, and Ohio, utilize PACs.

The American Medical Association (AMA), AAJ, American Dental Association (ADA), American Institute of Certified Public Accountants (AICPA), American Institute of Architects (AIA), and National Association of Realtors (NAR) are national professional associations similar to the ABA in structure and function. These organizations raised substantial sums in their PACs, with certain organizations specifically donating their money evenly between political parties, something the ABA would do as well. For disclosure reporting on the AMA,\textsuperscript{18} AAJ,\textsuperscript{19} ADA,\textsuperscript{20} AICPA,\textsuperscript{21} AIA,\textsuperscript{22} and NAR,\textsuperscript{23} please see

\textsuperscript{17} Each election cycle begins the day after a general election and ends on the date of the subsequent general election. The current cycle began on November 9, 2016, and will end on November 7, 2017. The FEC may adjust contribution limits in February or March of 2019.

\textsuperscript{18} https://www.opensecrets.org/orgs/summary.php?id=D000000068
\textsuperscript{19} http://www.opensecrets.org/orgs/summary.php?id=D000000065
\textsuperscript{20} https://www.opensecrets.org/orgs/summary.php?cycle=2016&id=D000000105
\textsuperscript{22} https://www.opensecrets.org/orgs/summary.php?cycle=2016&type=P&id=D000023973
\textsuperscript{23} https://www.opensecrets.org/orgs/summary.php?cycle=2016&id=D000000062
The AMA believes that the future of medicine should be decided by physicians, “not legislators or private interests like insurance companies.” The AMA’s PAC, known as “AMPAC,” allows AMA’s members and affiliates “tangibly” to support the Association’s advocacy efforts, which they do at significant financial levels. AMPAC’s objective is to “find and support candidates” who will make legislation important to physicians and patients a top priority. AMPAC has a board of directors that makes the final decision on their advocacy policy. Each of its twelve board members is also a member of the AMA or the AMA Alliance and serves for two-year terms.

The AAJ, long recognized as the nation’s leading association of trial lawyers, markets itself as the defenders of civil justice. Its advocacy language is strong and so is the financial support generated from lawyers and law firms, mainly on the plaintiff side. The AAJ provides the details of its “AAJ PAC” only to its members and member affiliates.

The ADA, as America’s “leading oral health advocate,” works to influence public policies affecting dentistry and the oral health of the American public. Its PAC goal is to give dentists a voice in public policy. According to the “ADPAC” website, the ADA contributed to the campaigns of many dentists that ran for Congress. The other specific details of the ADPAC are restricted to members of the ADA.

The AICPA aims to power the success of global business, certified public accountants (CPAs), chartered global management accountants (CGMAs), and those with other specialty credentials by providing the most relevant knowledge, resources and advocacy, and protecting the evolving public interest. Its PAC helps ensure that the accounting profession has a strong voice in Congress by maximizing the profession's political clout and helping ensure that legislation is productive to business interests. Contributions go directly to helping pro-business candidates win elections to Congress.

The AIA works to “advance our nation’s quality of life, health, safety and welfare” through advocacy at the federal, state, and local levels. Architects seek to promote public policies that implement more sustainable communities and foster an equitable society. AIA provides the details of its “ArchiPAC” only to its members via a log-in page.

NAR’s “RPAC” purpose is to raise and spend money to elect candidates who understand and support realtor’s interests. The money comes from voluntary contributions by realtors, not from member dues. On the RPAC page, NAR makes a point to say that the RPAC doesn’t buy votes, but instead enables members to support candidates that support issues important to the profession.

**Organization of the ABA PAC**

Federal campaign finance laws set forth some basic requirements for the organization and administration of a PAC. Basic to these requirements is maintaining the PAC as a separate entity without comingling of funds (hence the PAC as a “separate segregated fund”).

**Judges and Government Employees**

The separation of the PAC from the ABA is also important to ensuring that members of the ABA, including government employees and members of the federal and state judiciaries, are not in violation of any ethics codes prohibiting affiliation with any political or electioneering organization. Judges and government employees are members of all the state bar bars with PACs. (The applicability of judicial codes of ethics to judges who might be ABA members when the association establishes a PAC is
addressed in Attachment D.)

_Treasurer and Governance_

One FEC requirement calls for the PAC to designate a Treasurer who is personally responsible for the PAC’s compliance with campaign finance laws and the proper disclosure of the PAC’s finances to the FEC. Most organizational details are left to the discretion of PAC sponsors.

_Diversity and Balance_

The Committee recommends that an ABA PAC be governed and administered by a Board and officers named by ABA leadership and approved by the Board of Governors. Representatives from the Board of Governors and the House of Delegates (specifically Delegates-at-Large) might be included.

_Importance of Strong Leadership Support_

To be effective, the PAC would require the strong support of ABA leaders in terms of solicitations and contributions and will be a success if a significant percentage of ABA members make regular, modest contributions.

_ABA PAC Contributions_

The American Bar Association is a venerable institution with a proud history. The ABA is valued for its expertise and is often called upon to provide impartial advice and unbiased assessments through congressional testimony and in other venues.

To ensure the ABA maintains its impartiality, the ABA PAC contributions shall be made equally, 50%-50%, to candidates, PACs, and party committees of the two major political parties.

The PAC will combine (1) outreach to Members with whom the ABA seeks to establish new relationships and (2) appreciation for beneficial relationships already established.

When deciding which candidates should receive ABA contributions, the PAC Board would consider a Member’s committee assignments, the congressional jurisdiction for ABA strategic objectives, the Members’ leadership positions, the Member’s issue activity, and the ABA’s aspiration for the Member’s potential issue activity on any of the ABA priorities.

In a hypothetical scenario, a Member may be an outspoken opponent of the ABA’s #4 priority while at the same time may be the champion of the ABA’s #3 or #5 priorities. In such a scenario and similar scenarios, opposition to an ABA priority—even leading opposition—should not of itself disqualify the Member from receiving a contribution from the ABA PAC. Rather, the totality of the circumstances would be determinative.

Another consideration may be the likelihood of a victory for a candidate. After the ABA PAC demonstrates that its resources are not squandered on defeated candidates, ABA members may be more likely to participate with their voluntary individual contributions to the ABA PAC. This strategy also has the added benefit of not antagonizing the likely winners unnecessarily (by contributing to their unsuccessful adversaries). Non-incumbents could be considered where a race involves an open seat.

_ABA PAC Impact_

We believe that realistically, an ABA PAC would need to contribute at least $150,000 to congressional
candidates per two-year cycle on average for each of its first four years to have an impact. This would permit contributions to 75 congressional candidates in varying amounts ranging from $500 to a maximum of $5,000 per election. Upon occasion, a contribution to a party committee or another PAC may be considered in the totality of the circumstances.

In the most recent two-year election cycle (2015-2016), 2,491 PACs made at least $100,000 in contributions. Thus the ABA PAC will be one of many active political entities. While our impact may not be determinative in elections, our crucial, collective goal is to forge strong relationships and facilitate access to decisionmakers. PAC support from the ABA will convey the appropriate messages of either hope for the future or thanks for the past. The ABA’s support could result in a multiplier effect should law firm PACs and individual ABA members decide to align their contributions with those of the ABA.

**Conclusion**

The Committee recommends establishing the ABA PAC. This will address the competitive disadvantage that the ABA realizes (compared with other similarly situated associations) from not having a PAC. The impartial advice and unbiased assessments for which the ABA’s expertise is valued will continue and would not be tainted as partisan through the 50-50 equilibrium of contributions to the two major parties.

The past 15-20 years have brought about enormous changes for governmental affairs advocacy, and the ABA must adjust accordingly. Through ABA members’ voluntary donations to the ABA PAC, we can help ensure that the voices of the association’s membership are heard on Capitol Hill. Accordingly, the Standing Committee on Governmental Affairs requests the Board of Governors implement this proposal to establish an ABA PAC.
MEMORANDUM

General Legal Guidance on Corporate PAC Establishment and Administration

This memorandum generally describes how a corporate PAC operates pursuant to federal campaign finance laws. The fundamental decision of whether to create a PAC must begin by understanding the basics in these documents.

PAC Establishment and Administration

The Federal Election Campaign Act ("FECA") prohibits an incorporated entity from using its general treasury funds to make direct contributions to federal candidates and political party committees. Nevertheless, FECA permits a corporation to spend general treasury resources to establish, administer, and solicit funds for a “separate segregated fund ("SSF")," or corporate PAC. The PAC must be directly affiliated with the incorporated entity, which is known as the “connected organization.” Because general treasury funds can be used only for permissible establishment, administration, and solicitation expenses, a corporate PAC must raise its own funding for political activities.24

Registration and Reporting

Within 10 days of deciding to establish a corporate PAC, spending general treasury funds to establish the PAC, or opening a bank account for the PAC, the organization must register with the FEC. To do so, the PAC must file a “Form 1 Statement of Organization” with FEC, which sets forth the PAC’s name, connected organization, bank account(s), treasurer, and custodian of records. A corporate PAC’s official name must include the full name of the connected organization.

Corporate PACs must file periodic disclosure reports ("Form 3X Report of Receipts and Disbursements") with the FEC listing the organization’s financial activities. The PAC may file disclosure reports on a monthly or quarterly basis. The FEC’s reporting deadlines are available at: http://www.fec.gov.

For each contribution received by the corporate PAC in excess of $200 – whether alone or aggregated with other contributions from the same source – the PAC must itemize the contributor’s name, address, occupation, and employer, as well as the year-to-date total for all contributions by that individual. A corporate PAC also must itemize disbursements if they exceed a $200 aggregate per recipient per calendar year.

A corporate PAC must file disclosure reports electronically with the FEC if it raises or spends in excess of $50,000 in a calendar year, or has the expectation of exceeding this threshold. (We do not recommend starting a PAC unless the threshold will be reached.) The FEC’s electronic filing guidelines are available at http://www.fec.gov/elecfil/electron.shtml.25

A specially appointed corporate PAC treasurer must retain records of financial transactions for a three-year period. These records must include copies of disclosure reports and checks received from eligible contributors.

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24 This memorandum does not discuss rules on corporate payments for independent expenditures or support for independent expenditure committees (known colloquially as “Super PACs”).

25 A corporate PAC’s first Statement of Organization may be filed on a paper form.
[Note: The Governmental Affairs Office currently contracts with Aristotle 360, a software vendor that manages the grassroots database and ABA Day in Washington data. This software can also be used (without additional cost) to manage a PAC database and generate required reports. Alternatively, this work can be outsourced to specialized PAC management firms.]

**PAC Fundraising**

The ABA, as the connected organization, and its PAC must target fundraising activities to a restricted class of individuals. The “restricted class” consists of executives and administrative personnel of the incorporated entity, as well as the family members of those persons. Members of the ABA also qualify as restricted class members. Generally speaking, an eligible member is an individual who: (1) satisfies the requirements for membership in the organization; (2) affirmatively accepts the organization’s invitation to become a member; and (3) pays at least annual membership dues or some other predetermined amount to the organization. The restricted class does not include non-employee consultants, outside lawyers, accountants, vendors, suppliers, or other associates.

A corporate PAC may solicit money from the restricted class at any time. A corporation must be careful that its communications do not reach beyond the restricted class or constitute improper PAC-related solicitations. Every solicitation must contain the following disclosures: (1) a statement of political purpose (e.g., “Your contribution will be used by ABA PAC to support candidates for the U.S. Senate and U.S. House of Representatives.”); (2) statement of voluntariness (e.g., “Your contribution to ABA PAC is entirely voluntary.”); and (3) statement of no reprisal (e.g., “You may refuse to contribute to ABA PAC without reprisal.”). Solicitations may include suggested contribution guidelines, but any such guidelines must be accompanied by a “suggestion only” disclaimer (e.g., “These guidelines for contributions are merely suggestions. You are free to contribute more or less or not at all, and the ABA will not favor or disadvantage you based on whether you contribute or how much you contribute.”).

After the PAC accumulates contributions from eligible restricted class members, it may use the revenue to participate in elections consistent with federal, state, and local laws.

**Contributions Limits and Prohibitions**

Each restricted class member may contribute up to $5,000 per year to a corporate PAC. A spouse not working for the incorporated entity can also contribute $5,000 (providing an aggregate of $10,000 per couple). A corporate PAC is prohibited from accepting the following contributions:

- Contributions from foreign nationals (noncitizens who do not hold “green cards”).

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26 “Incorporated membership organizations (including trade associations)” is the rubric under which the ABA qualifies for purposes of federal campaign finance regulations. FEC rules permit a membership organization to sponsor a PAC if the membership organization: (1) is composed of members who have the authority to administer the organization according to the organization’s bylaws; (2) has bylaws stating the qualifications for membership; (3) makes its bylaws available to its members; (4) expressly solicits persons to become members; (5) expressly acknowledges new members by, for example, sending a membership card or including the member’s name on a newsletter list; and (6) is not organized primarily for the purpose of influencing the nomination for election, or the election, of any individual to federal office. 11 CFR §114.1(e)(1).

27 Other factors may establish whether an organization member qualifies for restricted class membership.

28 A corporate PAC may solicit employees who do not qualify as restricted class members. Such solicitations may occur only twice per year. “Twice-yearly solicitations” must be in writing and mailed to the employees’ home addresses.
• Contributions made in another person’s name.
• Cash contributions in excess of $100.
• Contributions from a person under 18 must be made: (1) voluntarily by the minor and (2) from the minor’s personal funds in his or her bank account (not from proceeds of a gift earmarked for the corporate PAC).

Corporate PAC funds may be used to make contributions subject to the following federal limits:
• $5,000 per election to a federal candidate.\textsuperscript{29}
• $15,000 per year to a national party committee such as the National Republican Senatorial Committee and the Democratic Senatorial Campaign Committee.
• $5,000 per year to the federal account of a state or local party committee.
• $5,000 per year to a political action committee that is not a separate segregated fund (\textit{e.g.}, a “Leadership PAC”).

\textsuperscript{29} Non-multicandidate corporate PACs currently may contribute only $2,500 per candidate per election; however, a corporate PAC qualifying as a multi-candidate PAC may contribute up to $5,000 per candidate per election. Multi-candidate PACs must be registered for 6 months, receive contributions from at least 50 persons, and make contributions to 5 or more federal candidates. A qualifying PAC may register for this status with the FEC on a “Form 1M Notification of Multi-candidate Status.”
Attachment B

[DRAFT] Bylaws of the
American Bar Association Political Action Committee

ARTICLE I: Name

The name of the American Bar Association’s political action committee (“PAC”) shall be American Bar Association Political Action Committee (“ABA PAC”).

ARTICLE II: Principal Address

The principal address of ABA PAC shall be 1050 Connecticut Avenue, N.W., 4th Floor, Washington, D.C., 20036, or wherever the office of the staff principally handling the ABA PAC is located.

ARTICLE III: Organization

ABA PAC shall be organized as a non-profit political organization under the laws of the District of Columbia. If authorized by its Board of Directors, ABA PAC may incorporate for liability purposes only. ABA PAC is not affiliated with any candidate, political party, or other organization.

ARTICLE IV: Purposes and Powers

Section 1. ABA PAC is organized and shall be operated for the purposes of soliciting and accepting voluntary contributions, making contributions and expenditures as provided in Article VII, and making other lawful disbursements necessary to administer ABA PAC.

Section 2. ABA PAC shall be operated as a separate segregated fund in accordance with the Federal Election Campaign Act of 1971, as amended, and Title 11 of the U.S. Code of Federal Regulations, and other applicable laws.

Section 3. ABA PAC shall be organized and operated to serve our members, our profession and the public by defending liberty and pursuing justice, focusing on: (1) support for the independence of the legal profession and the judiciary; (2) support for the “rule of law”; (3) support for legal services for the poor and underserved; and (4) advancement of diversity and inclusion as the national representative of the legal profession.

ARTICLE V: Board of Directors

Section 1. ABA PAC shall be overseen by a Board of Directors (the “Board”). Each Director shall be a member and/or employee of the ABA. The Board shall consist of at least seven (7) Directors and no more than fifteen (15) Directors, and the number within this range shall be determined by the affirmative vote of a majority of the Board. The Board shall consist of at least one Director from each of the following: (i) the ABA Board of Governors, (ii) the ABA House of Delegates, (iii) the ABA’s Standing Committee on Governmental Affairs, (iv) a Section Representative, (v) the Chair of the ABA’s Standing Committee on Governmental Affairs, and (vi) the ABA’s Director, Office of Governmental Affairs.

Section 2. All Directors shall be appointed by the President of the ABA. Each Director shall serve until his or her successor is chosen or until his or her removal, resignation or termination as a member or employee of the American Bar Association.
Section 3. A Chairman will be selected by the ABA President from the Directors and will serve until replaced by an affirmative vote of a majority of the Directors then in office or the ABA President.

Section 4. Except as otherwise provided, all actions of the Board shall be taken by a majority vote of the Directors present and voting at a meeting at which a majority of the Directors then in office are present, or by written consent of a majority of the Board without a meeting.

Section 5. Meetings may be held in person, and permit telephone and video conference participation. Unless waived, notice of all meetings shall be given to Directors by the Chairman of the Board at least one day in advance and may be given in writing (including by e-mail), in person or by telephone or video conference. Presence at a meeting without objection constitutes a waiver of notice.

Section 6. A Director may resign at any time by giving written notice of resignation to the Chairman. If the Director who seeks to resign is the Chairman, such Director may resign by giving written notice of resignation to the other Directors of the Board.

Section 7. Any Director may be removed from the Board by the affirmative vote of a majority of the Board. The challenged Director shall not be permitted to vote.

Section 8. The ABA’s General Counsel or a lawyer employed by the General Counsel may participate in any ABA PAC meeting as a non-voting member, including, but not limited to, the Board of Governors.

ARTICLE VI: Officers

Section 1. The officers of ABA PAC shall be an Executive Director and a Treasurer and may include a Secretary, Vice President, one or more Assistant Treasurers, or other officers appointed at the discretion of the Board. Officers shall be appointed by the affirmative vote of a majority of the Board.

Section 2. Each officer of ABA PAC shall serve a term of one year or until his or her successor shall have been appointed and qualified. Officers of ABA PAC may be reelected or reappointed by the Board. Two or more offices may be held by the same person.

Section 3. The Executive Director of ABA PAC shall generally supervise and administer the affairs of ABA PAC. The duties of the Executive Director shall include without limitation:

- Coordination of the solicitation of contributions by ABA PAC;
- After appropriate consultation with the Board, other officers, and such other knowledgeable persons as he or she deems advisable, coordination of which candidates for elective office and political party committees should receive support and in what amounts;
- Directing the Treasurer to disburse funds;
- Execution of contracts and approval of payment of receipted bills.

Section 4. The Treasurer shall be the chief financial officer of ABA PAC and shall have general responsibility for all funds of ABA PAC, subject to the authority of the Board and the Executive Director. The Treasurer shall deposit all contributions he or she receives and maintain all books and records in accordance with applicable law and regulations. The Treasurer also shall prepare, sign, file, and maintain copies of all reports of ABA PAC as required by applicable law and regulations. The duties of the Treasurer shall include without limitation:
• Reporting to the Executive Director on the total amount of funds held by ABA PAC, the
disposition of disbursements by ABA PAC, and such other information appropriate under the
circumstances; provided, however, that the Treasurer shall not reveal the name of any contributor,
the amount of money contributed by an individual, or the name of any noncontributor, except as
required or permitted by applicable law;

• Maintaining all required records regarding contributions and disbursements and file all necessary
reports with federal and state authorities;

• Establishing and maintaining one or more bank (checking) accounts for the deposit of all
contributions received;

• Keeping a detailed account of:
  o All contributions made to or for ABA PAC;
  o The full name, mailing address, occupation and employer of every person making a
    contribution and the date and amount of each contribution;
  o All expenditures made by or on behalf of ABA PAC;
  o The full name, mailing address, occupation and principal place of business of every person to
    whom any expenditure is made, the date and amount of each expenditure, and the name and
    address and office sought by each candidate on whose behalf such expenditure was made;
  o Receipted bills for every expenditure made by or on behalf of ABA PAC;
  o Disbursed funds pursuant to guidelines set by the Board and in accordance with applicable
    law.

The Treasurer may delegate any of the her duties to one or more Assistant Treasurer(s), any of
whom may be a representative of a third-party administrator or service provider.

Section 5. The Secretary, if any, shall keep at the principal office of the American Bar
Association, or such other place as the Board may direct, a book of minutes of all meetings and actions
of the Board with the time and place of holding, the notice given, the names of those present at the
Board’s meetings and the proceedings of such meetings.

Section 6. The Vice President, if any, shall perform such duties and may exercise such
authority delegated by the Executive Director and, in the event of resignation, removal, death or
disability of the Executive Director, shall automatically succeed to such office unless and until another
person shall be elected as provided in these Bylaws.

Section 7. The Assistant Treasurers, if any, shall perform such duties and may exercise such
authority delegated by the Treasurer. In the event of resignation, removal, death or disability of the
Treasurer, the longest serving current Assistant Treasurer shall automatically succeed to such office
unless and until a successor Treasurer is appointed by the Board.

Section 8. An officer of ABA PAC may resign at any time by giving written notice of
resignation to the Chairman. An officer of ABA PAC will be terminated automatically upon such
officer’s resignation or termination as an employee or third-party service provider or administrator of
American Bar Association or ABA PAC.
Section 9. An officer of ABA PAC may be removed by the affirmative vote of a majority of the Board.

Section 10. Any vacancy in any office of ABA PAC may be filled by appointment by the ABA President or, as delegated by the President, by the affirmative vote of a majority of the Board.

Section 11. The officers shall have such other duties and powers as directed from time to time by the Chairman or the Executive Director, to the extent permitted by applicable law.

ARTICLE VII: Contributions and Expenditures

Section 1. All contributions to ABA PAC shall be deposited and maintained by ABA PAC in an account or accounts maintained with a designated bank or other depository institution chosen by ABA PAC in accordance with applicable law (“ABA PAC bank account”).

Section 2. All contributions to ABA PAC shall be voluntary, and no contribution to ABA PAC shall be solicited or secured by force, threat of reprisal, or as a condition of employment. Each individual whose contribution is solicited shall be informed, at the time of such solicitation, of the purposes of ABA PAC and of his or her right to refuse to contribute without any reprisal.

Section 3. The Treasurer shall be promptly notified of all contributions received by ABA PAC. No contribution shall be accepted in excess of limitations or prohibitions imposed by applicable law and regulations. No anonymous contributions or contributions in cash shall be accepted in excess of amounts allowed by applicable law or regulations.

Section 4. ABA PAC shall not directly or indirectly accept any contribution from the American Bar Association, its affiliates, or any corporation or labor union; however, the American Bar Association may pay (but is not required to pay) the costs of establishing and administering ABA PAC and of soliciting voluntary contributions, to the extent permitted by applicable law.

Section 5. No contribution shall be accepted, and no contribution or expenditure shall be made, by or on behalf of ABA PAC at a time when there is a vacancy in the office of Treasurer, if such vacancy is not temporarily fulfilled by an Assistant Treasurer.

Section 6. All expenditures and contributions by ABA PAC shall be made in accordance with applicable law. All expenses of ABA PAC that the American Bar Association does not defray, or may not defray pursuant to applicable law, shall be made from the separate ABA PAC bank account.

Section 7. The expenditure or contribution of any funds of ABA PAC shall be made pursuant to applicable law and the guidelines set by the Board; provided, however, that no contribution or expenditure shall be made without the authorization of the Treasurer or his/her designee.

Section 8. On an election-cycle basis the candidate contributions of the ABA PAC shall maintain a 50%-50% equilibrium of contributions to the candidates and PACs associated with or aligned with the two major political parties. The ABA PAC shall not make contributions to a Presidential campaign.

Section 9. The PAC will combine (1) outreach to Members with whom the ABA seeks to establish new relationships and (2) appreciation for beneficial relationships already established.

Section 10. When deciding to which candidates or PACs the ABA should contribute, ABA PAC should focus on: (1) support for the independence of the legal profession and the judiciary; (2) support
for the “rule of law”; (3) support for legal services for the poor and underserved; and (4) advancement of diversity and inclusion. Consideration should be taken of a Member’s committee assignments, the congressional jurisdiction for ABA strategic objectives, the Member’s leadership positions, the Member’s issue activity, and the ABA’s aspiration for the Member’s or group’s potential issue activity on any of the ABA priorities.

Section 11. Another consideration for contribution may be the likelihood of a victory for a candidate. After seeing that ABA PAC resources are not squandered on defeated candidates, ABA members may be further incentivized to participate with their voluntary, individual contributions to the ABA PAC. This strategy also has the added benefit of not antagonizing the likely winners unnecessarily (by contributing to their unsuccessful adversaries). Non-incumbents could be considered where a race involves an open seat

ARTICLE VIII: Dissolution

Although its duration is perpetual, ABA PAC may be dissolved at any time by the affirmative vote of a majority of the Board of Governors of the ABA. Dissolution shall be in accordance with the Federal Election Campaign Act of 1971, as amended, and Title 11 of the Code of Federal Regulations, and other applicable laws.

ARTICLE IX: Amendments

These Bylaws shall be adopted and may be amended by the affirmative vote of two-thirds of the Board.

Adopted by the American Bar Association Political Action Committee on [date].

________________________________________
Name, Chairman

________________________________________
Name, Director

________________________________________
Name, Director
Attachment C

Frequently Asked Questions
About
ABA Political Action Committee

What prompted interest in establishing the ABA PAC?

- Diminished opportunities to forge congressional relationships make PACs modern necessities.
- 2007 and 1989 laws prevented lobbyists’ payment for meals, event tickets, gifts, travel, political convention events honoring Members, and honoraria for Members and senior staff.
- Congressional staffing levels are down with half the House committee staffers as in 1980 and with Congress shifting staffers to the district and away from legislative duties.
- Underpaid, overworked, stressed legislative staff turn over every 10 to 20 months.
- After 62 years of reliable Democratic control, Congress has fluctuated greatly for the past 22 years.
- Power fluctuations result in committee leapfrogging for Members and thus massive staff changes.
- Competition between lobbyists for access and influence has increased markedly, with the amount spent strictly on lobbying more than doubling since 1998, from $1.45 billion to $3.15 billion in 2016.
- The only 2 committees to pass a notable bill each year see overwhelming, competitive lobbying.
- Electronic interaction has displaced face-to-face encounters with policymakers and staffers.

What are the benefits and impacts of establishing the ABA PAC?

- The ABA PAC will assist the ABA in developing and maintaining long-term relationships.
- The ABA will be better able to compete with other organizations for Congress’ time and attention.
- The ABA will gain the access for delivering the ABA’s key messages to Congress effectively.
- The voice of the over 400,000 members of the Association will be strengthened.
- A PAC can also help the ABA shape a legislature of individuals with shared perspectives on policy.
- Policymakers shed light on the outlook for issues important to our members and their clients.
- The ABA will learn about the candidate when s/he explains what issues s/he is tackling personally.
- At fundraising events, candidates routinely report what is going on in Congress and offer their views about how issues are likely to be resolved and on the expected timetable.
- Candidates’ experience and their exclusive, behind-closed-doors communications make their insights valuable. Access to all of the intelligence that a candidate provides is strategically useful.

How prevalent are PACs? Do other leading professional associations have PACs?

- PACs are prevalent. 8,666 PACs registered in 2015-16. 7,311 PACs registered in 2011-12.
- With 10,963 federal lobbyists currently registered, there’s nearly a PAC for every lobbyist.
- In 2011-12, PACs disbursed $2.2 billion. In 2015-16, PACs disbursed $4 billion—nearly double.
- With lobbying expenses and PAC money, $7-8 billion was spent for influence last election cycle.
- Myriad corporations, trade associations, and labor organizations value a PAC for access.
- Many other professional associations, including the American Medical Association, American Dental Association, and American Institute of Certified Public Accountants, have long operated big PACs.
• Within the legal profession, the American Association for Justice (formerly, the Association of Trial Lawyers of America), the National Bar Association, and seven state bar organizations have PACs.

Will a PAC make the ABA appear partisan or biased toward one political party?

• To ensure the ABA maintains its impartiality, for which the ABA’s advice and assessments are so valued, PAC bylaws ensure contributions to the two major political parties shall be equal, 50%-50%.
• The bylaws require a two-thirds supermajority vote for amendment.
• PAC governance and bylaws guarantee a balanced and informed approach to contributions.

How will PAC dollars be allocated?

• The PAC will combine (1) outreach to Members with whom the ABA seeks to establish new relationships and (2) appreciation for beneficial relationships already established.
• Criteria for contributions shall be the candidate’s: (1) support for the independence of the legal profession and the judiciary; (2) support for the “rule of law”; (3) support for legal services for the poor and underserved; and (4) advancement of diversity and inclusion.
• Heed will be taken of a Member’s committee assignments, the congressional jurisdiction for ABA strategic objectives, the Members’ leadership positions, the Member’s issue activity, and the ABA’s aspiration for the Member’s potential issue activity on any of the ABA priorities.
• An outspoken, leading opponent of one ABA priority may be the champion of another ABA priority.
• The totality of the circumstances shall be determinative. Even outspoken, leading opposition—will not of itself disqualify the Member from receiving a contribution from the ABA PAC.
• Leading opposition to an ABA priority shall be distinguished from simply following the party line.
• Used for awarding the ABA’s Justice Awards, the philosophy holds that there are no permanent friends or permanent enemies, only permanent interests. ABA interests shall be ABA priority issues.
• Good odds of victory may be favorably, which will benefit incumbents, but non-incumbents could be considered where a race involves an open seat.

Is a Member of Congress likely to be hostile or put off if the ABA PAC does not respond affirmatively to a solicitation for campaign contributions?

• Members of Congress understand that all PACs are constrained by limited resources and must say “no” to many (perhaps most) requests for contributions.
• The response will always be the same, namely that the request will be put to the ABA PAC Board.
• Even a rejection can be useful, allowing ABA PAC to state the principles governing contributions.

How much will it cost the ABA to establish, administer, and solicit contributions to the ABA PAC?

• In relation to the ABA’s average annual expenses, PAC costs are likely to be very small.
• The cost to establish and register a corporate PAC with the Federal Election Commission is typically low and can be estimated to be nor more than $10-15,000 each year.
• Annual administrative and solicitation expenses for a corporate PAC depend on several factors: (1) the membership target for the PAC; (2) the frequency and nature of PAC contribution solicitations and PAC events; and (3) whether the PAC retains external PAC accounting and compliance.
services.

- Although these factors can lead to slightly higher expenses, many PACs are administered by minimal staff and rely on low-cost fundraising methods to keep such expenses low.

**How will ABA PAC promote transparency for our own members and the public?**

- All the ABA PAC’s campaign finance disclosure reports will be available on the Federal Election Commission’s website at [www.fec.gov](http://www.fec.gov), which includes a list of all PAC receipts and disbursements.

**How much money can a person donate to a PAC? How much money will the ABA PAC need to raise to be effective?**

- Under the federal election laws, the contribution limit is $5,000 per person per election.
- To be effective, the strong, voluntary monetary support of ABA leaders and the regular, modest, voluntary contributions from a significant percentage of ABA members will be important.
- An ABA PAC would need to contribute at least $150,000 to congressional candidates each cycle.
- The average PAC contributes $100,000-$180,000 each election cycle.

**How should the ABA PAC be structured and who decides how the PAC funds will be administered?**

- The ABA President shall appoint all Directors and their Chair.
- Although ideally run by consensus, the ABA PAC Board will have 7-15 members (an odd number to prevent a tie), each an ABA member or employee with a strong understanding of Congress.
- The Board shall include at least one Director from each of the following: (i) the ABA Board of Governors, (ii) the At-Large Delegates from the ABA House of Delegates, (iii) the ABA’s Standing Committee on Governmental Affairs, (iv) a Section Representative, (v) the Chair of the ABA’s Standing Committee on Governmental Affairs, and (vi) the ABA’s Director, Office of Government Affairs.
- All actions of the Board shall be taken by a majority vote, in person or by written consent.
- The officers of ABA PAC shall be an Executive Director and a Treasurer and may include a Secretary, Vice President, one or more Assistant Treasurers, or other officers appointed at the discretion of the Board. Officers shall be appointed by a majority vote of the Board.
Attachment D

MEMORANDUM:
Judicial Membership in the ABA and Establishment of an ABA PAC

Introduction
The question has been raised: If the American Bar Association were to create a separate segregated fund (commonly referred to as a political action committee, or PAC) for political activity, would the existence of an ABA PAC affect the compliance with applicable ethical standards by federal or state judges?

Summary
As several judicial ethics opinions summarized below demonstrate, judges are allowed to participate in organizations that have PACs, including all state bar associations and similar organizations with PACs, though judges’ contributions to PACs and participation in the governance of PACs have ordinarily been prohibited, with rare exceptions.

Discussion
Pursuant to the Federal Election Campaign Act (FECA), the ABA would create a separate bank account into which only voluntary contributions would be deposited. This separate segregated fund (SSF) is also known as a political action committee (PAC).


> While corporations and labor organizations are prohibited from making contributions or expenditures in connection with federal elections, the Federal Election Campaign Act and Federal Election Commission regulations permit them to set up political committees, which may make contributions to and expenditures on behalf of federal candidates and other committees.31

> Federal election law refers to a corporate or labor political committee as a ‘separate segregated fund’ (SSF), though it is more commonly called a ‘political action committee’ or PAC.32 …

> As the name implies, money contributed to a separate segregated fund is held in a separate bank account from the general corporate or union treasury.”33 …

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32 Id.
33 Id.
An SSF may incorporate for liability purposes. [11 CFR] 114.12(a). Political committees that incorporate only for liability purposes may make lawful contributions and expenditures.”34 …

Voluntary Contributions Only
Contributions to an SSF must be voluntary; that is, they must meet the following conditions:

No Use of Force or Threats
Contributions may not be secured by the use or threat of physical force, job discrimination or financial reprisal. [11 CFR] 114.5(a)(1).

No Fees or Dues
An SSF may not use dues or fees obtained as a condition of membership or employment in the connected organization, even if the dues or fees are refundable upon request. [11 CFR] 114.5(a)(1). See also [Advisory Opinion] 1987–23. . . .35

The FECA (as well as ABA Business Conduct Standards) prohibit ABA general treasury funds from being used for political contributions. However, use of general treasury funds for administrative purposes in conjunction with an SSF is permitted:

The costs of running the SSF (operating expenditures) may be defrayed with the treasury funds of the connected organization, that is, with funds derived from commercial activities or dues payments. [11 CFR] 114.5(b). Treasury money can be used, for example, to pay for office space, phones, salaries, utilities, supplies, bank charges and fundraising activities. [11 CFR] 114.1(b). There are no dollar limits on these disbursements, and they are not reported to the FEC.

The connected organization may either pay these costs directly or establish a separate administrative account to be used solely for the SSF’s administrative and fundraising expenses. The funds contained in the administrative account may never be commingled with the SSF’s own funds, which are derived solely from lawful contributions. [Advisory Opinions] 1981–19 and 1980–59. . . .36

[T]he law permits the connected organization to pay start-up, administrative and fundraising expenses for an SSF. . . .37

Thus, under the Federal Election Campaign Act, PACs are distinct from their connected organizations and the connected organization—the corporation or labor union—is prohibited from involvement in or

34 Id. at 8.
35 Id. at 19.
36 Id. at 8.
37 Id.
expenditures for politics and elections.

The separate segregated funds comprise voluntary contributions for campaign and election purposes. These funds are kept in a different bank account from organizational dues or fees. ABA general treasury funds cannot by law be comingle with ABA PAC funds.

**Judicial Ethics Opinions**

Judicial ethics opinions have provided guidance that a judge generally may not be involved with political organizations. (Some states that allow judges to run with party affiliations provide the obvious exceptions.) Thus, judges are regularly prohibited from any involvement with PAC governance and may not serve on committees deciding the expenditures of PACs.

However, these same judicial ethics opinions (formal and informal) make clear that judges may be involved with and members of organizations that separate and segregate political activity. They are summarized below.

**Opinion #1**

One summary opinion comes courtesy of the Executive Director of the Alaska Commission on Judicial Conduct, Marla N. Greenstein:

I can provide additional supporting documentation, but judges are not permitted to be members of any organization that takes political actions. Most charitable organizations or bar associations that want to take political actions create a separate arm for those political activities and segregate the funding for those political activities. If the ABA creates a PAC it would need to segregate the funds (separate from dues revenue) to fund those efforts and maintain judicial memberships. The best model are state bar associations who have had to do this not only for judges but also for lawyer members who may not agree with those political positions taken by the PAC.  

**Opinion #2**

The New York State Advisory Committee on Judicial Ethics issued Opinion 2015-7739 explaining that a judge could contribute to an organization that “carefully segregated its non-political and charitable activities from its political ones, so its non-political arm maintains tax-exempt status.”

The organization, Planned Parenthood, is involved in both legislative advocacy and litigation and maintains a separate segregated fund entitled Planned Parenthood Action Fund Political Action Committee.

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38 Email from Marla N. Greenstein, Executive Director, Alaska Commission on Judicial Conduct, to Ann Breen-Greco, Chair, ABA Judicial Division (Dec. 2017).
Opinion #3

The Florida Supreme Court Judicial Ethics Advisory Committee issued Opinion Number 2009-13 regarding whether a judge could join the National Rifle Association (NRA). Canon 7A(1) of the Florida Code of Judicial Conduct provides, “[A] judge…shall not … publicly endorse or publicly oppose another candidate for public office; … attend political party functions; or … solicit funds for, pay an assessment to or make a contribution to a political organization or candidate…”

The NRA has a separate segregated fund entitled the NRA Political Victory Fund. The opinion notes:

The NRA’s website also declares, ‘While widely recognized today as a major political force and as America's foremost defender of Second Amendment rights, the NRA has, since its inception, been the premier firearms education organization in the world. While the NRA concentrates a substantial part of its efforts on Second Amendment issues, it focuses its lobbying and political action through the National Rifle Association Institute for Legislative Action (ILA), which describes itself as ‘the ‘lobbying’ arm of the National Rifle Association of America.’

Convinced that the NRA’s lobbying, political, and fundraising were sufficiently separate and segregated, the Judicial Ethics Advisory Committee stated, 

In conclusion, eight [of nine] members of the Committee see no proscription to the judge’s membership in the local gun club where the club requires proof of membership in the NRA as a condition precedent to club membership, so long as the judge does not become personally involved in the NRA’s lobbying or fund-raising efforts and does not participate in the NRA’s Institute for Legislative Action and so long as lobbying on issues likely to come before the judge does not become the primary purpose of the NRA.

Opinion #4

In Opinion Number 2013-20, the Florida Supreme Court Judicial Ethics Advisory Committee (JEAC) answered the question whether a judge could maintain a membership in a political action committee with a simple, straightforward “No.”

Opinion #5

The Florida Supreme Court Judicial Ethics Advisory Committee (JEAC) issued Opinion Number 1993-5 regarding “whether it is proper for a judge to be a member of the American Bar

Association.”  

The JEAC concluded, “All participating Committee members agree that judicial membership in the ABA is proper because the ABA is an organization devoted to the cited goals in Canon 4C [improvement of the law, the legal system or the administration of justice].”

The committee continued, “Three Committee members believe a judge may properly belong to a multifaceted organization, although a judge cannot participate in a certain aspect of organizational activity. [Emphasis added.] One Committee member states, for example, that a judge could belong to the Catholic church despite its vocal public position on abortion. Another Committee member states a judge could properly belong to the National Rifle Association because of his interest in hunting even though that organization takes a highly public position on gun control.”

Opinion #6

The Judicial Ethics Standing Committee of the State Bar of Michigan was specifically asked “whether a judge may make contributions to a political action committee [PAC] which the judge knows will be sending funds to legislative candidates, and if so, whether a group of judges, such as a judges’ organization, may pool their resources to make a contribution to the PAC.”  

The Committee ruled:

A judge or judicial candidate may make a general contribution to a political action committee. No ethics provision prohibits a group of judges, or a judges' organization, from making contributions to political action committees under the same conditions permitted to individual judges.

Note that most ethics rulings, including the other ones cited in this memorandum, conclude that judges are not to make contributions to political action committees.

Opinion #7

Finally, the question was put to Tracy L. Kepler, Director of the American Bar Association’s Center for Professional Responsibility, which provides national leadership in developing and interpreting standards and scholarly resources in legal and judicial ethics, professional regulation, professionalism, and client protection. She writes that judges may participate in the ABA without any appearance of impropriety, but may not participate in governance of an ABA PAC:

[A]s to the judges, so long as it is a separate entity and they do not participate in it, then there should not be a concern. The fact that a judge belongs to an organization that has a separate PAC does not create an appearance of impropriety for the judge.  

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44 Email from Tracy Kepler to Thomas Susman, Director, ABA Governmental Affairs Office, Dec. 5, 2017.
Conclusion

It would be ethical for judges to maintain their membership and active participation in the ABA if the ABA were to establish a PAC, as judges do in the state bars with PACs, provided the judges do not contribute to the PAC or participate in the PAC governance or decision-making.
Informational Report from the
Center for Innovation

http://abacenteforinnovationreports.org/annual-report

See Strategic Plan on following page
**Strategic Plan**
Adopted December 2017

**Mission:** The American Bar Association Center for Innovation catalyzes innovations through people, process and technology in order to achieve systemic improvements in the effectiveness, accessibility and affordability of legal information and services.

**Strategies:** The Center advances its mission through five directed strategies.

I. **Collection, Analysis and Dissemination of Research and Data about Legal Services Delivery**

The barriers to effective, accessible, and affordable legal information and services, as well as the extent of the unmet need for legal services, must be researched and analyzed. Stakeholders need to research efforts to address existing barriers, including new delivery models and regulatory innovations. By compiling, analyzing, and educating the public about this research and data, the Center seeks to encourage innovations that will have the greatest possible impact.

The Center is well-positioned to develop and disseminate this information through the ABA’s longstanding and extensive community of local, state, and specialty bar associations; relationships with municipal, state, federal, and tribal courts and administrative tribunals; connections with law schools; alliance with the legal aid community; access to its over 400,000 members who practice in diverse settings; and access to the expertise of the American Bar Foundation.

II. **Connecting Stakeholders to Galvanize Innovation**

The Center seeks to inspire new ideas, increase awareness about model strategies, and facilitate connections among innovators, stakeholders, and potential funders. The ABA’s convening power will bring together innovators, thinkers, and leaders, both within and outside the profession and the courts, who are critical change agents. The Center’s role as a catalyst will support those who strive to deliver changes that innovate practice delivery models, increase the accessibility of self-help information and low-cost legal services, create greater diversity and inclusion in our justice system, introduce technology, or even change the law itself.

III. **Encouraging and Supporting the Replication and Scaling of Promising Innovations**

When research and data suggest that a promising innovation can improve how legal services are delivered and accessed, the Center supports replication and scaling
efforts by drawing on the ABA’s extensive networks and making connections between successful innovators and those in need of solutions.

IV. Fostering Innovation Through Education

Through instruction about innovation, including the availability of new technology and methods, the Center facilitates the delivery of legal information and services in ways that are more effective, accessible, and affordable. The Center promotes continuous skill-building and spotlights innovative law school curricula.

V. Piloting Promising Approaches

The Center, on occasion, may take on a challenge in need of a solution. Through such efforts, including the development of technology-based tools, the Center models methods for achieving impactful change through multidisciplinary collaborations and effective implementation.
## Fundraising Status as of January 11, 2018

<table>
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<tr>
<th>Contributor</th>
<th>FY17 Collected</th>
<th>FY18 Commitments (to date)</th>
<th>FY19 Commitments (to date)</th>
<th>Designation</th>
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<td>100,000</td>
<td>100,000</td>
<td>General operations</td>
</tr>
<tr>
<td>ABA Criminal Justice Section</td>
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<td>General operations</td>
</tr>
<tr>
<td>Cisco Systems</td>
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<td>Hate Crimes Project</td>
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<td>Microsoft</td>
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<td>Fellows program</td>
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<td>Suffolk University Law School</td>
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<td>Fellows program</td>
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<td>North Carolina Bar Association</td>
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<td>Fellows program/General operations</td>
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<td>Thomson Reuters</td>
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<td>50,000</td>
<td></td>
<td>General operations</td>
</tr>
<tr>
<td>MacArthur Foundation</td>
<td></td>
<td>55,000</td>
<td></td>
<td>FloodProof Project</td>
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<td>William H. Neukom</td>
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<td>25,000</td>
<td></td>
<td>General operations</td>
</tr>
<tr>
<td>Rene and Judy Perry Martinez</td>
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<td></td>
<td>General operations</td>
</tr>
<tr>
<td>William C. Hubbard</td>
<td>1,000</td>
<td>1,000</td>
<td></td>
<td>General operations</td>
</tr>
<tr>
<td>Daniel B. Rodriguez</td>
<td></td>
<td>1,000</td>
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<td>General operations</td>
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<td>Andrew Perlman</td>
<td></td>
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<td>General operations</td>
</tr>
<tr>
<td>Marty Smith</td>
<td></td>
<td>250</td>
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<td>General operations</td>
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<td><strong>TOTAL</strong></td>
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<td><strong>100,000</strong></td>
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<td><strong>OVERALL RAISED</strong></td>
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<td><strong>$974,250</strong></td>
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</tbody>
</table>
To: Board of Governors

From: Tracy Giles, Chair, Standing Committee on Membership

Re: Membership Report

Date: January 26, 2018

I. Executive Summary

First, the good news. As of January, the ABA’s overall membership count stood at 424,385, which is 1.5% higher than it was at the same time last year. We also continue to gain traction among law student in both the free and paid categories, as well as in our Full School Enrollment Program. Our other group membership programs continue to bear fruit especially among large law firms. This effort has been bolstered by President Bass’s series of Managing Partner Forums. Many other efforts, such as our New Member Welcome Stream and the redesign of the website, are well along and will begin having a positive impact on membership. But, however necessary and excellent these efforts are, they alone will not be enough.

So now for the bad news. Among lawyers, membership is down by 3.8%. Lower law school enrollments, combined with fewer people taking and passing the bar, continues to have a negative effect on our pipeline of young members. Young Lawyer Division membership was 142,857 on December 31, 2015. Three years later, December 31, 2017, YLD membership stood at 100,243. That’s a difference of 42,614 memberships.

The number of dues-paying lawyer members has fallen for more than a decade and as of the end of December stood at 164,891. This impacts our dues collections, which are down year-over-year by $1.46 million. Collections as of January 19 were at $52.02 million.

As you know, the Standing Committee on Membership (SCOM) has been working to create and refine a new membership model internally called OneABA, that addresses the long-term declines in membership. It simplifies our complex dues structure and adds more value by moving the ABA from an à la carte membership to a bundled ABA membership that includes entity memberships, free CLE and e-Content. Although the need to be more relevant and innovative has been evident for a while, some of these proposals represent radical thinking for the ABA. But from the Standing Committee’s perspective, the question was: Are we being radical enough to move the needle on membership?

To that end, research was conducted by Dr. JP Dubé and provided initial data for decision-making.
Then, as reported to you in Miami, the ABA followed up by hiring the marketing firm Avenue to conduct qualitative and quantitative research to validate, from a marketing perspective, the proposed new membership models. Since they started in October, much progress has been made. In-person and online focus groups were held in early December to gather insights regarding ABA membership. Audiences included young lawyers, experienced lawyers, large-firm lawyers, solos, and small-firm practitioners. Some of the consistent themes from the focus groups indicate that lawyers have many options for getting their needs met; CLE is important but it is widely available and often free; for young lawyers, local is important; and lawyers primarily want focused, specialized information.

These findings helped inform the development of the quantitative online survey. The survey was designed to further our understanding of the level of interest, purchase intent and “willingness to pay” of any new membership offering. Additionally, the survey will uncover challenges or barriers to purchasing and the overall perceived strengths and weaknesses of the offering and its overall marketplace potential. The survey was first tested by members of the Standing Committee on Membership in late December and then deployed via email to 198,024 members and 489,490 non-members. The survey closed on January 21 with a total response of 15,807 lawyers. Among responders, 9,992 members (5.0% of members emailed) and 5,815 non-members (1.2% of non-members emailed) completed the survey. The survey response was very similar to the high response rate achieved by the conjoint study. Analysis and financial modeling is under way to provide insights and direction on the plan forward.

Helping the ABA shape the membership model of the future is the OneABA Working Group, made up of members and liaisons of SCOM, SOC appointees, ABA staff and ABA leaders. The Working Group was first formed as a staff group in June and continues to meet weekly to gain consensus on key elements and finalize elements of the proposal for Board consideration. An in-person meeting was held December 14 in Chicago. More than 60 ABA leaders and staff participated in the meeting to discuss and finalize elements of the new membership model. The meeting was productive, as consensus was reached on a number of open issues.

In January, a revenue share exercise was conducted to involve section leaders in actively reviewing options. Membership category changes were agreed upon affecting international lawyers and students. Additionally, the category for non-lawyers currently called “associates” would be renamed “affiliated professionals.” As these changes require amending the Constitution and Bylaws, draft language was prepared and will be presented to the Board at Midyear. An update on the progress – areas of consensus and continued areas of focus – was prepared and will be shared with the Board.

Finally, you’ll find the full list of ABA pricing pilots approved for FY2018 attached. As those of you on the Board last year will remember, when I asked for approval of the pilot program, I indicated that the Membership Committee put a moratorium on any new pilots until decisions were made on the new membership model. Therefore, we are not asking for approval of any new pilots and will be continuing all current pilots that are not otherwise slated for expiration.

I look forward to sharing more about SCOM’s efforts on all membership fronts when we meet later this month in Vancouver.
II. FY2018 Performance

<table>
<thead>
<tr>
<th>Membership Counts</th>
<th>FY2018</th>
<th>FY2017</th>
<th>Change from LY</th>
<th>% Change from LY</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>As of January 19</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lawyers</td>
<td>297,796</td>
<td>309,627</td>
<td>-11,831</td>
<td>-3.8%</td>
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<tr>
<td>Associates</td>
<td>16,411</td>
<td>17,114</td>
<td>-70</td>
<td>-4.1%</td>
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<td>Students</td>
<td>110,178</td>
<td>91,544</td>
<td>18,634</td>
<td>20.4%</td>
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<tr>
<td>TOTAL</td>
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<td>418,285</td>
<td>6,100</td>
<td>1.5%</td>
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<tr>
<td>Premium Students (cont.)</td>
<td>12,579</td>
<td>10,105</td>
<td>2,474</td>
<td>24.5%</td>
</tr>
<tr>
<td>Premium Students (grads)</td>
<td>8,388</td>
<td>323</td>
<td>8,065</td>
<td>2496.9%</td>
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<tr>
<td><strong>Total Premium</strong></td>
<td>20,967</td>
<td>10,428</td>
<td>10,539</td>
<td>101%</td>
</tr>
<tr>
<td>FY2018 Dues-Paying Lawyer and Associate Counts (as of Dec 31)</td>
<td>164,891</td>
<td>171,486</td>
<td>(6,595)</td>
<td>-3.8%</td>
</tr>
<tr>
<td>FY2018 Dues Collections (as of January 19)</td>
<td>$52,019,543</td>
<td>$53,481,262</td>
<td>-$1,461,719</td>
<td>-2.7%</td>
</tr>
</tbody>
</table>

**Membership Counts**

As of January 19, ABA membership was 424,385 representing an increase of 1.5% vs. the same time last year.

**Lawyer Membership**

Lawyer counts are down year-over-year. A major part of the decline is the ongoing impact of the nearly 30% decline in law school enrollment, which began in FY2011, and is now moving through the young lawyer pipeline.

The ABA has enrolled all new bar admittees for 12 months of complimentary membership since 1986. Last year, the ABA’s new member pipeline of bar admittees shrank by nearly 20%, and counts for this year continue to be down.

Over the last three years, the number of young lawyer members (those in practice for five years or less or under age 36) is down by more than 42,614. This is, in part, due to the lower numbers of new bar admittees. That’s not the sole reason, however, as the ABA’s retention rates are declining among new and existing members.

**Law Student Membership**

We surpassed 100,000 student members for the first time in the ABA’s history last August. It’s very encouraging that today, the vast majority of law students are members of the Association. The ABA’s market share of law students has improved from just 18% in FY2014 to 74% at the end of April of 2017. We continue to develop strong programs for law students so they will understand the value of membership and the need to participate in their national professional association.
Since August, more than 12,000 current law students enrolled in ABA Premium, which is up 25% from last year’s enrollment figures. Students pay a fee of $25 for the Premium option. Premium members from last year who graduated were retained as Premium Grads so they can continue to access the BarBri member discount.

These membership gains in the student area are expected to pay dividends as membership drives awareness, value and hopefully a greater conversion rate to dues paying members as lawyers.

**Associate Membership**

Membership among “Associates” (non-US licensed lawyers, paralegals, law librarians, etc.) is down slightly year-over-year.

**Entity Membership**

At the end of December, entity memberships stood at 387,383, a decline of 4.5%. Only 48.1% of lawyer members belong to one or more entities. On average, they belong to 1.5 entities.

**Dues Collections**

As of January 19, dues collections of $52.02 million represented a change of -2.7% vs. last year. Group collections are running behind last year by 2.2%. Collections for individually billed members are running behind last year by 4.8%.

### III. Current Membership Campaigns

**Full Firm and Group Membership**

Full firm membership offers a discounted rate to firms that agree to enroll all of their lawyers in the ABA. Over the last few years, we have added more than 40 firms to the program.

Membership staff continues to work with President Bass on a series of Managing Partner Forums being held throughout the country during her presidential year. Programs have been held in Miami and Boston thus far, with President Bass discussing issues affecting the legal profession and the livelihood of the firms in attendance, and how the ABA is addressing these issues. Additional forums are being planned for 2018 in San Francisco in February, Chicago in March, Washington D.C. in April, and dates yet to be determined in Los Angeles and New York. Six firms represented at the first two forums were pitched on Full Firm membership, with one firm joining thus far as a result (Bilzin Sumberg in Miami).

Group membership offers firms the opportunity to consolidate their lawyer memberships into one invoice (without any discounts). The ABA benefits from an increased membership retention rate and billing efficiencies. Members at group-billed firms retained at a rate of over 92% last year compared to 64% for individually billed members. More than 100 new group accounts were created for FY2018 as a result of sales calls made by membership staff. The Group Membership recruitment campaign began the last week of November, with 15 new group accounts added in the first two weeks of calling. Overall, 800+ new group accounts have been created since these sales efforts began in 2014.
**New Bar Admittees**

The New Bar Admittee campaign is a year-round effort to obtain the names and contact information for all newly admitted lawyers. As we have been doing for the last 30 years, the ABA then enrolls them for a complimentary year of membership as a welcome to the profession. Last year, the ABA received lists of recently admitted attorneys from nearly all states and uploaded 33,320 new bar admittee members through this outreach. Between September and November, more than 9,900 new bar admittees from 35 states were enrolled.

**Law Student Recruitment**

The Law Student Recruitment campaign is ongoing. The ABA recruits new student members through both individual student marketing and lists of students provided by law schools. We currently have 101 schools participating in the Full School Enrollment Program. To date, we have all but eight of these lists in hand. Four schools have promised us the list by the end of the year and we are working to find leaders to help with the other schools that have been slow to communicate and submit their lists. ABA leaders, alumni and staff have been asked to engage with all 204 law schools to ensure maximum enrollment of law students.

**“Bar Birthday” Recruitment Campaign**

The “Bar Birthday” campaign consists of a monthly email designed to emulate a “Paperless Post” invitation to celebrate the members “Bar Birthday” (anniversary month of when they passed the bar), leading them to a microsite to claim their free section membership offer. This campaign is a recurring monthly campaign. Overall, the FY2018 campaign recruited over 1,900 new members, for an 11% increase from the 2016 Bar Birthday campaign.

**Telemarketing**

Telemarketing recruitment began in late January/early February this year. Last year, over 37,000 new members were recruited. The ABA uses a combination of state bar records and its own prospect list to identify non-members.

Although telemarketing is a long-standing recruitment channel that generates a large number of members, and, importantly, a positive return on investment, it is the chair of SCOM’s opinion that the ABA should reduce its reliance on telemarketing in coming years.

**Member Census**

To tailor ABA membership to individual lawyer preferences, we are engaging in a campaign to collect lawyer areas of interest, demographic and email communication information. Two versions (short and long versions) of the ABA Member Census were sent out in late November/early December to 10,000 members. Early returns began arriving the week of December 18. The test concluded in late-January and the full roll-out of the “winner” version, the short form, will begin in February.

**Drop Prevention**

Drop prevention efforts are in full swing and have started with “Act Now!” stickers that were applied to the December issue of the ABA Journal as well as the winter issues of the Section publications. A false cover with
dues amounts owed and a “LAST ISSUE” message was sent to unpaid members along with the January issue of the ABA Journal. Drop prevention telemarketing began the first week of January and used a CLE in the City Series incentive as a reward for payment. Print materials were slated to hit mailboxes by the second week of January. Unpaid members will be dropped for nonpayment of dues on January 26.

**Member Outreach**

A “New Year, Better You” recruitment campaign on Facebook and Twitter starts 2018 activities for the Member Outreach Team. The posts feature videos of ABA members explaining how their membership has impacted their careers. Non-members are invited to make a positive change in the new year by joining the ABA.

Another social media campaign began in mid-January. “Briefly Speaking” challenges experienced lawyers to provide their best advice to younger attorneys. Followers of ABA’s Facebook account will vote for their favorite tips. A grand prize of airfare and a travel pillow will be awarded to the top tipper. Those who submitted the top 10 tips will receive recognition in the ABA Journal.

The “ABA Membership Advocates” program is concluding a successful second quarter. Advocates have participated in online projects such as #ABAsstands4, submitted testimonials for a brochure and tested a website designed to connect law students with lawyers.

**IV. Opportunities for Change**

The Standing Committee on Membership and staff are well aware of the trends facing the profession and our Association. Like many large national associations, the ABA is struggling to convert young members into dues-paying members. The trends regarding dues revenue and dues-paying members weigh heavily on all of us and must be reversed if we are going to continue to represent the voice of America’s lawyers. To that end, the Standing Committee on Membership and staff began a comprehensive review of the ABA’s pricing and value structure a year and a half ago. Much work has been done and much more will be done until we get this right.

It is my pleasure to serve as your Membership Chair in these interesting times, because it is an opportunity for change. It is an opportunity for the ABA to become more relevant to more lawyers in America and around the world. I look forward to talking with you in person in Vancouver.
Attachment 1: ABA Dues Pilots

The following pilots were approved by the Membership Committee and the Board of Governors and are currently in market:

1. Full Firm Membership Program (formerly called Flat Rate Firm Group Billing);
2. Public Service Membership Program (for non-U.S. licensed lawyers only);
3. 25% Promotional Offer;
4. 50% Promotional Offer;
5. JAG Waiver for First Five Years;
6. Paralegal Pricing Program;
7. Canadian Full Firm Program;
8. International LL.M. Students;
9. Inactive Lawyers;
10. International Group Membership:
MEMORANDUM

TO: Board of Governors

FROM: Rochelle E. Evans

SUBJECT: Requests for Bylaws Amendments

DATE: January 18, 2018

a. **Section of Antitrust:** requests approval to amend its bylaws to establish procedures to address the anomaly created when the Chair-Elect or Vice Chair are not able to succeed to the Chair position as scheduled; simplify the provision relating to Officer terms; and provide a streamlined and efficient process for approval of unbudgeted expenses; expected expense overruns; and budget shortfalls. These bylaw revisions were approved by the Section of Antitrust Law Council on December 1, 2017.

b. **Section of International Law:** requests approval to amend its bylaws to:

1) Incorporate the ABA Business Conduct Standards-amended language provides the hyperlink to the ABA Business Conduct Standards and adds "by adhering to the highest ethical and legal standards, and by demonstrating integrity, professionalism and respect for others and the law in all their actions."

2) Alternate Delegate - amended language adds the position of Alternate Delegate, nominated by the Section's Nominating Committee and elected at a Section Business Meeting. This new position joins the Section's Administration Committee as a nonvoting member and serves when a Section Delegate is unable to attend a meeting of the Association's House of Delegates.
3) Chair Removal - amended language provides for the Chair-Elect to perform the duties of Chair for the remainder of the Chair's term (or in the case of disability for the duration of the disability) "upon death, resignation or removal of the Chair for good cause as determined by the Administration Committee."

4) Chair-Elect Removal - amended language provides for the Vice Chair to perform the duties of Chair-Elect for the remainder of the Chair-Elect's term (or in the case of disability for the duration of the disability) "upon death, resignation or removal of the Chair-Elect for good cause as determined by the Administration Committee."

5) Vice Chair - amended language provides for the Vice Chair to step in for the Chair in the event of the death, resignation or removal of both Chair and Chair-Elect per the amendments described above and clarify that Associates who are elected to the Council will have the right to vote and to rename the “Strategic Planning Committee” to “Executive Committee” to more accurately reflect the role of the Committee.

6) Task Forces, Working Groups, Interest – Clarification of the purpose and composition of these groups.

7) Avoidance of Conflicts of Interest – A member of the Nominating Committee who is nominated for a position being filled by the Nominating Committee is recused and excluded from the deliberations and vote on that position.

The Section’s Administration Committee approved these amendments on December 20, 2017 and are subject to approval by the Section’s membership meeting on February 2, 2018.

c. Young Lawyers Division: requests approval to amend its bylaws to provide for a non-voting delegate/liaison appointed by the chief uniformed legal officer (or designee) of each of the United States' Armed Forces to represent the respective Service in an official capacity in accordance with the Department of Defense Joint Ethics Regulation and to provide that all YLD Emerging Leaders will automatically be ABA YLD Assembly Delegates.

These amendments were passed by the YLD Assembly at the 2017 ABA Annual Meeting.
d. **Section of Administrative Law and Regulatory Practice:** requests approval to amend its bylaws to eliminate the requirement that at least one member of the Nominating Committee not have served as either an Officer or Council Member of the Section. The intent is that the Section Chair may still appoint someone who meets this requirement, however he/she would not be obligated to do so if someone cannot be found who meets this requirement.

This change was approved by the Council of the Section of Administrative Law & Regulatory Practice on August 12, 2017.

e. **Tort Trial and Insurance Practice Section:** requests approval to amend its bylaws as follows:

2) Article 1, Sections 1, 2 & 5 have been changed in anticipation of potential changes to the dues structure of the Association. Rather than setting the dues of the Section on a rigid schedule or amount, the changes give the Section flexibility to collect dues “…on an annual basis in accordance with the dues policy of the Association and/or the Section Council."

3) The previous version of the By-Laws required that the Annual Meeting of the Section, where the leaders of the Section are elected, be held at the Annual Meeting of the ABA. In multiple places, the By-Laws have been changed to permit the Annual Meeting of the Section to be held at another meeting/time/location so long as appropriate notice of the election, no less than 45 days, is given to the members of the Section. (The Section assures that it will continue to meet at the ABA Annual Meeting.)

4) Article III, Section 6, Article IV, Section 2 and Article V, Section 4 have been changed to clarify the procedure for replacing an elected official of the Section should they be unable to serve or the Council deem them unable or unfit to serve. Recently, the Council was faced with replacing a Chair-Elect when he resigned after nomination but before the election and there was some ambiguity with respect to the procedure.

5) Article IV, Section 3(b) has been changed to reduce the term of the Secretary from two years to one year. This
change was made because there seemed to be no need for this position to have a two-year duration since the duties of Diversity Officer were split out into a separate officer position. Reducing the term to one year creates more opportunity for other Section leaders to become an officer and contribute.

6) The change to Article IV, Section 4 is a clarification with respect to the powers of the Chair.

7) In multiple places the title “Financial Officer” has been changed to “Finance Officer.” This change was made because the term “Financial Officer” suggests a position in a corporation (Chief Financial Officer) that encompasses financial functions and transactions such as the issuance of debt, strategic acquisitions and driving shareholder value, which of course we do not do. The term “Finance Officer” encompasses corporate finance, i.e., the operational financing and investing decisions a company makes, and therefore, this title is more in line with what the position actually does.

8) Article V, Section 1 has been changed to take away the limitation on the period of time a representative of the Judicial Division may serve as Liaison to TIPS.

These bylaw amendments were approved by the Section Council on December 7, 2017
DATE: December 21, 2017

TO: Operations and Communications Committee, Board of Governors

FROM: Steven M. Richman, Chair

RE: Friendship & Cooperation Agreements

As the American Bar Association’s gateway to international practice, the Section of International Law has worked very closely over the years with a number of international bars on programming and membership outreach. Our mission is to “advance the professional excellence of our worldwide membership; bridge the U.S. and non-U.S. legal communities; help members serve the international needs of their clients; promote diverse international substantive expertise; and strengthen the rule of law.” Additionally, the Section has taken on many of the functions of the International Liaison Office, including overall coordination of the international activities of the Association and its entities, including programming, outreach, and membership development. To this end, the Section has previously received approval to enter into cooperating agreements with a number of our international “partners” (listed below) to memorialize our collaborative intentions and strengthen the Section’s, and therefore the ABA’s, connection to the international legal community. The Section intends to enter into Friendship Agreements (template attached) with a number of additional international bars, including the Lithuanian Bar Association, the Estonian Bar Association, the Latvian Bar Association, the Danish Bar Association, the Finnish Bar Association, the Swedish Bar Association, the Norwegian Bar Association, and the Jamaican Bar Association. The Section may consider entering into Friendship Agreements with other international bars in the future.

American Society of International Law (ASIL)
Association Internationale des Jeunes Avocats (AIJA)
Barrera Mexicana
Canadian Bar Association (National Section on International Law)
Colegio de Abogados de Chile
Croatian Bar Association
Dai-Chi Tokyo Bar Association
German Bar (International Committee)
Hispanic National Bar Association
Inter-Pacific Bar Association (IPBA)
International Law Students Association (ILSA)
Law Council of Australia (International Law Section)
Law Society of England and Wales
Korean Bar Association
FRIENDSHIP AGREEMENT
Between
American Bar Association Section of International Law
and the
[Name of entity or association]

This Friendship Agreement is made and entered into effective as of [month date, year] by and between [name of entity or association] (the “Friend Organization”), whose address is [insert address], and the American Bar Association Section of International Law (the “Section”), whose address is 1050 Connecticut Avenue, NW, Suite 400, Washington, DC 20036.

[Insert brief description of the history and purpose of the entity or association which is to be a party to this agreement.]

The Section has the purposes stated in the Constitution of the American Bar Association, particularly within the areas of international law and practice, including the goal of advancing the rule of law around the world. To this end, the goals of the Section are (1) to provide services to members to enhance their professional skills and relationships, exchange information, and develop solutions to international legal problems, (2) to act as a forum through which global experts participate in programs and publications about international legal issues, and (3) to advocate on public policy issues affecting international law, global corporations and institutions, and global acceptance of the rule of law.

Recognizing the increasing trans-border nature of the practice of law, the common principles shared by members of the legal profession internationally, and the commitment of legal professionals to continuing education, the Friend Organization and the Section have formulated this Friendship Agreement.

Both parties hope that this Friendship Agreement will deepen their mutual knowledge of one another’s legal systems, respect for the legal profession internationally, commitment to the public interest and to the rule of law, and commitment to the highest professional standards.

The principal provisions of the Friendship Agreement are:

(1) Information Exchange

The parties will exchange public information to further their professionalism, commitment to the rule of law, and responsibilities as professional associations. Each party will appoint a liaison to the other party. The liaisons will act as primary, but not exclusive, points of contact between the parties for matters related to this Friendship Agreement and other issues of common interest.

(2) Invitation to Visit

The Section will make an effort to invite leaders of the Friend Organization to (i) visit the Section; and (ii) attend the Section’s Annual Conference and relevant specialty conferences each year.
Similarly, the Friend Organization will make an effort to invite leaders of the Section to (i) visit the Friend Organization; (ii) attend the Friend Organization’s annual conference; and (iii) attend at least one legal conference sponsored by the Friend Organization each year. In such cases, each party shall be responsible for paying its own costs incurred in connection with attending a meeting hosted by the other party or visiting the other party, including, but not limited to travel costs and costs of registering and attending a meeting. Both parties will mutually encourage contact and the exchange of ideas and knowledge between the legal professionals of each of their jurisdictions, in accordance with the laws of their jurisdictions.

(3) Seminars

Friend Organization

The Friend Organization will make reasonable efforts to provide promotional support for two conferences each year of the Section. This promotional support will include reasonable efforts to distribute information to interested members about those meetings. The Friend Organization will be listed as a “Cooperating Entity” for each of those two meetings, and will have that status reflected in meeting materials for and at the applicable meeting. Its members will receive “Cooperating Entity” registration rates for each of those two meetings, and will, therefore, be charged the same registration rate as Section members.

Section of International Law

The Section will make reasonable efforts to provide promotional support for two meetings of the Friend Organization each year, which may include [list specific meetings for which promotional support might be provided by the Section]. This promotional support will include reasonable efforts to distribute information to interested members about those meetings or programs. Members of the Section will receive member registration rates for [list specific meetings of the Friend Organization] and will, therefore, be charged the same registration rate as will members of the Friend Organization. [Describe any other relevant eligibility issues and how they will be handled for Section members attending the Friend Organization meetings.]

(4) Other Activities

The parties anticipate undertaking, as appropriate, other activities to further the goals of this Friendship Agreement. The Section and the Friend Organization agree to encourage cooperation between their organizations and to explore further reciprocation opportunities to the benefit of their respective members.

This Friendship Agreement is nonexclusive and imposes no financial or legal obligations on the signatory entities and individuals. Each party to this Friendship Agreement will use the other’s marks, logos, and related items in a manner consistent with the owner’s usage protocols. This Friendship Agreement will begin on [month date, year] and shall last for two years unless either party earlier terminates it by written notice to the other or renews it by extension.
Signed:                      
By:  Chair, Section of International Law
     American Bar Association

Signed:                      
By:  President / Chair
     Friend Organization
TO:  Board of Governors

FROM:  Hilarie Bass, President

RE:  Request to Create a Task Force to Coordinate ABA Educational Outreach in Response to New Tax Law

DATE:  December 28, 2017

I respectfully request that the Board of Governors approve the creation of a Task Force to coordinate the ABA’s educational outreach to members regarding the tax legislation signed into law by President Trump on December 22, 2017. This legislation will affect taxpayers and their advisors across a wide spectrum of individual and business tax matters. An important benefit of the Task Force will be to demonstrate that the ABA as a whole can provide useful and timely educational outreach on important developments to all of its members.

The Task Force will coordinate educational events regarding the new tax law planned by various ABA sections to maximize the impact of ABA resources and efforts and to prevent redundancy. The new tax law will present opportunities for ABA sections to work together, and the Task Force will help identify these opportunities.

The Task Force will be comprised of one representative from each of the following six sections: The Section of Taxation, the Section of Real Property, Trust and Estate Law, the Section of Business Law, the Section of International Law, the Section of Health Law, and the Section of Family Law. The representative from the Tax Section will serve as chair of the Task Force.

The Tax Section will provide lead staff support. The sections represented on the Task Force will cover any expenses; no additional general revenue funding is requested or required. The Task Force will sunset at the close of the 2019 Annual Meeting.

Thank you for your consideration of this request.
Memorandum

January 23, 2018

To:       Executive Committee of the Board of Governors
          Member Services Committee
          ABA Board of Governors

IN TURN

From:     Jarisse Sanborn
          General Counsel and Chair of the Ethics Office

Cc:       Jack Rives
          Executive Director & Chief Operating Officer

Subject:  Proposed Revisions - Business Conduct Standards

I am submitting the Ethics Office’s proposed revisions to the Business Conduct Standards (“BCS”). The impetus for this revision is to refine the member complaint process which was revised last June but which has since been more fully developed. In June 2017, the Board authorized the creation of an Ethics Review Committee comprised of three current Governors to screen and act on less serious member complaints which did not warrant full Board review. We were processing an active complaint at that time which subsequently helped us define a more complete and detailed review process.

The proposal summary follows. After the Ethics Review Committee acts on a complaint, making findings and imposing an appropriate disciplinary sanction, the member will be given an opportunity to appeal the action to the Executive Committee. The Executive Committee will conduct a de novo review and may affirm, modify or reverse the Ethics Review Committee’s action in whole or in part. The Executive Committee’s decision is final and not appealable. The President, Executive Director, Ethics Review Committee or Executive Committee each also has the option to refer the complaint immediately to the full Board for review if any one believes the nature or seriousness of the complaint warrants that expanded review at the outset.

The first attachment is a clean version of the proposed change with highlighting and comments; the second attachment is a redline version.

Enclosures
1.  BCS Revisions (Clean w/comments)
2.  BCS Revisions (Redline w/comments)
C. Investigation of Reports

The Ethics Office will investigate each report as thoroughly, impartially and confidentially as practicable. All Members, Employees and Contractors must cooperate in investigations and be truthful. Obstructing or undermining investigations, withholding or destroying information or providing misleading information related to possible illegal or unethical conduct are violations of the BCS. When an investigation has been completed, the Ethics Office shall prepare a report of its findings and make recommendations for appropriate action. This report is provided to the Executive Director for final decision and action as appropriate. In appropriate cases, the Ethics Office, in consultation with the Chair of the Standing Committee on Audit and with proper recusals, will determine whether to retain outside counsel to investigate matters concerning elected ABA Officers (President, President-Elect, Chair of the House of Delegates, Secretary and Treasurer) or senior executives (the Executive Director, Chief Financial Officer or General Counsel).

If an investigation involves, in whole or in part, a Member (including ABA Officers and members of the Board of Governors), the Executive Director shall forward the report finding(s) and recommendation(s) to the Ethics Review Committee of the Board of Governors for review and action. The Ethics Review Committee shall evaluate the report of investigation and determine whether the complaint merits immediate referral to the full Board of Governors. If it does not refer the matter to the full Board, the Ethics Review Committee is responsible for final decision and action on the complaint. A Member may appeal the action of the Ethics Review Committee to the Executive Committee of the Board of Governors. The Executive Committee may itself act on the appeal or refer it to the full Board for action. The Member may present written matters to the Ethics Review Committee and, on appeal, to the Executive Committee; but, there is no right to a personal presentation. The Executive Committee is not bound by the decisions or actions of the Ethics Review Committee. The decision of the Executive Committee is final and not appealable. Notwithstanding the above, either the Executive Director or President may immediately refer the matter to the full Board for action if the complaint warrants such review.

If the complaint is referred to the full Board, the Executive Director, assisted by the Ethics Office, shall make the necessary arrangements for presentation to the Board of Governors after recusal of any Officer or Governor for whom the matter presents a conflict of interest. The presentation shall be conducted in executive session, at which time the Member who is the subject of the report shall be given a reasonable opportunity to be present (with counsel if s/he so elects) and to be heard in his/her own defense. The Board of Governors shall determine what action will be taken which, on a finding of good cause, may include censure or suspension or removal from membership. The Board is not bound by the findings or decisions of either the Ethics Review Committee or Executive Committee. The decision by the Board is final and not appealable.

If the investigation involves, in whole or in part, an Employee or Contractor, the report’s finding(s) and recommendation(s) shall be presented to the Executive Director. After the Employee or Contractor is given a reasonable opportunity to respond to the finding(s), the Executive Director shall determine what action will be taken, which may include discipline up to and including termination of employment for Employees, or up to and including termination of present and future business relations for Contractors. The Executive Director’s decision is final. If any member of the Ethics Office is being investigated, the investigated member shall not be involved in conducting the investigation or in determining the findings and recommendations.

If the investigation involves both an Employee and a Member, the Executive Director shall, if practicable, withhold decision and action as to the Employee until after the Board of Governors has finalized its determination and action with respect to the Member or, if the matter was not referred to the full Board, until after the Ethics Review Committee has returned the matter to the Executive Director for final action.
C. Investigation of Reports

The Ethics Office will investigate each report as thoroughly, impartially and confidentially as practicable. All Members, Employees and Contractors must cooperate in investigations and be truthful. Obstructing or undermining investigations, withholding or destroying information or providing misleading information related to possible illegal or unethical conduct are violations of the BCS. When an investigation has been completed, the Ethics Office shall prepare a report of its findings and make recommendations for appropriate action. This report is provided to the Executive Director for final decision and action as appropriate. In appropriate cases, the Ethics Office, in consultation with the Chair of the Standing Committee on Audit and with proper recusals, will determine whether to retain outside counsel to investigate matters concerning elected ABA Officers (President, President-Elect, Chair of the House of Delegates, Secretary and Treasurer) or senior executives (the Executive Director, Chief Financial Officer or General Counsel).

If an investigation involves, in whole or in part, a Member (including ABA Officers and members of the Board of Governors), the Executive Director shall forward the report finding(s) and recommendation(s) shall, after review by the Executive Director, be forwarded to the Ethics Review Committee of the Board of Governors for review and action, which is composed of three current Governors appointed by the President. The Ethics Review Committee shall evaluate the report of investigation and determine whether the Member conduct complaint ed of merits immediate referral to the full Board of Governors. If it does not refer the matter to the full Board, the Ethics Review Committee is responsible for final decision and action on the complaint. A Member may appeal the action of the Ethics Review Committee to the Executive Committee of the Board of Governors. The Executive Committee may itself act on the appeal or refer it to the full Board for action. The Member may present written matters to the Ethics Review Committee and, on appeal, to the Executive Committee, but there is no right to a personal presentation. The Executive Committee is not bound by the decisions or actions of the Ethics Review Committee. The decision of the Executive Committee is final and not appealable. Notwithstanding the above, either the Executive Director or President may immediately refer the matter to the full Board for action if the complaint warrants such review. If the Ethics Review Committee concludes that referral to the full Board is not warranted and that the matter has been satisfactorily resolved, the report will be returned to the Executive Director for closure or other final action as may be necessary.

If the complaint matter is referred to the full Board, the Executive Director, assisted by the Ethics Office, shall make Ethics Review Committee will notify the President and Executive Director to make the necessary arrangements for presentation to the Board of Governors after recusal of any Officer or Governor for whom the matter presents a conflict of interest. The presentation shall be conducted in executive session, at which time the Member who is the subject of the report shall be given a reasonable opportunity to be present (with counsel if s/he so elects) and to be heard in his/her own defense. The Board of Governors shall determine what action will be taken which, on a finding of good cause, may include censure or suspension or removal from membership. The Board is not bound by the findings or decisions of either the Ethics Review Committee or Executive Committee. The decision by the Board is final and not appealable.

If the investigation involves, in whole or in part, an Employee or Contractor, the report’s finding(s) and recommendation(s) shall be presented to the Executive Director. After the Employee or Contractor is given a reasonable opportunity to respond to the finding(s) and recommendation(s), the Executive Director shall determine what action will be taken, which may include discipline up to and including termination of employment for Employees, or up to and including termination of present and future business relations for Contractors. The Executive Director’s decision is final. If any member of the Ethics Office is being investigated, the investigated member shall not be involved in conducting the investigation or in determining the findings and recommendations.
TO: ABA Board of Governors  
FROM: Robert Carlson  
RE: 2018-2019 Board of Governors Meetings  
DATE: January 11, 2018

The Board of Governors is requested to approve the following dates and locations for meetings of the Board for 2018-2019:

**August 7, 2018** (New Board of Governors Meeting at the conclusion of the House of Delegates)
Hyatt Regency Chicago  
Chicago, IL  
Room Rate: $209 single/double  
Average Airfare: $292.00  
Average Ground Transportation: $50-$60  
Board members upgraded to Junior Suites  
Complimentary internet in guest rooms and meeting space  
All banquet prices discounted by 10%

**November 8-9, 2018** (Teleconference)
We are proposing the November Meeting of the Board of Governors be held as a teleconference as historically the agenda is lighter than at other meetings and will result in a substantial cost savings to the Association.

**January 24-25, 2019** (In conjunction with the Las Vegas Midyear Meeting)
Caesar’s Palace  
Las Vegas, NV  
Rates TBD  
Average Airfare: $302

**June 13-14, 2019**
Doubletree Hilton Missoula Edgewater Hotel  
Missoula, MT  
Room Rate: $160 single/double  
Average Airfare: $626  
Ground transportation complimentary to and from airport  
Complimentary internet in guest rooms and meeting space  
All banquet prices are guaranteed at the 2017 prices

**August 8-9, 2019** (In conjunction with the San Francisco Annual Meeting)
Marriott Marquis  
San Francisco, CA  
Rates TBD  
Average airfare: $405

Thank you for your consideration.
TO: Board of Governors  
FROM: Tracy A. Giles/James Dimos  
RE: “Placeholder resolution” for Constitution and Bylaws Amendments related to the potential new membership model (“OneABA”)  
DATE: January 23, 2018

As the research, evaluation, and development of a potential new membership model for the Association (OneABA) continues, some amendments to the Constitution and Bylaws have been identified that may be necessary if a new membership model is adopted. In order for the House of Delegates to consider these potential recommendations at 2018 Annual Meeting in Chicago, any amendments must be submitted by March 9, 2018. While the Board has yet to decide on a new model, in order to meet the March deadline, we are asking the Board for authority to file the attached “placeholder” resolution.

The “placeholder resolution” addresses all Constitution or Bylaws amendments that the current thinking of the Working Group contemplates. While not discussed by the Working Group, it also includes language to reinstitute the Board’s authority to make minor adjustments to the dues categories consistent with changes to the Consumer Price Index after three years from the adoption of the proposed amendment. As a “placeholder,” it is submitted with the understanding that it may be withdrawn or amended to conform to the final decisions of the Board.
RESOLVED, That Article 2.1 of the Association’s Constitution be amended as follows:

(m) “Small Firm Practitioner” means a lawyer in private practice in a firm of 2-10 lawyers.

(o) “Solo and Small Firm Practitioners” collectively means those lawyers in private practice who are in firms of less than six ten lawyers.

FURTHER RESOLVED, That Article 3.4 of the Association’s Constitution be amended as follows:

§3.4 Associates-Affiliated Professionals. Nothing in this Article prevents the establishment by bylaw of the classes of associates affiliated professionals composed of nonmembers with whom affiliation is considered to be in the interests of the Association.

FURTHER RESOLVED, That a new Article 3.5 be added to the Association’s Constitution as follows:

§3.5 International Lawyer. Any person of good moral character in good standing at the bar of the legal profession of another country who is admitted to practice law but is not admitted to the bar of any state, territory, tribal nation, or possession of the United States. An International Lawyer member shall have the same rights and privileges as Members except as follows:

(a) may not participate in electing a Delegate-at-Large
(b) may not participate in nominating a member of the Board or an officer of the Association, and may not serve as an officer of the Association;
(c) may not vote in Association-wide elections other than while serving as a delegate in the House; and
(d) may not sign a petition for or vote in an Association referendum.

FURTHER RESOLVED, That Article 6.6 of the Association’s Constitution be amended as follows:

Commented [DJ1]: Changes the definitions of “Small Firm Practitioner” and “Solo and Small Firm Practitioners” from 2-5 lawyers to 2-10 lawyers

Commented [DJ2]: Changes the name of the “Associates” membership class to “Affiliated Professionals”

Commented [DJ3]: Creates a new membership category: “International Lawyer” member

Commented [DJ4]: Reflects change of “Non-U.S. Lawyer Associates” to “International Lawyer”
§6.6 Section Delegates. Each section shall be entitled to a minimum of two
delegates. A section with more than 20,000 members and Non-U.S. Lawyer
Associates International Lawyer members, shall elect from its membership one
additional delegate to the House. A section with more than 45,000 members and
Non-U.S. Lawyer Associates International Lawyer members, shall elect from
its membership one additional delegate. All terms shall be staggered and in each
succeeding third year each position shall then be elected for a term of three
Association years. The term of a Section Delegate is three Association years,
beginning with the adjournment of the annual meeting during which elected. A
Section Delegate elected as an officer or member of the Board of Governors
ceases to be a Section Delegate at the beginning of the term as officer or
governor. If a vacancy occurs, the council of the section shall select a successor
for the unexpired term. This section does not apply to divisions.

FURTHER RESOLVED That Article 21 of the Association’s Bylaws be amended as
follows:

Article 21. Members and Associates Affiliated Professionals

FURTHER RESOLVED, That the existing Article 21.3 of the Association’s Bylaws be
deleted in its entirety and replaced with the following:

§21.3 Retired Members. Lawyers who have voluntarily placed their law
license on inactive, retired, or other status in all jurisdictions in which they
are licensed, may retain the privileges of membership upon payment of the
annual dues for Retired Members prescribed by the Board of Governors
unless the lawyers have voluntarily resigned or deactivated their licenses
under a criminal charge or conviction, or charge of sanction from the
disciplinary authority.

FURTHER RESOLVED That Article 21.4 of the Association’s Bylaws be amended as
follows:

§21.4 Sustaining Members. A member may become a sustaining member upon
payment of the annual dues for sustaining membership prescribed by the House
of Delegates Board of Governors. If eligible, a sustaining member may revert to
another membership classification.

FURTHER RESOLVED, That Article 21.6 of the Association’s Bylaws be amended as
follows:

§21.6 Special Members. (1) (a) If a person who has reached age 75 and has
been a member of the Association for at least 25 years so requests, that person
shall retain the privileges of membership but need only pay 50% of the highest
dues rate an amount prescribed by the Board of Governors.
(2) (b) Provided, however, that (i) if a person who reached age 70 prior to September 1, 2004, and has been a member of the Association for 25 years so requests, that person shall retain the privileges of membership but need not pay any Association dues; or (ii) if a person who has reached age 70 prior to September 1, 2006, but after August 31, 2004, and has been a member of the Association for 25 years so requests, that person shall retain the privileges of membership but need only pay 50% of the highest dues rate an amount prescribed by the Board of Governors.

FURTHER RESOLVED, That Article 21.7 of the Association’s Bylaws be amended as follows:

§21.7 Student Members. Law Student and Law School Graduate Members. (a) A law student who is otherwise ineligible for Association membership may apply for law student membership under rules prescribed by the Board of Governors in consultation with the Council of the Section of Legal Education and Admissions to the Bar and the Law Student Division. Dues for law student members must be paid as prescribed by the Board of Governors.

(b) A law school graduate who is otherwise ineligible for Association membership because that person has not yet been admitted to the bar of a state, territory or possession may apply for law school graduate membership under rules prescribed by the Board of Governors in consultation with the Council of the Section of Legal Education and Admissions to the Bar and the Law Student Division. Dues for law school graduate members must be paid as prescribed by the Board of Governors.

(c) A student enrolled in college or university level educational studies and has an interest in the work of the American Bar Association.

(d) Both law student members and law school graduate members:

1. may not participate in electing a State Delegate or a Delegate-at-Large
2. may not participate in nominating a member of the Board or an officer of the Association, and may not serve as an officer of the Association;
3. may not vote in Association elections other than while serving as a delegate in the House;
4. may not sign a petition for or vote in an Association referendum; and
5. may participate in other activities of the Association as authorized by the House.

(e) Dues for Student Members must be paid as prescribed by the Board of Governors.

FURTHER RESOLVED, That Article 21.8 of the Association’s Bylaws be amended as follows:

Commented [DJ9]: This provision is unnecessary as the members it pertains to are now over 75.

Commented [DJ10]: Makes changes to the student definition to include the previous “Student Associate” category into the new “Student” category.
§21.8 Scale of Dues. (a) Except as otherwise provided, a member of the Association must pay dues in the amount prescribed by the House of Delegates and in the manner prescribed by the Board of Governors. Dues include the member’s annual subscription to the American Bar Association Journal in an amount set by the Board. In special circumstance, the Board may waive payment of a member’s dues.

(b) After the fiscal year ending August 31, 2023, the Board of Governors may modify dues in an amount not to exceed the change in the Cost of Living. A change in the Cost of Living means the product, subject to the rounding up to the nearest dollar, of (a) the annual increase in the cost of living as reported by the Bureau of Labor Statistics for the preceding December times (b) the dues for the preceding fiscal year. The House of Delegates may override any such modification by a two-third vote.

FURTHER RESOLVED, That Article 21.11 of the Association’s Bylaws be amended as follows:

§21.11 Associates Affiliated Professionals. Persons who are ineligible to become members or Law Student members of the Association may qualify as an Affiliated Professional member associates if they are not admitted to practice law in any jurisdiction, but have an interest in the work of the American Bar Association, they are in one of the following classifications, have never been disbarred or suspended from the practice of law in any jurisdiction, are of good moral character, and satisfy such further eligibility requirements as may be approved by the Board:

(a) General Associates. Individuals who are not admitted to practice law in any jurisdiction, but have an interest in the work of the American Bar Association.

(b) Non-U.S. Lawyer Associates. Members of the legal profession of another country who are admitted to practice law but are not admitted to the bar of any state, territory, or possession of the United States.

(c) Student Associates. Individuals enrolled in college or university level post-secondary educational studies and have an interest in the work of the American Bar Association.

The privileges and dues of affiliated professionals shall be prescribed by the Board. However, they have no interest in the property of the Association and they may not vote, except as authorized by the House of Delegates.

FURTHER RESOLVED, That Article 30.5 of the Association’s Bylaws be amended as follows:

§30.5 Officers and Council. A section shall have a chair. It may also have a chair-elect and such other officers as its bylaws may provide. It shall also have a
council consisting of the officers and such other members as its bylaws may
provide. Notwithstanding any provisions of this section, non-members may serve
on the Council of the Section of Legal Education and Admissions to the Bar as its
bylaws may provide, International Lawyers and Affiliated Professionals may
serve on the Council or as a section leader as its bylaws may provide.
non-U.S. lawyer associates may serve on the Council and in the leadership of
the Section of International Law, the Section of Business Law, the Section of
Litigation, the Section of Antitrust Law, the Section of Environment, Energy, and
Resources, and the Section of Labor and Employment Law as their respective
bylaws may provide, and non-U.S. lawyer associates may serve on the Council
of the Law Practice Division as its bylaws may provide, and associate members
may serve on the Council and in the leadership of the Section of Dispute
Resolution as its bylaws may provide.

FURTHER RESOLVED, That Article 32.1 of the Association’s Bylaws be amended as
follows:

§32.1 Forums. (a) The House of Delegates may, by a majority vote, create a
forum to carry out, in a specified field, a responsibility that is principally to
educate its members in that field, is within the purposes of the Association, and is
not otherwise served within the Association. The forum shall also investigate and
study the matters within its responsibilities.

(b) During each Association year, a forum shall hold one or more educational
meetings, open to any member of the Association.

(c) A forum is unlimited in number and indefinite in duration. Any member of the
Association may be a member. Each forum shall adopt bylaws not inconsistent
with the Constitution and Bylaws. The bylaws become effective when approved
by the House.

(d) Each forum shall have a governing committee selected in accordance with
that forum’s bylaws. Non-U.S. Lawyer Associates International Lawyers and
Affiliated Professionals may serve on the Governing Committee of a the Forum
on Construction Law as its bylaws may provide.

(e) In carrying out its responsibilities under this section, a forum shall coordinate
its activities with those of each section or other committee of the Association that
is concerned with a matter that is also within the forum’s responsibilities.

(f) To cover its expenses, a forum may impose such dues as the Board of
Governors approves.

(g) The House may discontinue or change the name of a forum. The House shall
discontinue a forum if, for any Association year, its expenditures exceed the dues
received and advance provision has not been made to cover the excess.
TO: Board of Governors
FROM: Hilarie Bass
RE: Request to Create Working Group on Hate Speech and the Internet/
Request to Seek Outside Funding
DATE: January 10, 2018

I respectfully request that the Board of Governors approve the creation of a Working Group on Hate Speech and the Internet to address the deluge of hate speech online. The Working Group would have a chair and up to 15 members. The Litigation Section, Criminal Justice Section, ROI, Section of International Law, Forum on Communications Law, Civil Rights & Social Justice, Science and Technology, and the Standing Committee on Law and National Security would be invited to have representatives on the Working Group. The Working Group would also include representatives from major internet platform companies. We are in the process of reaching out to internet providers and this effort would only go forward if there is interest on their part to participate.

Hate uttered by extremist groups online and the violence often incited thereafter must be dealt with effectively. Legislation has been introduced to forcibly address it and a number of former state attorneys general have called on our national leaders to address the problem. But a legislative or other governmental solution to the problem is complicated by concerns that silencing any form of speech might impact free speech and unintentionally silence legitimate discourse.

Over the years, internet companies have shown a strong interest in avoiding the need for legislation to regulate user-posted content on their platforms by having those platforms enter into voluntary agreements. Under these agreements, signatories actively police content posted on their websites by users and include sufficient safeguards in their procedures to avoid impinging on the legitimate free speech rights of users. Recent reports indicate that over the past six months alone, Alphabet's YouTube, Facebook, Twitter, and Microsoft have entered into voluntary agreements (or at least made a pledge), facilitated by the European Union, to remove hate speech and other information that incites acts of terror and other violence from their platforms. These companies have already explored these issues and made efforts to effectively balance competing interests. They are well-positioned to lead other companies that host online content in a discussion aimed at eliminating posting of the most offensive and inappropriate hate speech on the internet – and the ABA is well-positioned to convene stakeholders to facilitate discussions and address this problem. The proposed outcome would be a set of principles and a voluntary agreement to significantly limit the posting of hate speech online.
As an initial step, the Working Group would host a meeting to develop a proposed set of principles. In the spring, a summit would be convened to introduce the draft principles to a broader set of stakeholders and obtain their feedback. From the final principles document, an agreement would be produced for signature by as many internet platforms as possible, and a roll out press event would introduce the agreement to an even wider audience.

The Litigation Section would provide staffing for the summit. Each of the ABA entities represented on the Working Group would be asked to provide modest funding to help cover expenses, which should be minimal since most of the work would be done via conference call. Participants in the spring summit would be expected to fund their own travel and internet companies working with the ABA on the project would be asked to cover meals, meeting rental and A/V costs for the summit. As such, approval is requested to seek outside funding. No general revenue is requested or required.

Thank you for your consideration of this request.
DATE: December 15, 2017

TO: ABA Board of Governors

FROM: Scott F. Partridge, Chair
Section of Intellectual Property Law

SUBJECT: Approval of Cooperating Agreement with Fédération Internationale des Conseils en Propriété Intellectuelle (“FICPI”)

The Section of Intellectual Property Law respectfully requests that the Board of Governors grant the approval for a three-year term from the date of signature, in 2018, until 2021, of a Cooperating Agreement between the ABA Section of Intellectual Property Law (ABA-IPL) and the Fédération Internationale des Conseils en Propriété Intellectuelle (“FICPI”) to coordinate efforts and activities with FICPI to increase member awareness and promote professional cooperation. These activities include meeting attendance and participation, program development for meetings and exchange of publications.

The agreement is a renewal of a previous three-year agreement that expired in 2017.

The agreement provides for an exchange of Liaison between the two organizations and a mutual invitation to the respective organizations’ heads to attend the other’s major annual conference as a distinguished guest.

Attached for your consideration is the Cooperating Agreement which outlines specific areas of cooperation. We will be happy to answer any questions you may have.
DRAFT

COOPERATING AGREEMENT

This Cooperating Agreement (“CA”) is made and entered into effective as of February ___, 2018 by and between the Fédération Internationale des Conseils en Propriété Intellectuelle (“FICPI”) whose seat is at Holbeinstrasse 36-38, CH-4051 Basel, Switzerland and the American Bar Association on behalf of its Section of Intellectual Property Law (the “Section”), whose address is 321 North Clark Street, Chicago, IL 60654 USA.

RECITALS

WHEREAS, FICPI is an international federation of national intellectual property associations, national sections of FICPI and individual intellectual property attorneys and is the only international non-governmental organization whose membership consists exclusively of intellectual property attorneys in private practice, with aims

To enhance international cooperation within the profession of intellectual property attorneys in private practice, promote the exchange of information and harmonize and facilitate business relations between members;

To maintain the dignity of its members and the standards of the profession of intellectual property attorneys in private practice on an international scale;

To express opinion with regard to newly proposed international and national legislation, in so far as it is of general concern to the profession and to defend the interests of its members, in particular with respect to the maintenance and invigoration of the system of intellectual property protection and of the position of intellectual property attorneys in private practice; and

To promote training and continuing education of its members and others interested in intellectual property protection by organizing local and regional ad hoc programs.

WHEREAS, the Section is the only American Bar Association entity that focuses on the full range of intellectual property legal issues, is involved in a wide variety of substantive legal activities, and has been a leader in the development of policy in the intellectual property arena, and the education of intellectual property law practitioners;

WHEREAS, the Section’s core values include a commitment to embrace and further the diversity of the legal profession; and

WHEREAS, FICPI and the Section desire to better coordinate their efforts and activities and explore ways to further cooperate.
AGREEMENT

NOW, THEREFORE, in consideration of the foregoing, FICPI and the Section agree as follows:

1. Term.

The term of this Cooperating Agreement (“CA” or “Agreement”) will begin on upon signature from both parties and will last for three (3) years, unless earlier terminated upon 30 days’ written notice of the Section to FICPI or FICPI to the Section, as the case may be.

2. Cross-Promotion of Meetings.

A. The Section will provide promotional support for two (2) significant FICPI programs, including FICPI’s Annual Open Forum and World Congress, and one significant program of the U.S. Section of FICPI (“FICPI-US”), that is, the FICPI ABC Conferences. The promotional support to be provided by the Section hereunder will include, for each program: (i) one (1) inclusion (subject to compliance with data protection rules) of a promotion of such meeting or program, as provided by FICPI, by the Section directed to Section members, in an appropriate electronic communication, and (ii) an appropriate notice listing of FICPI’s program on the Section’s events calendar on the Section’s website, including a hyperlink, if available, from the Section’s events calendar to any online agenda of, or other information for, such FICPI program. The Section will be listed as a “Cooperating Entity” (or similar designation) for each such meeting, and will have such status reflected in meeting materials and at each such meeting. To the extent possible, Section members will be able to take advantage of the same registration rates for such meeting as are made available to members of FICPI.

B. FICPI will provide promotional support for the Section’s Annual Intellectual Property Law Conference and Fall educational seminar (currently known as IP West). This promotional support will include, for each meeting: (i) one (1) electronic distribution (subject to compliance with data protection rules) of the agenda of such meeting or program, as provided by the Section, by FICPI directed to FICPI members interested in the topic of the Section programs and (ii) an appropriate notice listing of the Section’s program on FICPI’s events calendar on FICPI’s website, including a hyperlink, if available, from FICPI’s events calendar to any online agenda of, or other information for, such Section program. FICPI will be listed as a “Cooperating Entity” (or similar designation) for each such meeting, and will have such status reflected in meeting materials and at each such meeting. FICPI will also endeavor to procure that FICPI-US will post a notice as per (ii) above on its website, and FICPI-US will also be listed as a “Cooperating Entity” (or similar designation) for each such meeting, and will have such status reflected in meeting materials and at each such meeting. To the extent possible, FICPI members will be able to take advantage of the same registration rates for such meeting as are made available to members of the Section.

3. Promotional Support for Other Programs.

In addition to the meetings stated in Section 2, above, FICPI and the Section will each provide the other with similar promotional support for one additional meeting per year, as selected by the
host association for such meeting. This promotional support will include, for each such meeting, one (1) electronic distribution (subject to compliance with data protection rules) of relevant meeting information by the distributing party as provided by the host party to the distributing party.

4. Development of Joint Programs.

The Section and FICPI may discuss the feasibility and desirability from each party’s perspective of sponsoring, planning, and holding a joint stand-alone program or conference, on a mutually acceptable topic, prior to the expiration of this CA. The Section and FICPI would share the financial risk and reward from such program on a to-be-determined basis. If such a program is undertaken in the first year of this CA’s term, and is deemed successful by each of the Section and FICPI, the Section and FICPI may work toward planning and holding additional joint stand-alone conferences on a mutually acceptable subject during the term of this CA.

5. Leaders’ Attendance.

A. The Section will provide one (1) complimentary registration to its Annual Intellectual Property Law Conference (including one complimentary ticket to all ticketed luncheons and receptions) and Fall educational seminar (currently known as IP West) (including one complimentary ticket to all ticketed luncheons and receptions) to FICPI’s President or his/her designee. FICPI’s President or his/her designee will be designated as a “Distinguished Guest,” or similar designation, at the Section’s Annual Intellectual Property Law Conference, will be invited to attend the Section’s Council meeting at the Conference, and will be invited to present brief remarks to such body.

B. FICPI will provide one (1) complimentary registration to its annual Executive Committee meeting (“ExCo”) to the Section’s Chair or his/her designee. The Section’s Chair or his/her designee will be designated as a “Distinguished Guest,” or similar designation, at FICPI’s Executive Committee meeting and will be invited to attend a meeting with FICPI officeholders at this time.

C. The leadership groups of each of FICPI and the Section will meet at least once per year to discuss issues of common interest. Such meeting would take place at the Section’s Annual Intellectual Property Law Conference, or the ABA Annual Meeting, or at FICPI’s Executive Committee meeting, or on another mutually convenient occasion, whichever is deemed most appropriate and convenient by both leadership groups.

6. Cross-Promotion of Membership and Distribution of Membership Materials.

A. Once per year, FICPI will distribute, and will endeavor to procure that FICPI-US will distribute, via an appropriate electronic communication (subject to compliance with data protection rules) or other method of distribution acceptable to each of FICPI and the Section, to all its members, the Section’s standard membership brochure and related information. Such membership package will be provided by the Section and will include a statement from an appropriate FICPI leader encouraging FICPI members to consider membership in the Section.
B. Once per year, the Section will distribute, in an appropriate electronic communication (subject to compliance with data protection rules) to its members eligible to join FICPI, FICPI’s standard membership package. Such membership package will be provided by FICPI and will include a statement from an appropriate Section leader encouraging Section members to consider membership in FICPI.

7. Appointment of Liaisons.

The Section and FICPI shall each appoint at least one liaison to the other party. The liaisons will act as a primary, but not exclusive, point of contact between the Section and FICPI for matters related to this CA and other issues of common interest. Liaisons will be responsible for their own registration fees to meetings which they attend. Unilateral decision to waive any particular liaison registration fee for the other entity’s liaison will be at the discretion of the each respective entity.

8. Exhibit Space.

A. The Section will provide to FICPI a standard-sized exhibit space at the Section’s Annual Intellectual Property Law Conference, which space may be used by FICPI to display items of potential interest to meeting registrants, including membership information.

B. FICPI will provide to the Section a standard-sized exhibit space for at least one (1) relevant FICPI event, every year, which space may be used by the Section to display items of potential interest to meeting registrants, including membership information.


Subject to the provisions and term of this Agreement, each Party grants to the other Party a limited, worldwide, nonexclusive, nontransferable, non-assignable right and license to use the other’s trademark(s) solely to perform under and in accordance with this CA.

Except for the express license rights granted in this Agreement, each Party retains all right, title and interest in its trademark(s) and any modifications thereto, including all copyright, patent, trademark, trade secret and other inherent intellectual property rights.

Any and all materials of FICPI that reference the American Bar Association or the Section must be pre-approved in writing by the Section prior to distribution, which approval shall not be unreasonably withheld or delayed. Any and all materials of the Section that reference FICPI or FICPI-US must be pre-approved in writing by FICPI prior to distribution, which approval shall not be unreasonably withheld or delayed.

Each Party agrees that it shall not:

i. Use the other Party’s trademarks in any manner or with respect to any product or service not contemplated by this Agreement, unless the other Party agrees to such use in writing;
ii. Use the other Party’s trademarks in any manner that could reasonably be expected to diminish the commercial value of the other party’s trademarks, including, without limitation, in close proximity with any other trademark, trade name, service mark, logo, name or image which could reasonably be expected to create any form of composite mark;

iii. Knowingly permit any unauthorized third party to use the other Party’s trademarks; or

iv. Knowingly use or permit the use of any trademark, trade name, service mark, logo, name or image in a way which could reasonably be expected to cause confusion with the other Party’s trademarks.

At the termination of this Agreement, each Party agrees that it shall remove the other Party’s trademarks from its materials. Either Party may terminate this Agreement immediately if the other Party violates these provisions.

10. Endorsement Policy.

FICPI acknowledges and agrees that ABA must comply with all ABA policies, procedures, and practices and cannot endorse the products or services of FICPI or any non-ABA entity. No provision of this Agreement shall be construed to permit or imply the endorsement by ABA of any FICPI product or service. FICPI acknowledges that any such endorsement is expressly prohibited by ABA policy.

11. Assignment.

No Party may assign this Agreement without the prior written consent of the other Party. All assignments of rights are prohibited, whether they are voluntary or involuntary, by merger, consolidation, dissolution, operation of law or any other manner. No Party may delegate any performance under this Agreement. Any purported assignment of rights or delegation of performance in violation of this Section is void.

12. Relationship of the Parties.

ABA and FICPI are independent entities and nothing contained in this Agreement is intended to create a partnership or joint venture between the parties. Except as provided under this Agreement, neither Party shall have any right or authority to bind the other party to any contract, agreement, or undertaking with any third party.

13. No Waiver.

The failure of any Party to insist upon performance of any of the provisions of this Agreement shall not be construed as a waiver of such provisions at that time or any prior or subsequent time.
IN WITNESS WHEREOF, the parties hereto have executed this Cooperating Agreement as of the date first written above.

American Bar Association

______________________________
Hilarie Bass, President

Fédération Internationale des Conseils en Propriété Intellectuelle (FICPI)

______________________________
Douglas N. Deeth, President of FICPI
To:        Board of Governors

From:  Tracy Giles, Chair, Standing Committee on Membership

Re:    Membership Report

Date:    January 26, 2018

I. Executive Summary

First, the good news. As of January, the ABA’s overall membership count stood at 424,385, which is 1.5% higher than it was at the same time last year. We also continue to gain traction among law student in both the free and paid categories, as well as in our Full School Enrollment Program. Our other group membership programs continue to bear fruit especially among large law firms. This effort has been bolstered by President Bass’s series of Managing Partner Forums. Many other efforts, such as our New Member Welcome Stream and the redesign of the website, are well along and will begin having a positive impact on membership. But, however necessary and excellent these efforts are, they alone will not be enough.

So now for the bad news. Among lawyers, membership is down by 3.8%. Lower law school enrollments, combined with fewer people taking and passing the bar, continues to have a negative effect on our pipeline of young members. Young Lawyer Division membership was 142,857 on December 31, 2015. Three years later, December 31, 2017, YLD membership stood at 100,243. That’s a difference of 42,614 memberships.

The number of dues-paying lawyer members has fallen for more than a decade and as of the end of December stood at 164,891. This impacts our dues collections, which are down year-over-year by $1.46 million. Collections as of January 19 were at $52.02 million.

As you know, the Standing Committee on Membership (SCOM) has been working to create and refine a new membership model internally called OneABA, that addresses the long-term declines in membership. It simplifies our complex dues structure and adds more value by moving the ABA from an á la carte membership to a bundled ABA membership that includes entity memberships, free CLE and e-Content. Although the need to be more relevant and innovative has been evident for a while, some of these proposals represent radical thinking for the ABA. But from the Standing Committee’s perspective, the question was: Are we being radical enough to move the needle on membership?

To that end, research was conducted by Dr. JP Dubé and provided initial data for decision-making.
Then, as reported to you in Miami, the ABA followed up by hiring the marketing firm Avenue to conduct qualitative and quantitative research to validate, from a marketing perspective, the proposed new membership models. Since they started in October, much progress has been made. In-person and online focus groups were held in early December to gather insights regarding ABA membership. Audiences included young lawyers, experienced lawyers, large-firm lawyers, solos, and small-firm practitioners. Some of the consistent themes from the focus groups indicate that lawyers have many options for getting their needs met; CLE is important but it is widely available and often free; for young lawyers, local is important; and lawyers primarily want focused, specialized information.

These findings helped inform the development of the quantitative online survey. The survey was designed to further our understanding of the level of interest, purchase intent and “willingness to pay” of any new membership offering. Additionally, the survey will uncover challenges or barriers to purchasing and the overall perceived strengths and weaknesses of the offering and its overall marketplace potential. The survey was first tested by members of the Standing Committee on Membership in late December and then deployed via email to 198,024 members and 489,490 non-members. The survey closed on January 21 with a total response of 15,807 lawyers. Among responders, 9,992 members (5.0% of members emailed) and 5,815 non-members (1.2% of non-members emailed) completed the survey. The survey response was very similar to the high response rate achieved by the conjoint study. Analysis and financial modeling is under way to provide insights and direction on the plan forward.

Helping the ABA shape the membership model of the future is the OneABA Working Group, made up of members and liaisons of SCOM, SOC appointees, ABA staff and ABA leaders. The Working Group was first formed as a staff group in June and continues to meet weekly to gain consensus on key elements and finalize elements of the proposal for Board consideration. An in-person meeting was held December 14 in Chicago. More than 60 ABA leaders and staff participated in the meeting to discuss and finalize elements of the new membership model. The meeting was productive, as consensus was reached on a number of open issues.

In January, a revenue share exercise was conducted to involve section leaders in actively reviewing options. Membership category changes were agreed upon affecting international lawyers and students. Additionally, the category for non-lawyers currently called “associates” would be renamed “affiliated professionals.” As these changes require amending the Constitution and Bylaws, draft language was prepared and will be presented to the Board at Midyear. An update on the progress – areas of consensus and continued areas of focus – was prepared and will be shared with the Board.

Finally, you’ll find the full list of ABA pricing pilots approved for FY2018 attached. As those of you on the Board last year will remember, when I asked for approval of the pilot program, I indicated that the Membership Committee put a moratorium on any new pilots until decisions were made on the new membership model. Therefore, we are not asking for approval of any new pilots and will be continuing all current pilots that are not otherwise slated for expiration.

I look forward to sharing more about SCOM’s efforts on all membership fronts when we meet later this month in Vancouver.
II. FY2018 Performance

<table>
<thead>
<tr>
<th>Membership Counts</th>
<th>FY2018</th>
<th>FY2017</th>
<th>Change from LY</th>
<th>% Change from LY</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>As of January 19</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lawyers</td>
<td>297,796</td>
<td>309,627</td>
<td>-11,831</td>
<td>-3.8%</td>
</tr>
<tr>
<td>Associates</td>
<td>16,411</td>
<td>17,114</td>
<td>-703</td>
<td>-4.1%</td>
</tr>
<tr>
<td>Students</td>
<td>110,178</td>
<td>91,544</td>
<td>18,634</td>
<td>20.4%</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td>424,385</td>
<td>418,285</td>
<td>6,100</td>
<td>1.5%</td>
</tr>
<tr>
<td>Premium Students (cont.)</td>
<td>12,579</td>
<td>10,105</td>
<td>2,474</td>
<td>24.5%</td>
</tr>
<tr>
<td>Premium Students (grads)</td>
<td>8,388</td>
<td>323</td>
<td>8,065</td>
<td>2496.9%</td>
</tr>
<tr>
<td><strong>Total Premium</strong></td>
<td>20,967</td>
<td>10,428</td>
<td>10,539</td>
<td>101%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>FY2018 Dues-Paying Lawyer and Associate Counts (as of Dec 31)</th>
<th>FY2018</th>
<th>FY2017</th>
<th>Change from LY</th>
<th>% Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>164,891</td>
<td>171,486</td>
<td>(6,595)</td>
<td></td>
<td>-3.8%</td>
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</table>

<table>
<thead>
<tr>
<th>FY2018 Dues Collections (as of January 19)</th>
<th>FY2018</th>
<th>FY2017</th>
<th>Change from LY</th>
</tr>
</thead>
<tbody>
<tr>
<td>$52,019,543</td>
<td>$53,481,262</td>
<td>-$1,461,719</td>
<td>-2.7%</td>
</tr>
</tbody>
</table>

**Membership Counts**

As of January 19, ABA membership was 424,385 representing an increase of 1.5% vs. the same time last year.

**Lawyer Membership**

Lawyer counts are down year-over-year. A major part of the decline is the ongoing impact of the nearly 30% decline in law school enrollment, which began in FY2011, and is now moving through the young lawyer pipeline.

The ABA has enrolled all new bar admittees for 12 months of complimentary membership since 1986. Last year, the ABA’s new member pipeline of bar admittees shrank by nearly 20%, and counts for this year continue to be down.

Over the last three years, the number of young lawyer members (those in practice for five years or less or under age 36) is down by more than 42,614. This is, in part, due to the lower numbers of new bar admittees. That’s not the sole reason, however, as the ABA’s retention rates are declining among new and existing members.

**Law Student Membership**

We surpassed 100,000 student members for the first time in the ABA’s history last August. It’s very encouraging that today, the vast majority of law students are members of the Association. The ABA’s market share of law students has improved from just 18% in FY2014 to 74% at the end of April of 2017. We continue to develop strong programs for law students so they will understand the value of membership and the need to participate in their national professional association.
Since August, more than 12,000 current law students enrolled in ABA Premium, which is up 25% from last year’s enrollment figures. Students pay a fee of $25 for the Premium option. Premium members from last year who graduated were retained as Premium Grads so they can continue to access the BarBri member discount.

These membership gains in the student area are expected to pay dividends as membership drives awareness, value and hopefully a greater conversion rate to dues paying members as lawyers.

**Associate Membership**

Membership among “Associates” (non-US licensed lawyers, paralegals, law librarians, etc.) is down slightly year-over-year.

**Entity Membership**

At the end of December, entity memberships stood at 387,383, a decline of 4.5%. Only 48.1% of lawyer members belong to one or more entities. On average, they belong to 1.5 entities.

**Dues Collections**

As of January 19, dues collections of $52.02 million represented a change of -2.7% vs. last year. Group collections are running behind last year by 2.2%. Collections for individually billed members are running behind last year by 4.8%.

### III. Current Membership Campaigns

**Full Firm and Group Membership**

Full firm membership offers a discounted rate to firms that agree to enroll all of their lawyers in the ABA. Over the last few years, we have added more than 40 firms to the program.

Membership staff continues to work with President Bass on a series of Managing Partner Forums being held throughout the country during her presidential year. Programs have been held in Miami and Boston thus far, with President Bass discussing issues affecting the legal profession and the livelihood of the firms in attendance, and how the ABA is addressing these issues. Additional forums are being planned for 2018 in San Francisco in February, Chicago in March, Washington D.C. in April, and dates yet to be determined in Los Angeles and New York. Six firms represented at the first two forums were pitched on Full Firm membership, with one firm joining thus far as a result (Bilzin Sumberg in Miami).

Group membership offers firms the opportunity to consolidate their lawyer memberships into one invoice (without any discounts). The ABA benefits from an increased membership retention rate and billing efficiencies. Members at group-billed firms retained at a rate of over 92% last year compared to 64% for individually billed members. More than 100 new group accounts were created for FY2018 as a result of sales calls made by membership staff. The Group Membership recruitment campaign began the last week of November, with 15 new group accounts added in the first two weeks of calling. Overall, 800+ new group accounts have been created since these sales efforts began in 2014.
New Bar Admittees

The New Bar Admittee campaign is a year-round effort to obtain the names and contact information for all newly admitted lawyers. As we have been doing for the last 30 years, the ABA then enrolls them for a complimentary year of membership as a welcome to the profession. Last year, the ABA received lists of recently admitted attorneys from nearly all states and uploaded 33,320 new bar admittee members through this outreach. Between September and November, more than 9,900 new bar admittees from 35 states were enrolled.

Law Student Recruitment

The Law Student Recruitment campaign is ongoing. The ABA recruits new student members through both individual student marketing and lists of students provided by law schools. We currently have 101 schools participating in the Full School Enrollment Program. To date, we have all but eight of these lists in hand. Four schools have promised us the list by the end of the year and we are working to find leaders to help with the other schools that have been slow to communicate and submit their lists. ABA leaders, alumni and staff have been asked to engage with all 204 law schools to ensure maximum enrollment of law students.

“Bar Birthday” Recruitment Campaign

The “Bar Birthday” campaign consists of a monthly email designed to emulate a “Paperless Post” invitation to celebrate the members “Bar Birthday” (anniversary month of when they passed the bar), leading them to a microsite to claim their free section membership offer. This campaign is a recurring monthly campaign. Overall, the FY2018 campaign recruited over 1,900 new members, for an 11% increase from the 2016 Bar Birthday campaign.

Telemarketing

Telemarketing recruitment began in late January/early February this year. Last year, over 37,000 new members were recruited. The ABA uses a combination of state bar records and its own prospect list to identify non-members.

Although telemarketing is a long-standing recruitment channel that generates a large number of members, and, importantly, a positive return on investment, it is the chair of SCOM’s opinion that the ABA should reduce its reliance on telemarketing in coming years.

Member Census

To tailor ABA membership to individual lawyer preferences, we are engaging in a campaign to collect lawyer areas of interest, demographic and email communication information. Two versions (short and long versions) of the ABA Member Census were sent out in late November/early December to 10,000 members. Early returns began arriving the week of December 18. The test concluded in late-January and the full roll-out of the “winner” version, the short form, will begin in February.

Drop Prevention

Drop prevention efforts are in full swing and have started with “Act Now!” stickers that were applied to the December issue of the ABA Journal as well as the winter issues of the Section publications. A false cover with
dues amounts owed and a “LAST ISSUE” message was sent to unpaid members along with the January issue of the ABA Journal. Drop prevention telemarketing began the first week of January and used a CLE in the City Series incentive as a reward for payment. Print materials were slated to hit mailboxes by the second week of January. Unpaid members will be dropped for nonpayment of dues on January 26.

**Member Outreach**

A “New Year, Better You” recruitment campaign on Facebook and Twitter starts 2018 activities for the Member Outreach Team. The posts feature videos of ABA members explaining how their membership has impacted their careers. Non-members are invited to make a positive change in the new year by joining the ABA.

Another social media campaign began in mid-January. “Briefly Speaking” challenges experienced lawyers to provide their best advice to younger attorneys. Followers of ABA’s Facebook account will vote for their favorite tips. A grand prize of airfare and a travel pillow will be awarded to the top tipper. Those who submitted the top 10 tips will receive recognition in the ABA Journal.

The “ABA Membership Advocates” program is concluding a successful second quarter. Advocates have participated in online projects such as #ABAstands4, submitted testimonials for a brochure and tested a website designed to connect law students with lawyers.

**IV. Opportunities for Change**

The Standing Committee on Membership and staff are well aware of the trends facing the profession and our Association. Like many large national associations, the ABA is struggling to convert young members into dues-paying members. The trends regarding dues revenue and dues-paying members weigh heavily on all of us and must be reversed if we are going to continue to represent the voice of America’s lawyers. To that end, the Standing Committee on Membership and staff began a comprehensive review of the ABA’s pricing and value structure a year and a half ago. Much work has been done and much more will be done until we get this right.

It is my pleasure to serve as your Membership Chair in these interesting times, because it is an opportunity for change. It is an opportunity for the ABA to become more relevant to more lawyers in America and around the world. I look forward to talking with you in person in Vancouver.
Attachment 1: ABA Dues Pilots

The following pilots were approved by the Membership Committee and the Board of Governors and are currently in market:

1. Full Firm Membership Program (formerly called Flat Rate Firm Group Billing);
2. Public Service Membership Program (for non-U.S. licensed lawyers only);
3. 25% Promotional Offer;
4. 50% Promotional Offer;
5. JAG Waiver for First Five Years;
6. Paralegal Pricing Program;
7. Canadian Full Firm Program;
8. International LL.M. Students;
9. Inactive Lawyers;
10. International Group Membership;
MINUTES

AMERICAN BAR ASSOCIATION
BOARD OF GOVERNORS

MEMBER SERVICES COMMITTEE

Miami, Florida
The Ritz-Carlton Coconut Grove
October 18-20, 2017

The Member Services Committee (“Committee”) of the Board of Governors (“Board”) of the American Bar Association met at the Ritz-Carlton Coconut Grove in Miami, Florida, on October 19, 2017. Chair Andrew J. (Josh) Markus presided.

The following members of the Committee were in attendance for the October 19, 2017, Committee meeting: Michael H. Byowitz, Hon. William C. Carpenter, Scott C. LaBarre, Lynne B. Barr, Orlando Lucero, Lorelie S. Masters, John L. McDonnell, Jr., G. Meredith Parnell, C. Edward Rawl, Jr., Darcee S. Siegal, Mary L. Smith and Alan Van Etten. Executive Director Jack L. Rives and Jarisse Sanborn, ABA General Counsel were present for all or a portion of the meeting.

INTRODUCTORY REMARKS FROM COMMITTEE CHAIR

Chair Markus welcomed the members of the Committee and staff.

MATTERS FOR REVIEW BY THE BOARD

3.1 Requests to Amend Bylaws

a. The Senior Lawyers Division (Division) requested approval to amend its bylaws which are required due to the conversion of the Division from a dues-supported entity to a general revenue supported entity consisting of all Association members over 62 and others interested in the elder law field. The Division presently has over 63,000 members. The amendment amended the age to qualify as a member of the Division from 55 to 63 years old or have been licensed to practice law for 37 or more years in a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States. The Senior Lawyers Division’s membership approved the amendment at the Division’s Annual Meeting held on August 12, 2017 in New York City.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Member Services Committee recommended approval of the request of the Senior Lawyers Division to amend its bylaws which are required due to the conversion of the Division from a dues-supported entity to a general revenue entity consisting of all Association members over 62 or have been licensed to practice law for 37 or more years in a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States, and others interested in the elder law field.
b. The Section of Labor and Employment requested approval to amend its bylaws to clarify that Associates who are elected to the Council have the right to vote and to rename the “Strategic Planning Committee” to “Executive Committee” to more accurately reflect the role of the Committee. The Section Council approved the amendments at the August 11, 2017 and the Section Members at the August 12, 2017 Section Business Meeting.

**UPON MOTION DULY MADE, SECONDED AND CARRIED:**

The Member Services Committee recommended approval of the request of the Section of Labor and Employment to amend its bylaws to clarify that Associates who are elected to the Council have the right to vote and to rename the “Strategic Planning Committee” to “Executive Committee” to more accurately reflect the role of the Committee.

c. The Appellate Judges Conference requested approval to amend its bylaws to provide clarification in various Articles including, but not limited to, membership eligibility, meetings, voting and Executive Committee powers and functions. The proposed amendments were approved by the Judicial Division on September 14, 2017.

**UPON MOTION DULY MADE, SECONDED AND CARRIED:**

The Member Services Committee recommended approval of the request of the Appellate Judges Conference to amend its bylaws to provide clarification in various Articles including, but not limited to, membership eligibility, meetings, voting and Executive Committee powers and functions.

d. The National Conference of State Trial Judges requested approval to amend its bylaws to indicate that membership shall be open to any member of the Judicial Division of the American Bar Association (Division) who is a judicial officer of a state court exercising general jurisdiction and to clarify the eligibility for membership for a member that retires from judicial office, a former member in good standing, military judges, and international judges. On August 11, 2017 during the Annual Meeting in New York, New York, the Executive Committee and the Delegation of the Judicial Division’s National Conference of State Trial Judges duly approved the amendments.

**UPON MOTION DULY MADE, SECONDED AND CARRIED:**

The Member Services Committee recommended approval of the request of the National Conference of State Trial Judges to amend its bylaws to indicate that membership shall be open to any member of the Judicial Division of the American Bar Association who is a judicial officer of a state court exercising general jurisdiction and to clarify the eligibility for membership for a member that retires from judicial office, a former member in good standing, military judges, and international judges.
3.2 Request from Standing Committee on Membership to Add Shred-It to ABA Advantage Program

The Standing Committee on Membership requested approval to add Shred-It to the ABA Advantage Program. Shred-It, founded in the mid-1980’s, is a secure document destruction service that helps firms get rid of outdated paper. The Chicago-based company has more than 5,400 employees in locations around the world, and offers hard drive and media destruction, as well as paper shredding. ABA members will receive a minimum 15% discount on Shred-It services, although local branches may opt to charge even less. Shred-It will pay the ABA royalties of 5% of total revenue and will participate at the Silver ($15,000) marketing level. The initial contract term will be one year, with the option to renew if the offering is successful.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Member Services Committee recommended approval of the request of the Standing Committee on Membership to add Shred-It to the ABA Advantage Program. ABA members will receive a minimum 15% discount on Shred-It services, although local branches may opt to charge less. Shred-It will pay the ABA royalties of 5% of total revenue and will participate at the Silver ($15,000) marketing level. The initial contract term will be one year, with the option to renew if the offering is successful.

3.3 Request from Section of Real Property, Trust and Estate Law to Offer Member Benefit from WealthCounsel

The Section of Real Property, Trust and Estate Law (Section) requested approval to offer a benefit to members from WealthCounsel. WealthCounsel provides members access to document drafting solutions, educational programs, and legal marketing resources — all with the support of a nationwide member network. Members pay a monthly fee between $397 and $995 to join. In March 2017, WealthCounsel contacted the ABA Advantage team to investigate entry into the Advantage program. Since the product is focused on a specific practice area, they were referred to the Section. The Section’s executive committee entered into negotiations with WealthCounsel and decided to offer the discounted membership as a benefit to Section members. WealthCounsel does not currently offer any other discounts. The Section members will receive a 15% discount on all regular-priced WealthCounsel products purchased through the Section’s program. WealthCounsel will pay the Section royalties totaling 4% of the net sales made through the Program. Royalty payments will be made quarterly, within 30 days after the end of each contract year quarter. WealthCounsel will pay the Section a marketing fee of $13,500 to market the benefit to Section members. Member Services has been advised that the Office of General Counsel has reviewed and approved the agreement between the Section and WealthCounsel.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Member Services Committee recommended approval of the request of the Section of Real Property, Trust and Estate Law (Section) to offer a member benefit to members from WealthCounsel. The Section members will receive a 15% discount on all regular-priced WealthCounsel products purchased through the Section’s program. WealthCounsel will pay the Section royalties totaling 4% of the net sales
made through the Program. Royalty payments will be made quarterly, within 30
days after the end of each contract year quarter. WealthCounsel will pay the Section
a marketing fee of $13,500 to market the benefit to Section members.

3.4 Request from Standing Committee on Meetings and Travel Regarding ABA Annual
Meeting

The Standing Committee on Meetings and Travel (Standing Committee) requested approval of
the format and pricing of the 2018 ABA Annual Meeting. The 2017 Annual Meeting debuted a
focused effort (CLE in the City) to attract local attorneys to the ABA Annual Meeting by offering
low-cost CLE held at exciting venues and premier law firms in Midtown Manhattan. Programming
was developed by the New York legal community to showcase substantive topics and speakers
who are experts within that practice area. With some modifications, the Standing Committee
proposes that this outreach be repeated at the 2018 Annual Meeting. In addition, the Standing
Committee proposes a change to the format of the Annual Meeting with respect to the ABA Expo,
as well as slight modifications to the registration and ticket pricing. It proposes eliminating the
ABA Expo beginning with the 2018 Annual Meeting and replacing it with a networking area which
will allow ABA entities to showcase their products and services. This will also allow for
sponsorship opportunities from vendors that have a more focused interest in the type of
registrants in attendance. The Expo is no longer a profitable non-dues revenue source and most
remaining vendors have not been pleased with the attendance and return on investment.

The Standing Committee requested approval of the proposed registration fees for the 2018
Annual Meeting. It is a revenue neutral proposal with minor modifications in two registration
categories:

1) Registration Fees
   Modify the pricing structure for the ABA Annual Meeting to include a $25 increase in the
   Standard Registration rate, from $225 to $250. This category includes access to the
   President’s Reception. The adjustment is proposed to better reflect the increase in cost and
   individual ticket price for this event. All other registration rates would remain the same and as
   follows:

   **Limited registration rate**
   $95 –Member/Affiliate
   $295 –Non-Member
   (Includes all governance meetings, Plenary Session/ABA Rally and the General Assembly)

   **Standard registration rate**
   $250 –Member/Affiliate
   $450 – Non-Member
   (Includes all governance meetings, Plenary Session/ABA Rally, General Assembly,
   President’s Reception and a 20% discount on ABA tours)

   **All-Access registration rate**
   $495 – All-Access CLE Registration
   $695 –Non-Member
   (Includes access to all Annual Meeting CLE programs (both entity and showcase),
governance meetings, Plenary Session/ABA Rally, General Assembly, President’s Reception and a 20% discount on ABA tours)

2) Guest Registration
Reduce the number of Guest Registration rate options to just one, but at a lower price point of $50. With the elimination of the ABA Expo, the Standing Committee proposes eliminating one social event that was previously included in the $95 Guest Registration which is the reason the Standing Committee proposes a lower price. This price is applicable to all guests, including children.

Limited registration rate
$50 – Member/Affiliate
(Includes Plenary Session/ABA Rally and the General Assembly)

3) Ticket Prices
Modify ticket prices to more accurately reflect the value being offered. This involves reducing the Showcase CLE program tickets, reducing the President’s Reception ticket prices and increasing the CLE in the City ticket prices.

Individual tickets for guests, and those that have purchased the Limited and Standard Registrations will be available for purchase at the following prices:

Showcase CLE Program Tickets
$75 General Attendee – Admittance to one CLE Showcase Program
$35 Judges, Government/Military Lawyers – Admittance to one CLE Showcase Program

Individual Tickets
$185 – President’s Reception
$50 – President’s Reception (17 and under)

Local Attorney Individual Ticket Sales
As was done for the first-time last year, individuals living in the tri-state areas of Illinois, Wisconsin and Indiana will be given the opportunity to purchase a ticket to an ABA event, without paying an Annual Meeting registration fee. This offer is limited to one ABA ticket per attendee, and a service charge of up to $10 will be added to the price of each ticket.

4) CLE in the City
The CLE in the City Series attracted 985 tri-state area lawyers to the New York Annual Meeting, many of whom would not typically attend an ABA meeting. The Standing Committee proposes this outreach be repeated for the 2018 Annual Meeting emphasizing participation and planning by law firms and state and local bar associations, to develop programming that will include 6-10 tracks and showcase experts within the Chicago legal community. CLE in the City attendees did not pay a meeting registration fee, however sessions were priced at $25 and lunch events were $20. The Standing Committee recommends some modification to the format and pricing structure of the CLE in the City as follows: Reduce the number of program tracks to six (or more at the option of the Standing Committee in cooperation with the Annual Meeting Planning Committee) to be held on just one day, Thursday, August 2, 2018. Each track would contain three programs with an informal, networking lunch. The timing would be as follows:
Program #1 - 10:30 a.m. – 12:00 p.m.
Networking Lunch – 12:00 p.m. – 1:00 p.m.
Program #2 – 1:15 p.m. – 2:45 p.m.

a) Increase the cost of the CLE sessions to $35, and $20 for the networking lunches. CLE in the City sessions will also be available to individuals on a complimentary basis who have registered at the All-Access registration rate. A limited number of complimentary CLE session tickets will be made available for hosting law firms.

5.) Scheduling
It remains the Standing Committee’s goal to avoid scheduling conflicts at the Annual Meeting and deliver high-level programming with broad appeal across all levels of the Association. Once again there will be just one black-out time for the General Assembly, Saturday, August 4, 4:30 – 6:00 p.m. During this time, no entity can either hold CLE programs or high-profile events.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Member Services Committee recommended approval of the request of the Standing Committee on Meetings and Travel for the format and pricing of the 2018 ABA Annual Meeting as outlined above.

3.5 Requests from Section of International Law

a. Registration Fee for 2018 Midyear Meeting

The Section of International Law in conjunction with the Judicial Division requested approval to charge a $50 registration fee for a program to be held at the 2018 Midyear Meeting in Vancouver. The program is entitled View from the Bench: The State of International Law. An esteemed panel of judges will explore the current status of international law in judicial decision-making, including cross border enforcement of judgments, international precedent, and the continuing relevance of, and attacks on, the place of international law in American courtrooms.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Member Services Committee recommended approval of the request of the Section of International Law and the Judicial Division to charge a $50 registration fee for a program to be held at the 2018 Midyear Meeting in Vancouver. The program is entitled View from the Bench: The State of International Law.

b. Memorandum of Understanding with International Development Law Organization

The Section of International Law requested approval to enter into a Memorandum of Understanding (MOU) with the International Development Law Organization to provide pro bono assistance as requested through its work with the Investment Support Programmer for the Least Developed Countries (LDCs) and the UN Office of the High Representative for the Least Developed Countries, Landlocked Developing Countries and Small Island Developing States. The Investment Support Programs for the LDCs aims to provide on-demand legal and professional assistance to governments of the LDCs and under-resourced LDC firms to help them
in investment-related negotiations and dispute settlement. The Program’s objective is to establish an international scheme for legal aid and expert assistance. The MOU contains no financial obligations; neither Section funds nor ABA general revenue are required or expected.

**UPON MOTION DULY MADE, SECONDED AND CARRIED:**

The Member Services Committee recommended approval for the Section of International Law to enter into a Memorandum of Understanding with the International Development Law Organization, subject to review and approval of the Memorandum of Understanding by the Office of the General Counsel, and a signed copy filed with the Division for Policy and Planning.

### 3.6 Request from Standing Committee on Amicus Curiae Briefs to Amend Guidelines

The Standing Committee on Amicus Curiae Briefs requested approval to amend Section 2 of the Amicus Curiae Brief Guidelines as follows:

2. **Filing an Association Amicus Curiae Brief**

   The filing of an amicus brief in the name of the Association must be authorized by the Board of Governors. The Board will only consider authorizing a proposed brief if it is submitted by Association entities authorized to make recommendations to the House of Delegates or by other organizations represented in the House, and if the Association President has received the Standing Committee’s certification, as discussed in Section 1, above.

   The brief will be filed only in the name of the Association and not in the name of an Association entity. The Association President appears as counsel of record at the Association headquarters address. The names of the lawyers who wrote the brief are customarily added, along with their law firm affiliation and local addresses, at the option of the drafters and their law firms.

   Coordination of the review and filing process has been assigned to the Association’s General Counsel’s Office. Notice requirements and submission of the application and proposed brief to the Board of Governors are the responsibility of the Policy and Planning Division.

   Because Association amicus briefs are public communications to the courts, the press, the public and the Association’s members, every effort should be made to ensure that there is sufficient time for thorough consideration of an application and the proposed brief by the Board of Governors, the Standing Committee and Association entities that have an interest in the issues presented. Accordingly, as soon as an entity begins to consider a request that an amicus brief be filed in a matter, the General Counsel’s Office should be contacted.

**UPON MOTION DULY MADE, SECONDED AND CARRIED:**

The Member Services Committee recommended approval of the request of the Standing Committee on Amicus Curiae Briefs to amend Section 2 of the Amicus Curiae Brief Guidelines to allow, at the option of the drafters, to include their law firm affiliations and addresses on the briefs.
3.20  Approval of Minutes

The Member Services Committee reviewed the minutes of its February 2, 2017 meeting in New York, New York.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Member Services Committee approved the minutes of its August 10, 2017 meeting in New York, New York.

3.30  Membership Report

The Member Services Committee received the written report from the Standing Committee on Members (SCOM), with the understanding that Tracy A. Giles, Chair of SCOM, will report to the full Board.

3.31  Status Report Regarding Realignment Project

The Member Services and the Profession, Public Service and Diversity Committees have begun the realignment project, collecting information and reviewing several Association entities in an effort to improve the Association both from a fiscal and a membership perspective. To achieve these goals, the Committees considered whether entities can be merged, sunsetting, reconstituted or reduced in size. Each Team Leader reported their preliminary reports. The next step will be to contact each entity assigned to Member Services and discuss the preliminary findings.

There being no further business to come before the Member Services Committee, the meeting was adjourned.

Respectfully submitted,

Andrew J. (Josh) Markus
Chair
MEMORANDUM

TO: ABA Board of Governors
FROM: Rochelle E. Evans
SUBJECT: Nominations and Request for Reauthorization of Membership
DATE: January 12, 2018

a. **American Intellectual Property Law Education Foundation:**

i. The Section of Intellectual Property Law requests approval to continue its institutional membership in and co-sponsorship of the American Intellectual Property Law Education Foundation for five years beginning in 2018 and ending in 2023.

ii. The Section of Intellectual Property Law requests the re-election of William L. LaFuze of Houston, Texas, as the ABA representative to the American Intellectual Property Law Education Foundation for a second three-year term beginning on July 1, 2018 and expiring on June 30, 2021.

b. **Intellectual Property Constituency:** The Section of Intellectual Property Law requests the election of James Bikoff of Washington, D.C., as the ABA representative to the Intellectual Property Constituency for a three-year term beginning on July 1, 2018 and expiring on June 30, 2021.

c. **Industry Trade Advisory Committee on Services and Financial Industries:** The Section of International Law requests the re-election of Timothy Charles Brightbill of Washington, D.C., as the ABA representative to the Industry Trade Advisory Committee on Services and Financial Industries for a two-year term expiring in February 2020.
MEMORANDUM

To: ABA Board of Governors
    Profession, Public Service and Diversity Committee
    Finance Committee

From: Robert A. Clifford, Chair, ABA/FJE Council
      F. John Garza, Member, ABA/FJE Council

Subject: Approval Requested on Revised Program Support Fund
        And Endowment Policy

Date: December 20, 2017

INTRODUCTION

At the June 2017 Board of Governors Meeting, the Improving the Profession Committee approved the Council of the ABA Fund for Justice and Education’s (ABA/FJE) request to have an official and participatory role with the Board in the monitoring and compliance of Program Support Funds (PSF) and to clarify the compliance and monitoring component of the policy. The ABA/FJE was granted permission to revise the current PSF policy to reflect this change and to present those changes to the Board for approval.

During the PSF revision process, the ABA/FJE discovered that endowments also lacked an official policy addressing establishment, usage, and monitoring of the accounts. Endowments are another charitable account maintained by the ABA/FJE with very similar usage and oversight concerns as PSFs.

RECOMMENDATION

The ABA/FJE Council respectfully requests that the Board of Governors approve the newly revised PSF and endowment policy that includes a more robust role for the ABA/FJE as a partner to the Board. The ABA/FJE will more effectively monitor these accounts for timely use of funds and adherence to donor intent, as well as ensure that our 501(c)(3) tax status is maintained and that ABA/FJE can continue to raise charitable dollars.
BACKGROUND ON PSF POLICY

Program Support Funds were established as accounts to hold contributions for specific ABA charitable work being conducted by an entity and spent in a timely manner on its important public service and educational programs. PSFs also served as accounts where an entity could choose to deposit other revenue, such as publication or meeting revenue, that the entity intended to use to support charitable work. Donations to an entity’s PSF are made payable to the ABA/FJE to the benefit of the entity and are tax deductible to the full extent allowed by law. Once funds are in a PSF, they must be spent for charitable activity. While PSF’s are assigned to entities for daily management of revenue and expenses, they are ABA/FJE accounts and overseen by the Board of Governors.

Beginning in the spring of 2014, the Board of Governors expressed concern over the policy, usage and oversight of Program Support Funds. This concern stemmed largely from the observation that many accounts were not being used, had amassed large amounts of funds that were not being spent or had negative balances. A joint Task Force of members from the Finance and Program Committees was created to ascertain the status of Program Support Funds. The review resulted in a revised PSF policy that was approved by the Board of Governors in June 2015.

When the most recent PSF policy was approved, the Program Committee of the Board of Governors was charged with reviewing each PSF annually. With the later restructuring of the Board, the Program Committee was eliminated and the new Improving the Profession Committee was designated to fill this PSF annual review. Now the Profession, Public Service and Diversity Committee (Committee) will fill this role. If this policy recommendation is approved, the ABA/FJE will partner with the Committee to fulfill this role.

HIGHLIGHTS OF CHANGES TO THE POLICY

The three main changes from the 2015 policy are:

1) The inclusion of endowments into the PSF policy. This allows one policy to address the overlapping need for monitoring of the accounts and review of their annual usage.

2) A defined role for the ABA/FJE in the monitoring and compliance of the policy. This includes regular review of the accounts, an annual educational series for leaders and entity staff, and suggested recommendation to the Profession, Public Service, and Diversity Committee and Finance Committee if an entity is out of compliance with the policy.

3) Suggested actions the Committees may recommend to the Board if an entity is not in compliance with the policy. Recommendations will be based upon the analysis conducted by the ABA/FJE of each PSF and endowment after conversations with each entity that is not in compliance with the policy.
CONCLUSION

With increased support from the ABA/FJE, including concise yet comprehensive information about each account, we anticipate the Board will be better positioned to oversee these accounts. We expect with stronger oversight, more funds will be raised, fewer PSF’s and endowments will be out of compliance and timely usage of donor dollars will increase. This combination of activities should produce more impactful public service and educational programs.
American Bar Association

Policy for the Establishment, Use and Maintenance of Program Support Funds and Endowments/Justice Funds

The American Bar Association Fund for Justice and Education (ABA/FJE) is a charitable fund established to solicit and accept tax-exempt gifts and grants in support of law-related public service and educational programs of the American Bar Association (ABA), and qualifies as an exempt organization under Section 501(c)(3) of the Internal Revenue Code. Gifts and contributions from third parties to the ABA/FJE are tax deductible to the full extent allowed by law, and may be used only for law-related charitable and educational purposes.

The good works performed by the ABA are limited only by the financial resources available. Program Support Funds (PSFs) play a key part of a diversified funding strategy, wherein entities can leverage the ABA’s investment through general revenue support by raising charitable dollars from a variety of internal and externals sources. PSF are charitable 501(c)(3) financial accounts where the ABA/FJE may accept charitable contributions from individuals, law firms, corporations, foundations and other sources for 501(c)(3) charitable projects and programs. PSFs are also accounts where an entity may deposit program revenue such as publications and meetings proceeds to use for charitable programs/projects.

ABA endowments or justice funds (named endowments) are also charitable accounts that support ABA public service and educational activities. A minimum of $25,000 in gifts or pledges are required to establish an endowment. Endowments with a value less than $100,000 provide a recognition opportunity to donors and the annual investment income earned is allocated by the Board during the budget process to support all the ABA’s charitable programs.

Endowments are also created when a donor(s) or a section/division/forum (from its reserves) wants to permanently or semi-permanently restrict funds to create a source of annual revenue in support of charitable projects and programs. The ABA’s endowments are not designed to increase ABA assets; therefore, donors or entities seeking to establish an endowment greater than $100,000 must commit to the annual spending of the income for the designated purpose of the endowment.

If the intention to raise more than $100,000 is included in the request to the BOG, then the investment income can be allocated back into the endowment principal until the $100,000 threshold or other threshold goal is met. Once the endowment exceeds $100,000, a specified or restricted purpose for the interest earned from the permanently or semi-permanently restricted principal may be expressed by the donor (or entity seeking to create an endowment), and the ABA Board of Governors (BOG) may assign the endowment to an entity for daily oversight and management of the use of funds.

PSFs and endowments are financially a part of the ABA/FJE. These accounts are maintained separately and apart from the ABA’s membership activities as a 501(c)(6) organization. All activities supported by PSFs and endowments, must be approved for 501(c)(3) eligibility by the Office of the General Counsel. In collaboration with entity staff and leaders, the ABA/FJE
provides PSF and endowment monitoring for policy compliance as advisors to the Profession, Public Service and Diversity Committee and the Board of Governors.

The ABA/FJE has a fiduciary responsibility to donors and for charitable accounts. This duty includes assuring that funds in these accounts are expended in a timely manner and for their intended purposes. Failure to do so jeopardizes the charitable status of the ABA/FJE and the Association’s ability to collect donations that support charitable projects and programs. To fulfill this obligation, the ABA/FJE:

- Facilitates the creation of new PSFs and endowments with members and staff to secure the necessary approvals and to ensure appropriate and accurate communication with donors.
- Conducts regular trainings for members and staff on fundraising best practices and how to appropriately use and budget PSFs and endowments.
- Monitors PSF and endowment accounts quarterly and reports any concerns to the Staff Director and, as necessary, the Senior Manager of that entity.
- Provides an official report to the Profession, Public Service, and Diversity Committee of the ABA Board of Governors on the status of PSFs and endowments based upon the information provided during the Annual Planning process.
- Offers in-depth support to entities with a PSF and/or endowment out of compliance with the policy and identified as under official review by the Profession, Public Service, and Diversity Committee.
- Ensures appropriate and ongoing communication with donors to PSF’s and endowments.

Entities must work with the ABA/FJE to submit an application to the BOG for approval to create a Program Support Fund or an endowment. Once funds are placed in a PSF or endowment, they must be used for charitable public service and educational purposes.

ESTABLISHING A PROGRAM SUPPORT FUND

Program Support Funds are established at the request of the ABA/FJE on behalf of an entity to support its charitable efforts. BOG approval must be obtained before a PSF can be established. Each PSF is credited with the investment income allocable to the fund, less an annual administrative expense fee equal to the lesser of $250 or the total investment income allocable to the fund. PSF balances are carried over in each PSF from year to year.

To establish a PSF, an ABA entity must request a copy of the PSF application from the ABA/FJE. The application should identify:

- The law-related public service or educational program to benefit from the PSF, including any existing or proposed ABA projects, and how it relates to the mission of the entity and the Association.
• The types of donors that may be solicited in fundraising efforts, such as individuals, law firms, corporations, foundations and other entities, and the kind of program revenue that might be put into the account.

  o Specific donors should be reviewed with the ABA/FJE staff to ascertain possible fundraising conflicts and let the entity know how specific donors are already engaged with the ABA.

• The commitment to raise $10,000 on behalf of the respective charitable programs from the identified revenue sources and the method in which the finds might be raised.

The ABA/FJE will consult with the entity and evaluate the application. The ABA/FJE will seek the General Counsel’s Office certification that the stated purpose of the PSF is 501(c)(3) eligible. Once complete, the FJE will submit the application for consideration by the BOG.

The Board shall approve the general purpose for which each PSF may be used and donors may designate a more specific purpose for the use of funds that they donate. The specific purpose of a donation may require a separate line of business within a PSF to monitor the revenue and expenses associated with that designation.

Once approved, the entity must work with the ABA/FJE and Financial Services to open the account. Financial Services requires a copy of the Board approval, such as the Board Summary of Actions, and confirmation that the policy has been read by the Staff Director and Senior Managers and that the terms have been agreed upon.

ESTABLISHING AN ENDOWMENT OR JUSTICE FUND

Endowments, also referred to as justice funds (named endowments in honor of an individual), are created at the request of the ABA/FJE to provide an ongoing revenue stream to support charitable activities. An endowment is a permanently or semi-permanently restricted fund and as such the principal cannot be spent until the restriction is lifted. Only the investment income earned on the fund may be used to support ABA/FJE charitable activities. All endowments are maintained by the ABA/FJE and are invested with other ABA funds according to the ABA Long-term Investment Policy approved by the BOG. This policy is overseen by the BOG Finance Committee’s Subcommittee on Investments.

An endowment may be created with a gift or pledges totaling $25,000. The annual investment income earned on endowments of less than $100,000 is used to support all the ABA’s charitable programs and is distributed by the BOG in the form of general revenue allocations to entities whose work is wholly or substantially charitable during the annual budget process. If the intention to raise more than $100,000 is included in the request to the BOG, then the investment income may be allocated back into the endowment principal until the $100,000 threshold or other threshold goal is met. If the minimum $25,000 is not reached within three years of its establishment, the funds will be incorporated into the restricted principal of the FJE Endowment.
If an endowment reaches the $100,000 threshold, the annual income earned may be designated by a donor(s) or an entity (if created using entity reserves) to support a specific ABA charitable project or activity. In approving the creation of an endowment, the BOG may assign the endowment to an entity for daily oversight and use of funds. However, the endowment itself remains under the control of the ABA/FJE. Additional contributions can be made to the permanently restricted balance to increase the value of the fund.

To establish an endowment, an ABA entity must work with the ABA/FJE to develop a memo to the Board of Governors that identifies:

- the name of the endowment and, if applicable, the person being honored by the naming of the fund;
- the permanently restricted revenue goal ($25,000 or $100,000+) and the potential sources of the donations; and
- if over $100,000, the anticipated uses of the interest earned from the endowment, including any existing or proposed ABA projects, and how it relates to the mission of the entity and of the Association.

The ABA/FJE will consult with the entity on their proposal and, if applicable, work with the General Counsel’s Office to certify the 501(c)(3) eligibility of the programs supported by the interested earned from the endowment. The official memo is submitted by the ABA/FJE Council, on behalf of the requesting entity or donor, for approval by the Board. If the revenue goal deviates at any point in the fundraising process, an additional memo must be submitted to the Board explaining the reasons for the change.

Once approved, the entity must work with the ABA/FJE and Financial Services to open the account. Financial Services requires a copy of the Board approval, such as the Board Summary of Actions, and confirmation that the policy has been read by the Staff Director and Senior Managers and that the terms have agreed upon.

**BENEFITED PROGRAMS**

The programs or projects that benefit from a PSF or an endowment must be consistent with the ABA’s goals and the mission of the assigned entity. The jurisdiction and purpose of an entity may be found in the entity’s bylaws in the case of a section or division, the ABA bylaws in the case of a standing committee, or the Board of Governors’ or House of Delegates’ resolution creating a special or coordinating committee in the case of such entity.

The programs or projects must be law-related public service and/or educational programs. If the programs and projects that may benefit from the PSF or endowment have not been fully developed, the request should generally describe proposed projects or programs, and to the extent possible address the matters set forth above.
Any entity with a Board-approved PSF or endowment must consult with the ABA/FJE before seeking outside charitable funding for a new program or project not previously listed in its initial application or contained in the entity’s annual plan. In the case of endowments, donors may need to be consulted if substantive departures from original purpose are contemplated. The ABA/FJE will require a brief description of the new project and review its charitable components. After the ABA/FJE’s review, the description will be submitted to the General Counsel’s Office to certify its 501(c)(3) eligibility. No further approval is required.

TYPES OF REVENUE

Generally, PSFs and endowments are not funded from the general revenues of the ABA. PSFs primarily generate revenue through third-party donors, ABA entities, and programmatic (meetings and publications) activities. Endowments are funded through donor or ABA entity contributions. Although it may not be possible to provide a detailed description of the exact fundraising method that will be conducted in the PSF or endowment application, a list of potential activities in which the entity may engage to generate charitable funds should be included. Fundraising activities may include:

- direct mail campaigns or personal appeals to solicit contributions;
- distribution of brochures, fliers or other promotional materials;
- placement of advertisements in newsletters, journals or publications;
- fundraising events, including luncheons or conferences;
- production and distribution of publications; and
- proposals for contributions.

This list is not intended to be all-inclusive; any additional fundraising activities should be identified in the request.

TYPES OF EXPENSES

All types of expenses, including personnel costs, related to the revenue-generating activity and program implementation can be, but are not required to be, charged against the PSF or endowment (unless specific donor restrictions are placed on those funds of $100,000 or more). Types of expenses include, but are not limited to the follow: printing, postage, food, travel, supplies, speaker expenses, and staff salary, space, and benefits.

Any deficits resulting from the operation of a PSF must be repaid in a manner that is consistent with the ABA policy on deficits and are the responsibility of the sponsoring entity.

According to the Policy and Procedure Handbook ("Greenbook"), the current spending policy for endowments states:

“As long as the restricted fund balance of each ABA/FJE Endowment Asset Account is preserved, an amount equal to three and one-half percent (5.5%) of the average fair market value of each FJE Endowment Asset Account at the end of each of the preceding
twelve (12) calendar quarters calculated after December 31 of the current year is appropriated annually for the upcoming fiscal year for the §501(c)(3) purpose(s) specified by the donor or the FJE bylaws as amended from time to time.

Some of the FJE Endowment Asset Accounts were established by the Board or another ABA entity to be treated like endowment funds. These accounts will follow the same protocol as endowment accounts but will appear in unrestricted net assets on the audited financial statements and will be known as quasi-endowment funds. (BOG 8/13)"

That means, 5.5% of the full value of the endowment should be spent each year as long as the restricted principal is not invaded. As with PSFs, types of expenses include, but are not limited to the follow: printing, postage, food, travel, supplies, speaker expenses, and staff salary, space, and benefits.

MONITORING AND COMPLIANCE

The staff director of the assigned entity is responsible for the day-to-day oversight of the PSF or endowment, including approving all expenses charged and ensuring appropriate fundraising. Expenses charged to the PSF or endowment must be consistent with any gift restrictions or limitations on the use of funds as defined by donors or the Board of Governors. The Senior Manager of the assigned entity has ultimate responsibility for any misuse of the fund.

The balance of a PSF and the interest earned from the endowment will be considered during the overall ABA budget process to determine general revenue budget requests. To ensure an annual review of the usage and balance of PSFs and endowments, the Profession, Public Service, and Diversity Committee of the Board of Governors (Committee) will request detailed information on these funds during its yearly annual planning process. The ABA/FJE and Financial Services will assist entities with gathering the necessary financial information to complete the annual planning form.

Specifically, the Committee will consider multiple factors, with an emphasis on the following quantitative measures:

- For PSFs:
  - balance of more than two times (a common nonprofit industry standard for fiscal health) its average expenditures over the previous three fiscal years;
  - minimal activity (income and expense) recorded over the past fiscal year; and
  - a negative balance at the time of review.
- For Endowments, compliance with the stated spending policy;

The ABA/FJE will conduct an analysis of PSFs and endowments, based upon the information received through the annual planning process, for presentation to the Committee. Entities will be informed if they are within or out of compliance of the policy based upon three-year financial information.
If a PSF or endowment is out of compliance, the sponsoring entity will have the opportunity to address any financial anomalies that prevent the entity from complying with the policy to the ABA/FJE before information is provided to the Committee. During these discussions with the ABA/FJE, information will be gathered on future fundraising goals and upcoming expenditures. This information may be used to model the outputs of future bar years and estimate when an entity may become compliant with the policy.

To avoid jeopardizing the ABA/FJE’s 501(c)(3) status, sound nonprofit practices must be applied to charitable accounts. If a PSF or endowment is out of compliance with the policy, the ABA/FJE Council may recommend the following to the Committee:

- Place the PSF on a one to two-year review that monitors the agreed upon steps required to come into policy compliance. Revenue and expense models for those years will be provided to the entity as guidance.
- Close the account due to minimal activity and no intent on the part of the assigned entity to use the account in the future. The remaining funds would be spent on the original purpose of the donation or on general charitable activity if no restriction accompanied the funds, such as with program revenue.
- Disable the account if a negative balance exists so that no further spending can occur. The account could remain open if proof of additional fundraising is provided or can be enabled for spending once the negative balance is cleared.
- Restrict an entity from fundraising and accepting additional donations until the account complies with the policy.

Once the ABA/FJE concludes its analysis of the PSFs and Endowments, the findings will be presented to the Profession, Public Service, and Diversity Committee. If an entity is out of compliance, the Committee and BOG may consider, but are not limited to, the following:

- If the PSF has a balance in excess of the policy, the Committee may determine that the additional funds are used to determine an entity’s general revenue request for the following budget year. A reduction of general revenue due to excess funds in a PSF is a one-year general revenue allocation decision and should not impact future year general revenue allocations. However, it should be noted that entity general revenue budgets are subject to reduction for other reasons outside of PSF compliance issues.
- If a negative PSF balance exists and the entity is unable to bring the account positive, the Committee may allocate part of the entity’s general revenue allocation to cover the negative balance.
- If the annual income of the endowment is not being spent (up to 3.5% of the full endowment value), the Committee may determine that the additional funds should be used to supplement the entity’s general revenue request to support its charitable activity.
- Reassignment of account funds to a similar charitable purpose within the ABA.

Upon completion of the annual planning process, the Committee may make recommendations to the Finance Committee about the ongoing status of each PSF and endowment. If the Finance Committee has any questions or objections with the Profession, Public Service, and Diversity Committee’s recommendations on any PSF or endowment, the two Committees will confer to
reach agreement. If the two Committees cannot come to a consensus, their respective opinions will be shared with the full Board of Governors for final review and determination.

If a PSF is terminated, any funds remaining upon the termination shall be used for a purpose that is consistent with the donor’s intent or the general purpose of the PSF as determined by the Board of Governors in consultation with the General Counsel’s office, provided that the use is 501(c)(3) eligible.

If the initial purpose of an endowment or Program Support Fund no longer exists, then the ABA/FJE will consult with the ABA General Counsel’s office to determine use of the funds for a similar purpose or other disposition as determined by law.

ROLE OF THE ABA/FJE

The ABA/FJE will play an integral, participatory and engaged role in the Board’s monitoring and compliance of PSFs. To ensure this process, the ABA/FJE will do the following:

**PSF and Endowment Educational Plan**

In FY18, the ABA/FJE will initiate an educational training program for both ABA volunteer leaders and staff. The ABA/FJE possesses a wealth of knowledge about PSF, endowment/justice fund best practices and internal policies that will be shared in the most effective manner possible. Moreover, a robust continuing education plan will better assure that entities use PSFs and endowments in a manner that maximizes an entity’s program and marketing strategies, meets the expectations of donors supporting the entity’s important public service activities, and aligns with internal PSF and endowment/justice fund policies.

Education as to the role and usage of PSFs and endowments is one of the most significant keys to policy compliance. The continuing education plan will be delivered throughout the bar year (see Appendix A). A consistent, strategic training schedule will maximize the effectiveness of the training while engaging directly with as many entities and their leadership as possible. During FY18 and FY19, the education program will be more robust and target those entities most misaligned with current PSF and endowment/justice fund policy, and then scaled back as PSF and endowment/justice fund policy compliance and stability indicates. Continued training should mitigate the risks of additional entities becoming misaligned with PSF and endowment policy.

**Monitoring PSF and Endowment Activity**

The ABA/FJE will serve as a value partner to ABA entities and assist them in maximizing the benefits of their available funds or address any negative balances with fundraising strategies. To assist the staff directors who manage their entity’s PSF or endowment, the ABA/FJE will review monthly the PSF and endowment accounts for activity and compare financial activities to the entity’s budget. If there are questions or concerns, the ABA/FJE will directly engage the Staff Director to provide any additional expertise and, as needed, the Senior Manager of the entity.
PSF and Endowment Compliance Review Process

The ABA/FJE Council serves as an advisor to the Board of Governors and is required to provide counsel on sound nonprofit policy and procedures. To fulfill this role, the ABA/FJE Council will play an integral and engaged role in assisting the Profession, Public Service, and Diversity Committee on the oversight and compliance of PSFs and endowments.

The annual planning process will require each entity with a PSF and/or endowment to submit three-year revenue and expense trends of their PSF and/or endowment to the Profession, Public Service, and Diversity Committee for their annual review. The Committee later evaluates these forms and determines which entities are in compliance with the policy.

To do so, a subgroup of the ABA/FJE Council will participate in the Committee’s review efforts and provide guidance on the various funds. The Board of Governors maintains ultimate authority over compliance assessments and communication with entities on repercussions of non-compliance with PSF and endowment policies.

This process will help decrease the number of entities out of compliance with the policy and increase the timely usage of donor dollars to produce impactful public service and educational programs. All this will fuel communications that will generate even greater gifts and contributions.
TRAINING PROPOSAL ATTACHMENT

September

SOC Program Support Fund and Endowment Review Session
Held during the Section Officers Conference, this in-person program would allow Budget Officers, Chairs, Chair-Elects, and staff of Sections, Divisions, and Forums an additional in-person training session to attend a brief overview on PSF targeting the unique needs of these entities. One-on-one training specific to their PSF would also be provided as requested.

November

General Program Support Fund and Endowment Overview
Held in the Chicago Office, with video conference available to DC entities, this in-person training would allow staff to attend a brief overview on PSFs and endowments, how they should be used, and the assistance available to them for fundraising (ABA/FJE Office) and managing the accounts (Financial Services).

January/February

One-on-One Entity-Specific Program Support Fund/Endowment Sessions
Conduct one-on-one sessions with entities via conference call or in-person for those attending the Midyear Meeting. The meeting will provide entity Leaders and Staff an overview of their specific PSFs and/or endowments, how they should be used, and the assistance available to the entities for fundraising (ABA/FJE Office) and managing the accounts (Financial Services). ABA/FJE would specifically target those entities most misaligned with current PSF/endowment policy.

March

PSF/Endowment Budget Training – Staff Only
One in-person event would be held in DC and other in the Chicago Office. As the annual budget cycle begins, this program would prepare staff for budgeting their PSF based on their entity’s annual plans, which were developed the previous quarter. Representatives from Financial Services and ABA/FJE would conduct the presentation.

PSF/Endowment Budget Training – SOC
Participate in one of the SOC telephone conference calls and help prepare leaders for budgeting their PSF as the annual budget cycle begins. Representatives from Financial Services and ABA/FJE would make the presentation on the conference call.

August

General Program Support Fund and Endowment Overview
Held during the Annual Meeting, this in-person program would allow entity Leaders and Staff to attend an overview of PSFs and endowments, how they should be used, and the assistance available to the entities for fundraising (ABA/FJE Office) and managing the accounts (Financial Services). ABA/FJE would specifically target those entities most misaligned with the current PSF and endowment policy.
MEMORANDUM

TO: Board of Governors

FROM: Rochelle E. Evans

SUBJECT: Requests from ABA Rule of Law Initiative

DATE: January 17, 2018

a. Memoranda of Understanding:

i. Ground Truth Solutions: requests approval to enter into a Memoranda of Understanding with Ground Truth Solutions to conduct joint research and evaluation activities of ABA ROLI’s work providing legal protection services. Ground Truth Solutions is an Austrian nongovernmental organization that provides the humanitarian sector with direct feedback from people affected by crisis.

ii. Prince Sultan University: requests approval to enter into a cooperation agreement with Prince Sultan University (PSU). PSU is a leading law school in Saudi Arabia, widely known for its beginnings as a women’s law school that has become co-ed. ABA ROLI would like to collaborate on course design and development with PSU paying ABA ROLI for the costs of implementing workshops and trainings.

b. Amendment to List of Approved Countries of Operation and Registration, Donors and Thematic Program Areas: requests approval to amend the list of Approved Countries of Operation, Registration, Donors and Thematic Program Areas to add GSMA, the industry association of mobile operators, as a donor.
To: ABA Board of Governors

From: Elizabeth Andersen, Associate Executive Director

Cc: Bernice Donald, Chair, Center for Human Rights Board of Directors
   Lee DeHihns, Center for Human Rights Board of Governors Liaison
   Jack Rives, ABA Executive Director
   Alpha Brady, Senior Associate Executive Director and Chief Governance Officer
   Jarisse Sanborn, Associate Executive Director and General Counsel

Date: December 21, 2017

Re: Request for Approval of ABA CHR Memorandum of Understanding

On behalf of the Center for Human Rights, I would like to request review and approval to enter into an Memorandum of Understanding (MOU) as described below. This MOU is currently being negotiated; final execution of the MOU will be subject to review and approval of the Office of General Counsel.

The ABA Center for Human Rights (CHR) would like to pursue an MOU with the International Senior Lawyers’ Project (ISLP) regarding the deployment of joint volunteers. ISLP is a US-based non-profit organization that provides pro bono legal assistance to governments and civil society organizations in developing countries, leveraging global legal resources in alignment with client needs to support just, accountable and inclusive development. The purpose of the MOU is to formalize the relationship between the two entities when it comes to joint volunteers conducting trial observations on behalf of both entities. It would not limit either entity’s ability to enter into similar arrangements with other organizations. In the past, ISLP has, at the request of CHR, identified volunteers and sent them with its own mission letters to observe trials in those countries where CHR does not wish to be publicly associated or in direct contact with local human rights advocates at risk. While the relationship has been informal in the past, with volunteers signing a letter of agreement with CHR while also complying with ISLP’s requirements, ISLP and CHR have agreed it makes sense to formalize the procedure for joint volunteers through an MOU, which would of course be subject to review and approval by GCO.

Thank you for your consideration of this request, if you have any questions about this request, please contact ABA Associate Executive Director for Global Programs Elizabeth Andersen, reachable at 202-662-1960 or Elizabeth.Andersen@Americanbar.org.
MEMORANDUM

To:    ABA Board of Governors Member Services Committee

From: James Dimos

Date: January 4, 2018

RE:    Mind Your Loved Ones app

In 2014, the Commission on Law and Aging, with Board approval, entered into a contract to develop and promote a smart device app that served as an online depository of health care directives with the name My Health Care Wishes. Developed and maintained by Steve Murdock (though the app listed ABA as developer for marketing purposes), the app, branded with the ABA logo, was sold on the Apple App Store and Google Play Store for a one-time purchase price of $3.99, with the proceeds split equally between Murdock and the ABA after Apple or Google received their fee of 30% of apps cost. In addition to providing branding, the ABA paid Murdock approximately $15,000 a year for maintenance and overhead. The arrangement lasted for two years with 8,400 license purchases made. While the app was widely praised, including being selected as one of 20 great Access to Justice apps by the ABA Journal in April 2015, a meager marketing budget and lack of bulk sales capability hindered growth. Due to the low volume and tight resources, the Commission decided to discontinue the annual support and the app was shut down. Attached is the notice of Board action.

Recently, Barbara Keller, a New York elder law attorney and app developer, acquired the rights to the app. Ms. Keller upgraded the app and renamed it Mind Your Loved Ones. Ms. Keller has approached us to see if we would like to resume our relationship, though under different terms. The app continues to not only allow users to store Advance Directives as well as critical medical and insurance information but also highlights the importance of Advance Directives. With respect to privacy issues, none of the individual’s information sits on a cloud-based server; it resides only on the individual’s smart phone and is shared only with those whom the individual chooses to share it.

Ms. Keller’s vision is that the app would be “whitelabeled” to permit different entities to sponsor the app for different market segments. Besides the improved user experience and change in branding, Ms. Keller has also changed the financial model. Rather than a one-time purchase, she intends to make it an annual subscription of $3.99 per year. Also, she intends to market to large firms to consider purchasing the app in bulk to provide to clients.
For example, Merrill Lynch could purchase licenses for the app with the Merrill Lynch logo for financial planners affiliated with that firm to provide to clients. Individuals could still subscribe to the app as well.

Ms. Keller has offered to pay the ABA a royalty for use of the ABA logo on any bulk sales to lawyers and law firms as well as individual sales made from the ABA’s web store. She is also willing to give the ABA the right to approve anything on the app provided to our user cohort. We would need to negotiate whether law firms that make bulk purchases would also have the right to co-brand with the ABA. The agreement would also allow Ms. Keller selective access of ABA mailing lists, within the constraints of ABA policy.

The earlier version of the app received much praise. However, the ABA was not in the position to provide ongoing financial support. The new app has better features and a financial model that does not depend on the ABA providing financial support. Further, Ms. Keller’s goal of making the app widely available to the public is very much in line with our policy support of advance directives and personal autonomy with respect to end-of-life care. It would be my recommendation that we explore a new agreement and ask for authority to negotiate and enter into an agreement, subject to final review and approval by General Counsel and the Executive Director.

Attachment
November 22, 2013

Mr. David English, Chair  
ABA Commission on Law and Aging  
Univ of Missouri School of Law  
203 Hulston Hall  
Columbia, MO 65211-4300

Sent Via Email: englishda@missouri.edu

Dear Mr. English:

The ABA Board of Governors met on November 15-16, 2013. I am pleased to advise you that the Board approved the request of the Commission on Law and Aging to enter into an exclusive licensing agreement between the Commission and The Murdocks, LLC with respect to My Health Care Wishes, a smartphone application relating to access to advance health care directives, subject to approval of the final agreement by the Office of General Counsel.

If you have any questions regarding this action, please do not hesitate to contact the Office of Policy Administration staff in Chicago.

Sincerely,

[Signature]

Hon. Cara Lee T. Neville  
Secretary

CLTN: clk

cc: 
Thomas R. Curtin  
Kenneth W. Gideon  
Charles P. Sabatino  
Carri L. Kerber
MEMORANDUM

To: ABA Board of Governors

From: ABA Standing Committee on Governmental Affairs
Russell Frisby, Chair

Date: January 2018

Re: Executive Summary of Recommendation for an ABA Political Action Committee

The ABA Standing Committee on Governmental Affairs recommends the establishment of the American Bar Association Political Action Committee (ABA PAC). The PAC would be organized as a separate segregated fund – a nonprofit political organization separate and apart from the ABA – organized under applicable federal election laws.

That over 8,600 PACs registered with the Federal Election Commission in the last federal election cycle, raising and spending over $4 billion, is compelling evidence that a large number of associations, corporations, unions, and other organizations understand the benefit of having a PAC. Doctors (the American Medical Association), dentists, accountants, architects, teachers, and lawyers (such as the American Association for Justice and seven state bars) have all had active PACs in support of their legislative objectives. It is time that the ABA acknowledge the value of a PAC in opening doors and cementing relationships with legislators. A full explanation follows in the next document.

Challenges continue to evolve in communicating effectively with federal policymakers. Control of Congress shifts back and forth between political parties. Senators and Representatives increasingly rely upon staff who rapidly turn over. Legislative staff increasingly rely upon email and social media, eschewing in-person discussion. A PAC is a means to overcome these obstacles by helping to improve direct, personal access to legislators. Increased access facilitates better explanation of ABA policy goals.

Federal law prohibits corporate contributions to federal candidates and political parties. A PAC enables an incorporated entity to establish a separate entity to raise voluntary contributions from qualified members for direct and in-kind election-related candidate and political party support. The separation is key. PAC activities are subject to various federal rules and restrictions, and federal law requires ongoing reporting of finances to the Federal Election Commission. An overview of applicable rules regarding PACs is contained in a separate document (“General Legal Guidance on PAC Establishment and Administration”) as Attachment A, along with a set of draft Bylaws at Attachment B.
The Committee recommends that the ABA PAC be governed and administered by a diverse and balanced Board and officers appointed by ABA presidents in a system approved by the Board of Governors. Representatives from the Board of Governors and the House of Delegates could be included.

Support from ABA leadership, including financial support, will be important, as the PAC’s goal will be to obtain sufficient voluntary PAC contributions to make at least $150,000 in contributions to federal candidates and political party committees every (two-year) election cycle.

The Committee also recommends specific approaches to the PAC’s operations. To maintain the impartiality valued in ABA advocacy and expertise, the PAC would contribute equally to candidates and committees of the two major political parties. The PAC should combine outreach to Members with whom the ABA seeks to establish new relationships and appreciation for beneficial relationships already established. Consideration should be taken of committee assignments, congressional jurisdiction for ABA priorities, Members’ leadership positions, and the issue activity and opportunity for issue activity of Members. Finally, the PAC should contribute to candidates based on a limited set of criteria adopted by the ABA, such as: (1) support for the independence of the legal profession and the judiciary; (2) support for the “rule of law”; (3) support for legal services for the poor and underserved; and (4) advancement of diversity and inclusion.

Answers to ABA PAC “Frequently Asked Questions” are attached as Attachment C, and Attachment D addresses the question of the impact of an ABA PAC on judicial members.
MEMORANDUM

To: ABA Board of Governors

From: ABA Standing Committee on Governmental Affairs

Date: January 2018

Re: ABA Political Action Committee: A Needs Analysis and Recommendation

The use of political action committees (PACs) has exploded to the point that PACs are now considered indispensable governmental-affairs tools.

Legal changes, shifting political landscapes, shrinking legislative staffs, and the rise of electronic communication diminish avenues for an organization and its leaders to maintain and enhance relationships with policymakers. These changes magnify the value of a PAC.

This memorandum sets forth the Committee’s recommendation for the ABA to create its own PAC, described below as “ABA PAC.”

Background on PACs

Federal election laws prohibit corporations such as the ABA from making contributions to federal candidates and political parties out of the corporation’s general treasury funds. The laws prohibit direct corporate contributions, as well as a campaign’s use of corporate facilities, goods, or services without receiving fair market value. Without proper oversight, these may become unwitting illegal corporate contributions.

At the same time, post-Watergate-scandal, political-reform laws allow corporations to organize political action committees, which may make contributions to and expenditures on behalf of federal candidates.

Therefore, a professional association such as the ABA must form a separate entity if it wants to improve its collective action to achieve shared objectives. Officially, PACs established and administered by corporations under the federal election laws are referred to as “separate segregated funds (SSFs)” or “connected PACs,” while often colloquially called “corporate PACs.”

Generally speaking, corporate PACs may accept contributions from certain employees, stockholders, and family members. This population is referred to as the PAC’s “restricted class.” In the case of the ABA, employees and members will be able to participate as part of the restricted class if certain specific criteria are met.
A corporation forming a PAC must follow several registration and reporting regulations. A few of these rules are as follows:

- The PAC must register with the Federal Election Commission (FEC) within 10 days of its formation by its sponsor corporation.\(^1\)
- The name of the committee must reflect the name of the sponsor corporation.
- Funds raised for the PAC from voluntary contributions of restricted class members must be kept separate from the sponsor corporation’s funds. Therefore, separate bank accounts must be established and maintained to hold a PAC’s assets.
- A PAC can only solicit contributions from certain groups as permitted by federal law.
- A PAC is not required to report certain administrative or fundraising expenses that are paid for by its sponsor corporation, but is required to report the voluntary contributions to the PAC and the PAC’s contributions to candidates.

One of the fundamental goals of federal campaign finance law is to provide transparency into how political organizations raise and spend funds to influence elections. Not only does the FEC make contribution data public, but organizations such as the Sunlight Foundation (https://sunlightfoundation.com/) and the Center for Responsive Politics (https://www.opensecrets.org/) provide detailed analyses regarding contribution amounts from all contributors and levels (individuals, corporations, other PACs, etc.), SEC filings, FEC registrations, and other related information on candidates and their contributors.

The regulations and associated public scrutiny place a premium on proper PAC administration.

**ABA’s Need for a PAC**

New laws, shifting political landscapes, dramatically downward staffing trends, current procedural realities, and the rise of electronic interaction in lieu of face-to-face encounters have diminished avenues for an organization and its leaders to maintain and enhance relationships with policymakers. These changes have magnified the value of a political action committee.

**New laws**

The Ethics Reform Act of 1989\(^2\) halted honoraria for speaking engagements by Members and senior staff. Naturally and as intended, the law did have some effect on the interest in, the number of, and the selection of speaking engagements. Lobbyists thereby lost a tool to engage Members.

The Honest Leadership and Open Government Act of 2007 (HLOGA)\(^3\) prohibited lobbyists from providing gifts or travel to Members of Congress, as they had previously done. This prohibition proved transformational for lobbying.

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\(^1\) The registration for an SSF is FEC Form 1. (For details regarding the FEC Form 1: www.fec.gov/pdf/forms/fecfrm1.pdf.)
\(^3\) Public Law 110–81, 121 Stat. 735, enacted September 14, 2007. The Honest Leadership and Open Government Act of 2007 (HLOGA) prohibited lobbyists from providing gifts or travel to Members of Congress with knowledge that the gift or travel is in violation of House or Senate Rules, required lobbyists to certify they have not given gifts or travel that would violate Senate or House rules, increased civil penalties for knowing and willful violations of the Lobby Disclosure Act from $50,000
Gifts

Previously lobbyists could give Senators and House Members two gifts per year, each under $50. The common practice before HLOGA was to begin by taking a Member to lunch or dinner—under $50. Since staffers could also receive the same number and value of gifts, staffers would routinely attend such lunches or dinners. Introductions would be made and relationships begun.

At that time, often the second gift in a year would be a ticket to a sporting event—under $50 (as luxury box tickets were commonly priced on the face of the ticket), so that the Member and staffers and lobbyists had a couple of hours together to chat. The second meeting would ensure that the lobbyist’s name and face were remembered, and it would deepen the connections.

Every year the lobbying community could then repeat these gifts with more attendant meetings and more facetime.

Travel

HLOGA also cracked down on “officially connected” travel that had been provided to Members by private sources without advance approval. No longer could lobbyists accompany Members on these flights and share that precious, extended facetime.

National Convention Parties Honoring Members

HLOGA prohibited Members from attending parties held in their honor at national party conventions. Yet another opportunity for lobbyists to connect was thus eliminated.

The elimination of these relationship opportunities has magnified the potential value for and appeal of a PAC.

Shifting Political Landscapes

Washington has experienced complete shifts in political landscapes. As a historical baseline, from 1933 through 1994, Democrats controlled the chambers of Congress a stable 89% of the time.

In contrast, the last 15 years have seen political upheaval. In 2003-2006, Republicans controlled the U.S. Senate, U.S. House, and the presidency. In 2007-2008, Democrats controlled the U.S. Senate and U.S. House, but Republicans held the presidency. In 2009-2010, Democrats swept the Senate, House, and presidency. In 2011-2014, Senate and House control were split. In 2015, Republicans swept the House and Senate, but the presidency remained in Democratic hands. In 2017, Republicans took control of all branches of the federal government.

Power shifts result in committee changes. Congressional committee structures are not as simple as seeing a change in party control result in the committee Chair’s becoming a Ranking Member and vice versa. Rather, rules limiting service duration affect Members differently. Inevitably, when ascending to power, some committee Ranking Members will move to chair a different committee. A cascading form of leapfrog for chair positions ensues.

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to $200,000, imposed a criminal penalty of up to five years for knowing and corrupt failure to comply with the Act, and required the Government Accountability Office to audit annually lobbyist compliance with disclosure rules.
Now, every few years, lobbyists are left with having to establish a whole new suite of connections to advance their issues. The ABA PAC would open doors to these new connections.

**Fewer Policy Staffers**

Over the decades, Congress has gradually shrunk the number of policy staff based in Washington, DC, in favor of more constituent-facing staff at home in congressional district offices.

The Sunlight Foundation, which observes governmental trends, states: “[I]n 1976, nearly three-quarters of House personal office staff were based in Washington; that decreased to one-half [49%] in 2005. In other words, the total number of staffers in Washington has decreased by 1,500 to 3,354 from 1976 to 2005.”

Additional scholarship goes further: “As of 2014, the U.S. House employed 9,175 individuals (along with 435 Members). That is fewer than the 9,341 staff the U.S. House employed in 1980 when the demands on Congress were far less. … The most notable declines have been in committee staff. This is particularly problematic, because committees are where the substantive work of policy development and oversight happen. The declines in committee staffing have been especially striking in the House, where committees are now at about half of their 1980 staffing levels.” [Emphasis added.]

The titanic loss of policy staff translates to increased competition for staffers’ time and attention. Lobbyists must vie strongly to achieve access to fewer policy staffers, especially fewer committee staff. The ABA PAC can effectuate access to these fewer policy staffers.

**Rapid Staff Turnover**

Frequent turnover among congressional staff exacerbates the diminution of meaningful discussion of legislative goals with the offices of elected officials. These challenges make it increasingly difficult to cultivate and maintain long-term relationships with Members of Congress and staff that are often key to successful policy advocacy.

Scholar Lee Drutman of the think tank New America reports that “turnover on the Hill has steadily increased because it's just really hard for folks to justify taking these low salaries for an extended period of time. So you constantly have a new batch of staffers coming in, learning the ropes, and they don't have the time, they don't have the capacity, they don't have the knowledge. And where they turn is to the many lobbying shops who come and knock on their door and say, let us tell you how to think about energy policy or pharmaceutical policy. And this is what you see over and over again in Washington, is that the lobbyists are basically writing the bills. And it's because they're the ones with the expertise and the knowledge.”

In congressional offices, the median tenure for Counsels is 1.1 years. The median tenure for Legislative Correspondents is 0.8 years. The median tenure for Legislative Assistants is 1.2 years. The median

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tenure for Legislative Directors is 1.7 years.\(^7\)

With turnover of that frequency, lobbyists are supremely challenged to stay connected. Institutional memories are lost rapidly. Lobbyists need to provide unending education to legislative staff. Annual meetings with staff are a must, but are not sufficient for key committee Members, especially Chairs and Ranking Members. The ABA PAC would help ensure that the educational information can be delivered to these Members and their staff.

*Rise of Electronic Interaction*

The ABA also faces another challenge—heightened dependence on digital communication to increasingly busy lawmakers in lieu of personal meetings.

On their handheld devices and at their desks, Members and staff now read email, check texts, tweet, Facebook, Instagram, seek websites’ white papers and infographics, hit news aggregator sites, watch TV, connect via LinkedIn, Skype, Facetime, Snapchat, access national media brands online, research via search engines, receive e-newsletters, pull up electronic Congressional Research Service reports, and listen to talk radio. More than ever, Congress’ information comes from the internet.

National Journal recently released data from their most recent annual online survey *Washington in the Information Age*\(^8\) fielded from May to June 2017. One of the ten key takeaways states:

> In-person interactions are still critical in Washington. Despite the prevalence of digital tools, half of all insiders rely on in-person communications to share important news and information, and events and briefings continue to play a key role in policy formulation. Face-to-face interactions are perhaps more important in Washington during the current period of retrenchment, with insiders turning to known (trusted) quantities to support decision-making.

Achieving these face-to-face interactions and becoming a known and trusted quantity are the critical challenges, made much tougher by the digital diversions. A PAC is an essential part of the answer.

*New Procedural Realities*

In our current legislative reality, only two bills each year can be certain to pass: an omnibus appropriations act and a national defense authorization act. That phenomenon results from Washington’s increased polarization over recent decades, making legislating increasingly difficult.

Myriad sources, including the U.S. House and Senate Budget Committees themselves, complain that the budget process is broken. Authorizing and oversight committees can rarely muster stand-alone legislation of any great consequence. Nowadays, support from the administration and majorities in the Senate and House seem required for authorizing legislation, and we are witnessing how difficult that is even now.

Bill enactment is power, and the resultant desirability of the Appropriations Committee and the Armed Services Committee merit their designation as “Super A” committees. Senators and Representatives routinely await appointment to these committees for large portions of their congressional careers.

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Organizations wanting to get something accomplished are well advised to have an appropriations strategy or an armed services strategy or both.

Consequently, much lobbying is focused on these committees. The time and attention of these Members and staffers are at a premium. The ABA PAC would help attract the time and attention of members of those committees as well as Judiciary, Finance and Ways & Means, and other committees with jurisdiction over ABA priorities.

**Intelligence**

Policymakers shed light on the outlook for issues important to our members, their clients, and the country. At every fundraising event the candidate explains what is going on in Congress and what issues the candidate is tackling personally. Candidates will routinely offer their views about how issues are likely to be resolved and roughly when. Access to all of the intelligence and information that a candidate provides is worthwhile for formulating and adjusting lobbying strategies.

The establishment of an ABA PAC will assist the ABA in developing and maintaining long-term relationships, gaining the additional access needed to deliver the ABA’s key messages to Congress effectively and thereby strengthening the voice of the over 400,000 members of the Association. A PAC can also help the ABA contribute to shaping and sustaining a legislature of policy-makers with shared perspectives on issues of importance to our profession.

**Increased Competition Among Lobbyists**

Competition among lobbyists for access and influence has increased markedly over the past 15-20 years. According to the Center for Responsive Politics’ review of lobbyist filings, the amount spent on lobbying has more than doubled since 1998, from $1.45 billion to $3.15 billion in 2016. That does not include PAC spending.

**PACs’ Popularity**

It should be no surprise that the popularity of PACs continues to expand. Based on reports filed with the Federal Election Commission, 8,666 PACs were registered with the Commission from 2015 through 2016, compared with the 7,311 PACs registered with the Commission from 2011 through 2012.

Compare 8,666 PACs with the 10,963 current federal lobbying registrations—that’s approaching one PAC for every registered lobbyist or lobbying organization.

PACs in the 2015-2016 cycle reported total disbursements of $4 billion and combined cash-on-hand of $565.5 million. PACs in the 2011-12 cycle reported spending just over $2.2 billion—about half of what we see only two election cycles later.

Combining lobbying expenses and PAC money, the total is between $7 billion and $8 billion spent

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during the last election cycle.

Based on these statistics, it is clear that numerous corporations, trade associations, and labor organizations place weight on the ability of a PAC to help achieve their policy objectives.

**ABA Success**

ABA success on Capitol Hill can be attributed to a number of factors, including a large and sophisticated membership; recognized expertise on key legal issues and a reputation as the national representative of the legal profession (especially on significant legal issues); an active governmental affairs program; close coordination with state and local bar and grassroots allies and other coalition partners; an innovative social media advocacy strategy; and long-term relationships with Members of Congress and their staffs.

The ABA’s legislative successes have been achieved through a series of active national lobbying campaigns coordinated by the Governmental Affairs Office (GAO). Some of these were herculean efforts that elicited strategically timed state and local bar, grassroots, and other constituent support from those willing and well-placed to get the attention of key players in Congress.

Despite ABA lobbying victories in recent years, the ABA must continue to examine how it might communicate even more effectively with elected officials on Capitol Hill to maximize the Association’s influence on issues that are critical to its membership and the legal profession. The ABA has historically accomplished its congressional program based on persuasion on the merits, personal relationships, grassroots outreach involving ABA leaders and its state and local bar allies, and coalition-building with other influential organizations.

The PAC will help the ABA continue to develop many new key relationships in a Congress where many Members do not already know the ABA and will help gain the additional access that we need to communicate our message more effectively.

**Advantages of a PAC**

A PAC offers advantages over alternative ways of providing financial support for federal candidates and political entities, such as collaborative contributions from individual members of the ABA.

*Brand Identification*

One advantage is achieving ABA brand identification in connection with contributions.

*Higher Contribution Limits Than for Individuals*

Another advantage is that a PAC can contribute more per candidate than an individual. For the most recent election cycle, a multi-candidate PAC could contribute up to $5,000 per election,\(^\text{15}\) while an individual was limited to contributing only $2,700 per election.\(^\text{16}\) These limits may increase, as they are

\(^{15}\) Primaries, general elections, and runoffs are considered separate elections; therefore, the maximum contribution is $5,000 for each of these.

\(^{16}\) PACs initially may contribute only $2,700 per candidate per election; however, a PAC eventually qualifying as a multi-candidate PAC may contribute up to the higher limit of $5,000 per candidate per election. Multi-candidate PACs must be registered for 6 months, receive contributions from at least 50 persons, and make contributions to 5 or more federal candidates. A qualifying PAC may register for this status with the FEC.

https://transition.fec.gov/info/contri LIMIT 1718.pdf
often adjusted in the odd year of an election cycle.\textsuperscript{17} PACs facilitate the pooling of resources and, in turn, enable the association (and participating employees and members) to make larger and more focused contributions than individual members otherwise would be entitled to make. By combining financial resources, the Association will have a more influential voice and play a more visible role in assisting candidates who support ABA interests to get elected.

\textit{Ease of Group Decisions}

A PAC also provides an easier structure for group decision-making on candidate contributions, in contrast to collaborative decisions on individual contributions to candidates. They are a convenient and legitimate way to allow organizations like the ABA (that otherwise would not be able to make contributions or expenditures in connection with federal elections) and their employees and members to join together to participate in the political process. PACs can also facilitate the organization of fundraising events that may be attended by state and local bar associations and their lobbyists. These events may be more difficult for an organization lacking a PAC.

\textit{Evidence of Evenhandedness}

The presence of a totally bipartisan PAC – with each party’s Members receiving half of the contributions made in an election cycle – would be concrete evidence that the association does not tilt politically in one direction or the other. In recent months the ABA has been criticized as a liberal Democratic-leaning organization when the Standing Committee on the Federal Judiciary (FJC) determined several administration judicial nominees to be “Not Qualified.” Evenhandedness of the PAC’s contributions would be one additional, credible response to criticism of the FJC.

\textit{Comparable Associations Utilize PACs}

Many professional associations that are directly comparable to the ABA have made the decision to create PACs.

Within our profession, the National Bar Association and American Association for Justice (formerly the Association of Trial Lawyers of America—now AAJ) have PACs. At the state level, seven bar associations, including Pennsylvania, Iowa, Illinois, Tennessee, Arkansas, North Carolina, and Ohio, utilize PACs.

The American Medical Association (AMA), AAJ, American Dental Association (ADA), American Institute of Certified Public Accountants (AICPA), American Institute of Architects (AIA), and National Association of Realtors (NAR) are national professional associations similar to the ABA in structure and function. These organizations raised substantial sums in their PACs, with certain organizations specifically donating their money evenly between political parties, something the ABA would do as well. For disclosure reporting on the AMA,\textsuperscript{18} AAJ,\textsuperscript{19} ADA,\textsuperscript{20} AICPA,\textsuperscript{21} AIA,\textsuperscript{22} and NAR,\textsuperscript{23} please see

\textsuperscript{17} Each election cycle begins the day after a general election and ends on the date of the subsequent general election. The current cycle began on November 9, 2016, and will end on November 7, 2017. The FEC may adjust contribution limits in February or March of 2019.

\textsuperscript{18} https://www.opensecrets.org/orgs/summary.php?id=D000000068
\textsuperscript{19} http://www.opensecrets.org/orgs/summary.php?id=D000000065
\textsuperscript{20} https://www.opensecrets.org/orgs/summary.php?cycle=2016&id=D000000105
\textsuperscript{22} https://www.opensecrets.org/orgs/summary.php?cycle=2016&type=P&id=D000023973
\textsuperscript{23} https://www.opensecrets.org/orgs/summary.php?cycle=2016&id=D000000062
The AMA believes that the future of medicine should be decided by physicians, “not legislators or private interests like insurance companies.” The AMA’s PAC, known as “AMPAC,” allows AMA’s members and affiliates “tangibly” to support the Association’s advocacy efforts, which they do at significant financial levels. AMPAC’s objective is to “find and support candidates” who will make legislation important to physicians and patients a top priority. AMPAC has a board of directors that makes the final decision on their advocacy policy. Each of its twelve board members is also a member of the AMA or the AMA Alliance and serves for two-year terms.

The AAJ, long recognized as the nation’s leading association of trial lawyers, markets itself as the defenders of civil justice. Its advocacy language is strong and so is the financial support generated from lawyers and law firms, mainly on the plaintiff side. The AAJ provides the details of its “AAJ PAC” only to its members and member affiliates.

The ADA, as America’s “leading oral health advocate,” works to influence public policies affecting dentistry and the oral health of the American public. Its PAC goal is to give dentists a voice in public policy. According to the “ADPAC” website, the ADA contributed to the campaigns of many dentists that ran for Congress. The other specific details of the ADPAC are restricted to members of the ADA.

The AICPA aims to power the success of global business, certified public accountants (CPAs), chartered global management accountants (CGMAs), and those with other specialty credentials by providing the most relevant knowledge, resources and advocacy, and protecting the evolving public interest. Its PAC helps ensure that the accounting profession has a strong voice in Congress by maximizing the profession's political clout and helping ensure that legislation is productive to business interests. Contributions go directly to helping pro-business candidates win elections to Congress.

The AIA works to “advance our nation’s quality of life, health, safety and welfare” through advocacy at the federal, state, and local levels. Architects seek to promote public policies that implement more sustainable communities and foster an equitable society. AIA provides the details of its “ArchiPAC” only to its members via a log-in page.

NAR’s “RPAC” purpose is to raise and spend money to elect candidates who understand and support realtor’s interests. The money comes from voluntary contributions by realtors, not from member dues. On the RPAC page, NAR makes a point to say that the RPAC doesn’t buy votes, but instead enables members to support candidates that support issues important to the profession.

**Organization of the ABA PAC**

Federal campaign finance laws set forth some basic requirements for the organization and administration of a PAC. Basic to these requirements is maintaining the PAC as a separate entity without comingling of funds (hence the PAC as a “separate segregated fund”).

**Judges and Government Employees**

The separation of the PAC from the ABA is also important to ensuring that members of the ABA, including government employees and members of the federal and state judiciaries, are not in violation of any ethics codes prohibiting affiliation with any political or electioneering organization. Judges and government employees are members of all the state bar bars with PACs. (The applicability of judicial codes of ethics to judges who might be ABA members when the association establishes a PAC is
addressed in Attachment D.)

Treasurer and Governance

One FEC requirement calls for the PAC to designate a Treasurer who is personally responsible for the PAC’s compliance with campaign finance laws and the proper disclosure of the PAC’s finances to the FEC. Most organizational details are left to the discretion of PAC sponsors.

Diversity and Balance

The Committee recommends that an ABA PAC be governed and administered by a Board and officers named by ABA leadership and approved by the Board of Governors. Representatives from the Board of Governors and the House of Delegates (specifically Delegates-at-Large) might be included.

Importance of Strong Leadership Support

To be effective, the PAC would require the strong support of ABA leaders in terms of solicitations and contributions and will be a success if a significant percentage of ABA members make regular, modest contributions.

ABA PAC Contributions

The American Bar Association is a venerable institution with a proud history. The ABA is valued for its expertise and is often called upon to provide impartial advice and unbiased assessments through congressional testimony and in other venues.

To ensure the ABA maintains its impartiality, the ABA PAC contributions shall be made equally, 50%-50%, to candidates, PACs, and party committees of the two major political parties.

The PAC will combine (1) outreach to Members with whom the ABA seeks to establish new relationships and (2) appreciation for beneficial relationships already established.

When deciding which candidates should receive ABA contributions, the PAC Board would consider a Member’s committee assignments, the congressional jurisdiction for ABA strategic objectives, the Members’ leadership positions, the Member’s issue activity, and the ABA’s aspiration for the Member’s potential issue activity on any of the ABA priorities.

In a hypothetical scenario, a Member may be an outspoken opponent of the ABA’s #4 priority while at the same time may be the champion of the ABA’s #3 or #5 priorities. In such a scenario and similar scenarios, opposition to an ABA priority—even leading opposition—should not of itself disqualify the Member from receiving a contribution from the ABA PAC. Rather, the totality of the circumstances would be determinative.

Another consideration may be the likelihood of a victory for a candidate. After the ABA PAC demonstrates that its resources are not squandered on defeated candidates, ABA members may be more likely to participate with their voluntary individual contributions to the ABA PAC. This strategy also has the added benefit of not antagonizing the likely winners unnecessarily (by contributing to their unsuccessful adversaries). Non-incumbents could be considered where a race involves an open seat.

ABA PAC Impact

We believe that realistically, an ABA PAC would need to contribute at least $150,000 to congressional
candidates per two-year cycle on average for each of its first four years to have an impact. This would permit contributions to 75 congressional candidates in varying amounts ranging from $500 to a maximum of $5,000 per election. Upon occasion, a contribution to a party committee or another PAC may be considered in the totality of the circumstances.

In the most recent two-year election cycle (2015-2016), 2,491 PACs made at least $100,000 in contributions. Thus the ABA PAC will be one of many active political entities. While our impact may not be determinative in elections, our crucial, collective goal is to forge strong relationships and facilitate access to decisionmakers. PAC support from the ABA will convey the appropriate messages of either hope for the future or thanks for the past. The ABA’s support could result in a multiplier effect should law firm PACs and individual ABA members decide to align their contributions with those of the ABA.

**Conclusion**

The Committee recommends establishing the ABA PAC. This will address the competitive disadvantage that the ABA realizes (compared with other similarly situated associations) from not having a PAC. The impartial advice and unbiased assessments for which the ABA’s expertise is valued will continue and would not be tainted as partisan through the 50-50 equilibrium of contributions to the two major parties.

The past 15-20 years have brought about enormous changes for governmental affairs advocacy, and the ABA must adjust accordingly. Through ABA members’ voluntary donations to the ABA PAC, we can help ensure that the voices of the association’s membership are heard on Capitol Hill. Accordingly, the Standing Committee on Governmental Affairs requests the Board of Governors implement this proposal to establish an ABA PAC.
MEMORANDUM

General Legal Guidance on Corporate PAC Establishment and Administration

This memorandum generally describes how a corporate PAC operates pursuant to federal campaign finance laws. The fundamental decision of whether to create a PAC must begin by understanding the basics in these documents.

PAC Establishment and Administration

The Federal Election Campaign Act (“FECA”) prohibits an incorporated entity from using its general treasury funds to make direct contributions to federal candidates and political party committees. Nevertheless, FECA permits a corporation to spend general treasury resources to establish, administer, and solicit funds for a “separate segregated fund (“SSF”),” or corporate PAC. The PAC must be directly affiliated with the incorporated entity, which is known as the “connected organization.” Because general treasury funds can be used only for permissible establishment, administration, and solicitation expenses, a corporate PAC must raise its own funding for political activities.24

Registration and Reporting

Within 10 days of deciding to establish a corporate PAC, spending general treasury funds to establish the PAC, or opening a bank account for the PAC, the organization must register with the FEC. To do so, the PAC must file a “Form 1 Statement of Organization” with FEC, which sets forth the PAC’s name, connected organization, bank account(s), treasurer, and custodian of records. A corporate PAC’s official name must include the full name of the connected organization.

Corporate PACs must file periodic disclosure reports (“Form 3X Report of Receipts and Disbursements”) with the FEC listing the organization’s financial activities. The PAC may file disclosure reports on a monthly or quarterly basis. The FEC’s reporting deadlines are available at: http://www.fec.gov.

For each contribution received by the corporate PAC in excess of $200 – whether alone or aggregated with other contributions from the same source – the PAC must itemize the contributor’s name, address, occupation, and employer, as well as the year-to-date total for all contributions by that individual. A corporate PAC also must itemize disbursements if they exceed a $200 aggregate per recipient per calendar year.

A corporate PAC must file disclosure reports electronically with the FEC if it raises or spends in excess of $50,000 in a calendar year, or has the expectation of exceeding this threshold. (We do not recommend starting a PAC unless the threshold will be reached.) The FEC’s electronic filing guidelines are available at http://www.fec.gov/elecfil/electron.shtml.25

A specially appointed corporate PAC treasurer must retain records of financial transactions for a three-year period. These records must include copies of disclosure reports and checks received from eligible contributors.

24 This memorandum does not discuss rules on corporate payments for independent expenditures or support for independent expenditure committees (known colloquially as “Super PACs”).
25 A corporate PAC’s first Statement of Organization may be filed on a paper form.
[Note: The Governmental Affairs Office currently contracts with Aristotle 360, a software vendor that manages the grassroots database and ABA Day in Washington data. This software can also be used (without additional cost) to manage a PAC database and generate required reports. Alternatively, this work can be outsourced to specialized PAC management firms.]

**PAC Fundraising**

The ABA,\(^{26}\) as the connected organization, and its PAC must target fundraising activities to a restricted class of individuals. The “restricted class” consists of executives and administrative personnel of the incorporated entity, as well as the family members of those persons. Members of the ABA also qualify as restricted class members. Generally speaking, an eligible member is an individual who: (1) satisfies the requirements for membership in the organization; (2) affirmatively accepts the organization’s invitation to become a member; and (3) pays at least annual membership dues or some other predetermined amount to the organization.\(^{27}\) The restricted class does not include non-employee consultants, outside lawyers, accountants, vendors, suppliers, or other associates.

A corporate PAC may solicit money from the restricted class at any time. A corporation must be careful that its communications do not reach beyond the restricted class or constitute improper PAC-related solicitations.\(^{28}\) Every solicitation must contain the following disclosures: (1) a statement of political purpose (e.g., “Your contribution will be used by ABA PAC to support candidates for the U.S. Senate and U.S. House of Representatives.”); (2) statement of voluntariness (e.g., “Your contribution to ABA PAC is entirely voluntary.”); and (3) statement of no reprisal (e.g., “You may refuse to contribute to ABA PAC without reprisal.”). Solicitations may include suggested contribution guidelines, but any such guidelines must be accompanied by a “suggestion only” disclaimer (e.g., “These guidelines for contributions are merely suggestions. You are free to contribute more or less or not at all, and the ABA will not favor or disadvantage you based on whether you contribute or how much you contribute.”).

After the PAC accumulates contributions from eligible restricted class members, it may use the revenue to participate in elections consistent with federal, state, and local laws.

**Contributions Limits and Prohibitions**

Each restricted class member may contribute up to $5,000 per year to a corporate PAC.

A spouse not working for the incorporated entity can also contribute $5,000 (providing an aggregate of $10,000 per couple). A corporate PAC is prohibited from accepting the following contributions:

- Contributions from foreign nationals (noncitizens who do not hold “green cards”).

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\(^{26}\) “Incorporated membership organizations (including trade associations)” is the rubric under which the ABA qualifies for purposes of federal campaign finance regulations. FEC rules permit a membership organization to sponsor a PAC if the membership organization: (1) is composed of members who have the authority to administer the organization according to the organization’s bylaws; (2) has bylaws stating the qualifications for membership; (3) makes its bylaws available to its members; (4) expressly solicits persons to become members; (5) expressly acknowledges new members by, for example, sending a membership card or including the member’s name on a newsletter list; and (6) is not organized primarily for the purpose of influencing the nomination for election, or the election, of any individual to federal office. 11 CFR §114.1(e)(1).

\(^{27}\) Other factors may establish whether an organization member qualifies for restricted class membership.

\(^{28}\) A corporate PAC may solicit employees who do not qualify as restricted class members. Such solicitations may occur only twice per year. “Twice-yearly solicitations” must be in writing and mailed to the employees’ home addresses.
• Contributions made in another person’s name.
• Cash contributions in excess of $100.
• Contributions from a person under 18 must be made: (1) voluntarily by the minor and (2) from the minor’s personal funds in his or her bank account (not from proceeds of a gift earmarked for the corporate PAC).

Corporate PAC funds may be used to make contributions subject to the following federal limits:

• $5,000 per election to a federal candidate.\(^{29}\)
• $15,000 per year to a national party committee such as the National Republican Senatorial Committee and the Democratic Senatorial Campaign Committee.
• $5,000 per year to the federal account of a state or local party committee.
• $5,000 per year to a political action committee that is not a separate segregated fund (e.g., a “Leadership PAC”).

\(^{29}\) Non-multicandidate corporate PACs currently may contribute only $2,500 per candidate per election; however, a corporate PAC qualifying as a multi-candidate PAC may contribute up to $5,000 per candidate per election. Multi-candidate PACs must be registered for 6 months, receive contributions from at least 50 persons, and make contributions to 5 or more federal candidates. A qualifying PAC may register for this status with the FEC on a “Form 1M Notification of Multi-candidate Status.”
Attachment B

[DRAFT] Bylaws of the

American Bar Association Political Action Committee

ARTICLE I: Name

The name of the American Bar Association’s political action committee (“PAC”) shall be American Bar Association Political Action Committee (“ABA PAC”).

ARTICLE II: Principal Address

The principal address of ABA PAC shall be 1050 Connecticut Avenue, N.W., 4th Floor, Washington, D.C., 20036, or wherever the office of the staff principally handling the ABA PAC is located.

ARTICLE III: Organization

ABA PAC shall be organized as a non-profit political organization under the laws of the District of Columbia. If authorized by its Board of Directors, ABA PAC may incorporate for liability purposes only. ABA PAC is not affiliated with any candidate, political party, or other organization.

ARTICLE IV: Purposes and Powers

Section 1. ABA PAC is organized and shall be operated for the purposes of soliciting and accepting voluntary contributions, making contributions and expenditures as provided in Article VII, and making other lawful disbursements necessary to administer ABA PAC.

Section 2. ABA PAC shall be operated as a separate segregated fund in accordance with the Federal Election Campaign Act of 1971, as amended, and Title 11 of the U.S. Code of Federal Regulations, and other applicable laws.

Section 3. ABA PAC shall be organized and operated to serve our members, our profession and the public by defending liberty and pursuing justice, focusing on: (1) support for the independence of the legal profession and the judiciary; (2) support for the “rule of law”; (3) support for legal services for the poor and underserved; and (4) advancement of diversity and inclusion as the national representative of the legal profession.

ARTICLE V: Board of Directors

Section 1. ABA PAC shall be overseen by a Board of Directors (the “Board”). Each Director shall be a member and/or employee of the ABA. The Board shall consist of at least seven (7) Directors and no more than fifteen (15) Directors, and the number within this range shall be determined by the affirmative vote of a majority of the Board. The Board shall consist of at least one Director from each of the following: (i) the ABA Board of Governors, (ii) the ABA House of Delegates, (iii) the ABA’s Standing Committee on Governmental Affairs, (iv) a Section Representative, (v) the Chair of the ABA’s Standing Committee on Governmental Affairs, and (vi) the ABA’s Director, Office of Governmental Affairs.

Section 2. All Directors shall be appointed by the President of the ABA. Each Director shall serve until his or her successor is chosen or until his or her removal, resignation or termination as a member or employee of the American Bar Association.
Section 3. A Chairman will be selected by the ABA President from the Directors and will serve until replaced by an affirmative vote of a majority of the Directors then in office or the ABA President.

Section 4. Except as otherwise provided, all actions of the Board shall be taken by a majority vote of the Directors present and voting at a meeting at which a majority of the Directors then in office are present, or by written consent of a majority of the Board without a meeting.

Section 5. Meetings may be held in person, and permit telephone and video conference participation. Unless waived, notice of all meetings shall be given to Directors by the Chairman of the Board at least one day in advance and may be given in writing (including by e-mail), in person or by telephone or video conference. Presence at a meeting without objection constitutes a waiver of notice.

Section 6. A Director may resign at any time by giving written notice of resignation to the Chairman. If the Director who seeks to resign is the Chairman, such Director may resign by giving written notice of resignation to the other Directors of the Board.

Section 7. Any Director may be removed from the Board by the affirmative vote of a majority of the Board. The challenged Director shall not be permitted to vote.

Section 8. The ABA’s General Counsel or a lawyer employed by the General Counsel may participate in any ABA PAC meeting as a non-voting member, including, but not limited to, the Board of Governors.

ARTICLE VI: Officers

Section 1. The officers of ABA PAC shall be an Executive Director and a Treasurer and may include a Secretary, Vice President, one or more Assistant Treasurers, or other officers appointed at the discretion of the Board. Officers shall be appointed by the affirmative vote of a majority of the Board.

Section 2. Each officer of ABA PAC shall serve a term of one (1) year or until his or her successor shall have been appointed and qualified. Officers of ABA PAC may be reelected or reappointed by the Board. Two or more offices may be held by the same person.

Section 3. The Executive Director of ABA PAC shall generally supervise and administer the affairs of ABA PAC. The duties of the Executive Director shall include without limitation:

- Coordination of the solicitation of contributions by ABA PAC;
- After appropriate consultation with the Board, other officers, and such other knowledgeable persons as he or she deems advisable, coordination of which candidates for elective office and political party committees should receive support and in what amounts;
- Directing the Treasurer to disburse funds;
- Execution of contracts and approval of payment of receipted bills.

Section 4. The Treasurer shall be the chief financial officer of ABA PAC and shall have general responsibility for all funds of ABA PAC, subject to the authority of the Board and the Executive Director. The Treasurer shall deposit all contributions he or she receives and maintain all books and records in accordance with applicable law and regulations. The Treasurer also shall prepare, sign, file, and maintain copies of all reports of ABA PAC as required by applicable law and regulations. The duties of the Treasurer shall include without limitation:
• Reporting to the Executive Director on the total amount of funds held by ABA PAC, the
disposition of disbursements by ABA PAC, and such other information appropriate under the
circumstances; provided, however, that the Treasurer shall not reveal the name of any contributor,
the amount of money contributed by an individual, or the name of any noncontributor, except as
required or permitted by applicable law;

• Maintaining all required records regarding contributions and disbursements and file all necessary
reports with federal and state authorities;

• Establishing and maintaining one or more bank (checking) accounts for the deposit of all
contributions received;

• Keeping a detailed account of:
  o All contributions made to or for ABA PAC;
  o The full name, mailing address, occupation and employer of every person making a
    contribution and the date and amount of each contribution;
  o All expenditures made by or on behalf of ABA PAC;
  o The full name, mailing address, occupation and principal place of business of every person to
    whom any expenditure is made, the date and amount of each expenditure, and the name and
    address and office sought by each candidate on whose behalf such expenditure was made;
  o Receipted bills for every expenditure made by or on behalf of ABA PAC;
  o Disbursed funds pursuant to guidelines set by the Board and in accordance with applicable
    law.

The Treasurer may delegate any of the his or her duties to one or more Assistant Treasurer(s), any of
whom may be a representative of a third-party administrator or service provider.

Section 5. The Secretary, if any, shall keep at the principal office of the American Bar
Association, or such other place as the Board may direct, a book of minutes of all meetings and actions
of the Board with the time and place of holding, the notice given, the names of those present at the
Board’s meetings and the proceedings of such meetings.

Section 6. The Vice President, if any, shall perform such duties and may exercise such
authority delegated by the Executive Director and, in the event of resignation, removal, death or
disability of the Executive Director, shall automatically succeed to such office unless and until another
person shall be elected as provided in these Bylaws.

Section 7. The Assistant Treasurers, if any, shall perform such duties and may exercise such
authority delegated by the Treasurer. In the event of resignation, removal, death or disability of the
Treasurer, the longest serving current Assistant Treasurer shall automatically succeed to such office
unless and until a successor Treasurer is appointed by the Board.

Section 8. An officer of ABA PAC may resign at any time by giving written notice of
resignation to the Chairman. An officer of ABA PAC will be terminated automatically upon such
officer’s resignation or termination as an employee or third-party service provider or administrator of
American Bar Association or ABA PAC.
Section 9. An officer of ABA PAC may be removed by the affirmative vote of a majority of the Board.

Section 10. Any vacancy in any office of ABA PAC may be filled by appointment by the ABA President or, as delegated by the President, by the affirmative vote of a majority of the Board.

Section 11. The officers shall have such other duties and powers as directed from time to time by the Chairman or the Executive Director, to the extent permitted by applicable law.

ARTICLE VII: Contributions and Expenditures

Section 1. All contributions to ABA PAC shall be deposited and maintained by ABA PAC in an account or accounts maintained with a designated bank or other depository institution chosen by ABA PAC in accordance with applicable law (“ABA PAC bank account”).

Section 2. All contributions to ABA PAC shall be voluntary, and no contribution to ABA PAC shall be solicited or secured by force, threat of reprisal, or as a condition of employment. Each individual whose contribution is solicited shall be informed, at the time of such solicitation, of the purposes of ABA PAC and of his or her right to refuse to contribute without any reprisal.

Section 3. The Treasurer shall be promptly notified of all contributions received by ABA PAC. No contribution shall be accepted in excess of limitations or prohibitions imposed by applicable law and regulations. No anonymous contributions or contributions in cash shall be accepted in excess of amounts allowed by applicable law or regulations.

Section 4. ABA PAC shall not directly or indirectly accept any contribution from the American Bar Association, its affiliates, or any corporation or labor union; however, the American Bar Association may pay (but is not required to pay) the costs of establishing and administering ABA PAC and of soliciting voluntary contributions, to the extent permitted by applicable law.

Section 5. No contribution shall be accepted, and no contribution or expenditure shall be made, by or on behalf of ABA PAC at a time when there is a vacancy in the office of Treasurer, if such vacancy is not temporarily fulfilled by an Assistant Treasurer.

Section 6. All expenditures and contributions by ABA PAC shall be made in accordance with applicable law. All expenses of ABA PAC that the American Bar Association does not defray, or may not defray pursuant to applicable law, shall be made from the separate ABA PAC bank account.

Section 7. The expenditure or contribution of any funds of ABA PAC shall be made pursuant to applicable law and the guidelines set by the Board; provided, however, that no contribution or expenditure shall be made without the authorization of the Treasurer or his/her designee.

Section 8. On an election-cycle basis the candidate contributions of the ABA PAC shall maintain a 50%-50% equilibrium of contributions to the candidates and PACs associated with or aligned with the two major political parties. The ABA PAC shall not make contributions to a Presidential campaign.

Section 9. The PAC will combine (1) outreach to Members with whom the ABA seeks to establish new relationships and (2) appreciation for beneficial relationships already established.

Section 10. When deciding to which candidates or PACs the ABA should contribute, ABA PAC should focus on: (1) support for the independence of the legal profession and the judiciary; (2) support
for the “rule of law”; (3) support for legal services for the poor and underserved; and (4) advancement of
diversity and inclusion. Consideration should be taken of a Member’s committee assignments, the
congressional jurisdiction for ABA strategic objectives, the Member’s leadership positions, the
Member’s issue activity, and the ABA’s aspiration for the Member’s or group’s potential issue activity
on any of the ABA priorities.

Section 11. Another consideration for contribution may be the likelihood of a victory for a
candidate. After seeing that ABA PAC resources are not squandered on defeated candidates, ABA
members may be further incentivized to participate with their voluntary, individual contributions to the
ABA PAC. This strategy also has the added benefit of not antagonizing the likely winners unnecessarily
(by contributing to their unsuccessful adversaries). Non-incumbents could be considered where a race
involves an open seat

ARTICLE VIII: Dissolution

Although its duration is perpetual, ABA PAC may be dissolved at any time by the affirmative
vote of a majority of the Board of Governors of the ABA. Dissolution shall be in accordance with the
Federal Election Campaign Act of 1971, as amended, and Title 11 of the Code of Federal Regulations,
and other applicable laws.

ARTICLE IX: Amendments

These Bylaws shall be adopted and may be amended by the affirmative vote of two-thirds of
the Board.

Adopted by the American Bar Association Political Action Committee on ________________ [date].

_____________________________
Name, Chairman

_____________________________
Name, Director

_____________________________
Name, Director
Attachment C

Frequently Asked Questions
About
ABA Political Action Committee

What prompted interest in establishing the ABA PAC?

- Diminished opportunities to forge congressional relationships make PACs modern necessities.
- 2007 and 1989 laws prevented lobbyists’ payment for meals, event tickets, gifts, travel, political convention events honoring Members, and honoraria for Members and senior staff.
- Congressional staffing levels are down with half the House committee staffers as in 1980 and with Congress shifting staffers to the district and away from legislative duties.
- Underpaid, overworked, stressed legislative staff turn over every 10 to 20 months.
- After 62 years of reliable Democratic control, Congress has fluctuated greatly for the past 22 years.
- Power fluctuations result in committee leapingfrogging for Members and thus massive staff changes.
- Competition between lobbyists for access and influence has increased markedly, with the amount spent strictly on lobbying more than doubling since 1998, from $1.45 billion to $3.15 billion in 2016.
- The only 2 committees to pass a notable bill each year see overwhelming, competitive lobbying.
- Electronic interaction has displaced face-to-face encounters with policymakers and staffers.

What are the benefits and impacts of establishing the ABA PAC?

- The ABA PAC will assist the ABA in developing and maintaining long-term relationships.
- The ABA will be better able to compete with other organizations for Congress’ time and attention.
- The ABA will gain the access for delivering the ABA’s key messages to Congress effectively.
- The voice of the over 400,000 members of the Association will be strengthened.
- A PAC can also help the ABA shape a legislature of individuals with shared perspectives on policy.
- Policymakers shed light on the outlook for issues important to our members and their clients.
- The ABA will learn about the candidate when s/he explains what issues s/he is tackling personally.
- At fundraising events, candidates routinely report what is going on in Congress and offer their views about how issues are likely to be resolved and on the expected timetable.
- Candidates’ experience and their exclusive, behind-closed-doors communications make their insights valuable. Access to all of the intelligence that a candidate provides is strategically useful.

How prevalent are PACs? Do other leading professional associations have PACs?

- PACs are prevalent. 8,666 PACs registered in 2015-16. 7,311 PACs registered in 2011-12.
- With 10,963 federal lobbyists currently registered, there’s nearly a PAC for every lobbyist.
- In 2011-12, PACs disbursed $2.2 billion. In 2015-16, PACs disbursed $4 billion—nearly double.
- With lobbying expenses and PAC money, $7-8 billion was spent for influence last election cycle.
- Myriad corporations, trade associations, and labor organizations value a PAC for access.
- Many other professional associations, including the American Medical Association, American Dental Association, and American Institute of Certified Public Accountants, have long operated big PACs.

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Within the legal profession, the American Association for Justice (formerly, the Association of Trial Lawyers of America), the National Bar Association, and seven state bar organizations have PACs.

**Will a PAC make the ABA appear partisan or biased toward one political party?**

- To ensure the ABA maintains its impartiality, for which the ABA’s advice and assessments are so valued, PAC bylaws ensure contributions to the two major political parties shall be equal, 50%-50%.
- The bylaws require a two-thirds supermajority vote for amendment.
- PAC governance and bylaws guarantee a balanced and informed approach to contributions.

**How will PAC dollars be allocated?**

- The PAC will combine (1) outreach to Members with whom the ABA seeks to establish new relationships and (2) appreciation for beneficial relationships already established.
- Criteria for contributions shall be the candidate’s: (1) support for the independence of the legal profession and the judiciary; (2) support for the “rule of law”; (3) support for legal services for the poor and underserved; and (4) advancement of diversity and inclusion.
- Heed will be taken of a Member’s committee assignments, the congressional jurisdiction for ABA strategic objectives, the Members’ leadership positions, the Member’s issue activity, and the ABA’s aspiration for the Member’s potential issue activity on any of the ABA priorities.
- An outspoken, leading opponent of one ABA priority may be the champion of another ABA priority.
- The totality of the circumstances shall be determinative. Even outspoken, leading opposition—will not of itself disqualify the Member from receiving a contribution from the ABA PAC.
- Leading opposition to an ABA priority shall be distinguished from simply following the party line.
- Used for awarding the ABA’s Justice Awards, the philosophy holds that there are no permanent friends or permanent enemies, only permanent interests. ABA interests shall be ABA priority issues.
- Good odds of victory may be favorably, which will benefit incumbents, but non-incumbents could be considered where a race involves an open seat.

**Is a Member of Congress likely to be hostile or put off if the ABA PAC does not respond affirmatively to a solicitation for campaign contributions?**

- Members of Congress understand that all PACs are constrained by limited resources and must say “no” to many (perhaps most) requests for contributions.
- The response will always be the same, namely that the request will be put to the ABA PAC Board.
- Even a rejection can be useful, allowing ABA PAC to state the principles governing contributions.

**How much will it cost the ABA to establish, administer, and solicit contributions to the ABA PAC?**

- In relation to the ABA’s average annual expenses, PAC costs are likely to be very small.
- The cost to establish and register a corporate PAC with the Federal Election Commission is typically low and can be estimated to be nor more than $10-15,000 each year.
- Annual administrative and solicitation expenses for a corporate PAC depend on several factors: (1) the membership target for the PAC; (2) the frequency and nature of PAC contribution solicitations and PAC events; and (3) whether the PAC retains external PAC accounting and compliance
services.

- Although these factors can lead to slightly higher expenses, many PACs are administered by minimal staff and rely on low-cost fundraising methods to keep such expenses low.

**How will ABA PAC promote transparency for our own members and the public?**

- All the ABA PAC’s campaign finance disclosure reports will be available on the Federal Election Commission’s website at [www.fec.gov](http://www.fec.gov), which includes a list of all PAC receipts and disbursements.

**How much money can a person donate to a PAC? How much money will the ABA PAC need to raise to be effective?**

- Under the federal election laws, the contribution limit is $5,000 per person per election.
- To be effective, the strong, voluntary monetary support of ABA leaders and the regular, modest, voluntary contributions from a significant percentage of ABA members will be important.
- An ABA PAC would need to contribute at least $150,000 to congressional candidates each cycle.
- The average PAC contributes $100,000-$180,000 each election cycle.

**How should the ABA PAC be structured and who decides how the PAC funds will be administered?**

- The ABA President shall appoint all Directors and their Chair.
- Although ideally run by consensus, the ABA PAC Board will have 7-15 members (an odd number to prevent a tie), each an ABA member or employee with a strong understanding of Congress.
- The Board shall include at least one Director from each of the following: (i) the ABA Board of Governors, (ii) the At-Large Delegates from the ABA House of Delegates, (iii) the ABA’s Standing Committee on Governmental Affairs, (iv) a Section Representative, (v) the Chair of the ABA’s Standing Committee on Governmental Affairs, and (vi) the ABA’s Director, Office of Government Affairs.
- All actions of the Board shall be taken by a majority vote, in person or by written consent.
- The officers of ABA PAC shall be an Executive Director and a Treasurer and may include a Secretary, Vice President, one or more Assistant Treasurers, or other officers appointed at the discretion of the Board. Officers shall be appointed by a majority vote of the Board.
Attachment D

MEMORANDUM:
Judicial Membership in the ABA and Establishment of an ABA PAC

Introduction

The question has been raised: If the American Bar Association were to create a separate segregated fund (commonly referred to as a political action committee, or PAC) for political activity, would the existence of an ABA PAC affect the compliance with applicable ethical standards by federal or state judges?

Summary

As several judicial ethics opinions summarized below demonstrate, judges are allowed to participate in organizations that have PACs, including all state bar associations and similar organizations with PACs, though judges’ contributions to PACs and participation in the governance of PACs have ordinarily been prohibited, with rare exceptions.

Discussion

Pursuant to the Federal Election Campaign Act (FECA), the ABA would create a separate bank account into which only voluntary contributions would be deposited. This separate segregated fund (SSF) is also known as a political action committee (PAC).

The current Federal Election Commission Campaign Guide for Corporations and Labor Organizations (2007)\(^ {30} \) explains,

> While corporations and labor organizations are prohibited from making contributions or expenditures in connection with federal elections, the Federal Election Campaign Act and Federal Election Commission regulations permit them to set up political committees, which may make contributions to and expenditures on behalf of federal candidates and other committees.\(^ {31} \)

> Federal election law refers to a corporate or labor political committee as a ‘separate segregated fund’ (SSF), though it is more commonly called a ‘political action committee’ or PAC.\(^ {32} \) …

> As the name implies, money contributed to a separate segregated fund is held in a separate bank account from the general corporate or union treasury.”\(^ {33} \) …


\(^ {32} \) Id.

\(^ {33} \) Id.
An SSF may incorporate for liability purposes. [11 CFR] 114.12(a). Political committees that incorporate only for liability purposes may make lawful contributions and expenditures.”34 …

Voluntary Contributions Only
Contributions to an SSF must be voluntary; that is, they must meet the following conditions:

No Use of Force or Threats
Contributions may not be secured by the use or threat of physical force, job discrimination or financial reprisal. [11 CFR] 114.5(a)(1).

No Fees or Dues
An SSF may not use dues or fees obtained as a condition of membership or employment in the connected organization, even if the dues or fees are refundable upon request. [11 CFR] 114.5(a)(1). See also [Advisory Opinion] 1987–23. . . .35

The FECA (as well as ABA Business Conduct Standards) prohibit ABA general treasury funds from being used for political contributions. However, use of general treasury funds for administrative purposes in conjunction with an SSF is permitted:

The costs of running the SSF (operating expenditures) may be defrayed with the treasury funds of the connected organization, that is, with funds derived from commercial activities or dues payments. [11 CFR] 114.5(b). Treasury money can be used, for example, to pay for office space, phones, salaries, utilities, supplies, bank charges and fundraising activities. [11 CFR] 114.1(b). There are no dollar limits on these disbursements, and they are not reported to the FEC.

The connected organization may either pay these costs directly or establish a separate administrative account to be used solely for the SSF’s administrative and fundraising expenses. The funds contained in the administrative account may never be commingled with the SSF’s own funds, which are derived solely from lawful contributions. [Advisory Opinions] 1981–19 and 1980–59. . . .36

[T]he law permits the connected organization to pay start-up, administrative and fundraising expenses for an SSF. . . .37

Thus, under the Federal Election Campaign Act, PACs are distinct from their connected organizations and the connected organization—the corporation or labor union—is prohibited from involvement in or

34 Id. at 8.
35 Id. at 19.
36 Id. at 8.
37 Id.
expenditures for politics and elections.

The separate segregated funds comprise voluntary contributions for campaign and election purposes. These funds are kept in a different bank account from organizational dues or fees. ABA general treasury funds cannot by law be comimgled with ABA PAC funds.

**Judicial Ethics Opinions**

Judicial ethics opinions have provided guidance that a judge generally may not be involved with political organizations. (Some states that allow judges to run with party affiliations provide the obvious exceptions.) Thus, judges are regularly prohibited from any involvement with PAC governance and may not serve on committees deciding the expenditures of PACS.

However, these same judicial ethics opinions (formal and informal) make clear that judges may be involved with and members of organizations that separate and segregate political activity. They are summarized below.

**Opinion #1**

One summary opinion comes courtesy of the Executive Director of the Alaska Commission on Judicial Conduct, Marla N. Greenstein:

> I can provide additional supporting documentation, but judges are not permitted to be members of any organization that takes political actions. Most charitable organizations or bar associations that want to take political actions create a separate arm for those political activities and segregate the funding for those political activities. If the ABA creates a PAC it would need to segregate the funds (separate from dues revenue) to fund those efforts and maintain judicial memberships. The best model are state bar associations who have had to do this not only for judges but also for lawyer members who may not agree with those political positions taken by the PAC.38

**Opinion #2**

The New York State Advisory Committee on Judicial Ethics issued Opinion 2015-7739 explaining that a judge could contribute to an organization that “carefully segregated its non-political and charitable activities from its political ones, so its non-political arm maintains tax-exempt status.”

The organization, Planned Parenthood, is involved in both legislative advocacy and litigation and maintains a separate segregated fund entitled Planned Parenthood Action Fund Political Action Committee.

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38 Email from Marla N. Greenstein, Executive Director, Alaska Commission on Judicial Conduct, to Ann Breen-Greco, Chair, ABA Judicial Division (Dec. 2017).
Opinion #3
The Florida Supreme Court Judicial Ethics Advisory Committee issued Opinion Number 2009-13 regarding whether a judge could join the National Rifle Association (NRA). Canon 7A(1) of the Florida Code of Judicial Conduct provides, “[A] judge…shall not … publicly endorse or publicly oppose another candidate for public office; … attend political party functions; or … solicit funds for, pay an assessment to or make a contribution to a political organization or candidate…”

The NRA has a separate segregated fund entitled the NRA Political Victory Fund. The opinion notes:

The NRA’s website also declares, ‘While widely recognized today as a major political force and as America's foremost defender of Second Amendment rights, the NRA has, since its inception, been the premier firearms education organization in the world. While the NRA concentrates a substantial part of its efforts on Second Amendment issues, it focuses its lobbying and political action through the National Rifle Association Institute for Legislative Action (ILA), which describes itself as ‘the ‘lobbying’ arm of the National Rifle Association of America.’

Convinced that the NRA’s lobbying, political, and fundraising were sufficiently separate and segregated, the Judicial Ethics Advisory Committee stated,

In conclusion, eight [of nine] members of the Committee see no proscription to the judge’s membership in the local gun club where the club requires proof of membership in the NRA as a condition precedent to club membership, so long as the judge does not become personally involved in the NRA’s lobbying or fund-raising efforts and does not participate in the NRA’s Institute for Legislative Action and so long as lobbying on issues likely to come before the judge does not become the primary purpose of the NRA.

Opinion #4
In Opinion Number 2013-20, the Florida Supreme Court Judicial Ethics Advisory Committee (JEAC) answered the question whether a judge could maintain a membership in a political action committee with a simple, straightforward “No.”

Opinion #5
The Florida Supreme Court Judicial Ethics Advisory Committee (JEAC) issued Opinion Number 1993-5 regarding “whether it is proper for a judge to be a member of the American Bar

The JEAC concluded, “All participating Committee members agree that judicial membership in the ABA is proper because the ABA is an organization devoted to the cited goals in Canon 4C [improvement of the law, the legal system or the administration of justice].”

The committee continued, “Three Committee members believe a judge may properly belong to a multifaceted organization, although a judge cannot participate in a certain aspect of organizational activity. [Emphasis added.] One Committee member states, for example, that a judge could belong to the Catholic church despite its vocal public position on abortion. Another Committee member states a judge could properly belong to the National Rifle Association because of his interest in hunting even though that organization takes a highly public position on gun control.”

Opinion #6

The Judicial Ethics Standing Committee of the State Bar of Michigan was specifically asked “whether a judge may make contributions to a political action committee [PAC] which the judge knows will be sending funds to legislative candidates, and if so, whether a group of judges, such as a judges’ organization, may pool their resources to make a contribution to the PAC.” The Committee ruled:

A judge or judicial candidate may make a general contribution to a political action committee. No ethics provision prohibits a group of judges, or a judges' organization, from making contributions to political action committees under the same conditions permitted to individual judges.

Note that most ethics rulings, including the other ones cited in this memorandum, conclude that judges are not to make contributions to political action committees.

Opinion #7

Finally, the question was put to Tracy L. Kepler, Director of the American Bar Association’s Center for Professional Responsibility, which provides national leadership in developing and interpreting standards and scholarly resources in legal and judicial ethics, professional regulation, professionalism, and client protection. She writes that judges may participate in the ABA without any appearance of impropriety, but may not participate in governance of an ABA PAC:

[A]s to the judges, so long as it is a separate entity and they do not participate in it, then there should not be a concern. The fact that a judge belongs to an organization that has a separate PAC does not create an appearance of impropriety for the judge.44

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44 Email from Tracy Kepler to Thomas Susman, Director, ABA Governmental Affairs Office, Dec. 5, 2017.
Conclusion

It would be ethical for judges to maintain their membership and active participation in the ABA if the ABA were to establish a PAC, as judges do in the state bars with PACs, provided the judges do not contribute to the PAC or participate in the PAC governance or decision-making.
MEMORANDUM

To: ABA Board of Governors

From: Ramona G. See, Chair, Profession, Public Service and Diversity Committee

Subject: Request to Consider and Evaluate Reinstituting the Enterprise Fund in FY2019

Date: January 24, 2017

At its October 19, 2017, meeting in Miami, the Profession, Public Service and Diversity Committee (Committee) agreed to request that the Board of Governors (Board) consider and evaluate reinstituting the Enterprise Fund in FY2019.

Background

In October 2006, the Board established the ABA Enterprise Fund to provide $500,000 in competitive awards to ABA Sections, Divisions, Forums, Committees, Commissions, and other entities to undertake innovative, collaborative projects that advance the Mission and Goals of the Association. Because of the financial challenges the Association had experienced, the Board sought to encourage greater collaboration and coordination among the many diverse entities of the ABA by providing seed money for innovative projects.

Since its inception, 132 proposals have been submitted to the Enterprise Fund requesting a total of $10,059,612. The Enterprise Fund has provided seed money to 35 projects totaling $2,615,524.

Due to the financial challenges faced by the ABA, the Enterprise Fund was not funded in FY2011 and FY2012. However, at its August 2011 meeting, the Board approved the request of the Program, Evaluation and Planning Committee to reserve $350,000 in funding for the ABA Enterprise Fund beginning with the FY2013 budget year and on an annual basis thereafter.

When a decision was made not to fund the Enterprise Fund in FY2018 due to the continued financial challenges facing the ABA, the Committee agreed to request that the Board consider and evaluate reinstituting funding for the Enterprise Fund in FY2019.

Recommendation

The Committee understands that the ABA has limited resources for all the great programs its entities conduct but it believes that the seed money provided by the Enterprise Fund has generated excellent results that far outweigh the amount of money spent. Therefore, the Committee respectfully requests that the Board consider reinstituting funding for the Enterprise Fund in FY2019.

Thank you for your consideration.
TO: ABA Board of Governors

FROM: Andrew Perlman, Chair
ABA Center for Innovation, Governing Council

cc: Hon. Ramona See
Alpha Brady
Janet Jackson

RE: Request for Approval of Proposed Memorandum of Understanding Between the ABA and the Legal Services Corporation

DATE: January 16, 2018

The ABA Center for Innovation requests approval of a memorandum of understanding (MOU) between the Center and the Legal Services Corporation.

The memorandum outlines the responsibilities of the Center for Innovation and the Legal Services Corporation for the Social Entrepreneurship Initiative, that was approved by the ABA Board of Governors at the 2017 Annual Meeting.

This initiative will match legal technology companies with local legal aid offices to provide free technology to those service providers to assist them in their work.

The attached MOU delineates the matching process, implementation, and evaluation of the program. It has been reviewed and approved by both the Legal Services Corporation and ABA General Counsel.

No funding is requested for this activity and the ABA will have no financial obligations regarding this initiative.

Thank you for your consideration of this request.
MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding ("MOU") is effective as of February 5, 2018.

BETWEEN:

The Legal Services Corporation ("LSC"), a publicly funded, 501(c) non-profit corporation headquartered in Washington, DC.

AND:

The American Bar Association on behalf of its Center for Innovation ("Center"), a not-for profit corporation headquartered in Chicago, Illinois.

BACKGROUND

Over the years, the Legal Services Corporation has worked cooperatively with the American Bar Association on many initiatives.

The Legal Services Corporation and the ABA Center for Innovation have a joint interest in increasing access to justice for those unable to afford a lawyer.

The ABA Center for Innovation and the Legal Services Corporation both believe that available technology can facilitate more affordable and effective access to the justice system for the public.

Article 1. PURPOSE

The LSC and ABA Center for Innovation enter into this Memorandum of Understanding for the purpose of affirming our joint Legal-Tech Social Philanthropy Project and the responsibilities for each entity, which will allow for the provision of technology, resources, and training to LSC funded legal services providers across the country.

Article 2. RESPONSIBILITIES

To further this project, the LSC and the Center agree to the following delineation of responsibilities:

- The Center will draft, and provide to LSC for feedback and approval, a set of entry standards or criteria (the “Criteria”) that any legal-tech companies should meet for them to be invited to participate in the Initiative. Such Criteria may include:
-a minimum number of existing customers the legal-tech company should have,
-the number of customer references that need to be provided,
-the types of technology that would be of most use to the legal aid community

- The Center will have the primary responsibility to recruit legal-tech companies into
  the project and undertake the research necessary to determine if a given candidate
  (a “Candidate”) meets the Criteria.

- LSC may refer Candidates to the Center for determination if they meet the Criteria.

- The Center shall establish a Vetting Committee comprised of two representatives
  from the Center, an LSC representative and at least 3 individuals currently
  employed by a legal aid provider, the purpose of which is to: determine whether
  the Candidate’s technology is truly applicable to the legal aid community, and if
  so, what type of legal aid providers would most likely benefit from the technology,
  including determining the technology infrastructure that might be needed in order
  to deploy the Candidate’s technology.

- The Center and LSC will work jointly to determine the mix of individuals on the
  Vetting Committee.

- LSC will, where it determines it appropriate, assist the Center in recruiting the
  members of the Vetting Committee.

- The Vetting Committee will determine whether a Candidate meets the Criteria and
  is selected for participation in the Social Philanthropy Project (“Project Donors”).

- The Center and LSC will inform potential legal aid recipients of the opportunity to
  obtain free access to the Project Donor’s technology.

- Information on the pool of interested recipients will be collected and assembled by
  the Center.

- The Center will work to establish an Introductory Event attended by interested legal
  aid providers wherein the Project Donors demonstrate their technology and answer
  any questions about the technology, its deployment, infrastructure requirements,
  and licensing terms.

- Following the Introductory Event, the Center will leave it to the Project Donor and
  the interested recipients to make all arrangements for the legal aid providers to
  obtain and license the technology, and subsequent training needs.

- The Center and LSC’s role shall be limited to having vetted the technology as
  applicable to the legal aid community generally, finding interested recipients, and
  making the introductions.
- The Center will, from time to time, reach out to Project Donors and their recipients to seek feedback on how the project is working. Any information collected will be shared with LSC.

**Article 3. AMENDMENT OF THIS MEMORANDUM OF UNDERSTANDING**

This Memorandum of Understanding may be amended in writing from time to time with the approval of LSC and the ABA Center for Innovation.

**Article 4. TERM OF THE MEMORANDUM OF UNDERSTANDING**

This Memorandum of Understanding is entered into on February 5, 2018, and shall remain in effect for two years. Either party may terminate this MOU upon 30 days’ prior written notice to the other party. The parties may extend the term by mutual agreement in writing.

**Article 5. RELATIONSHIP OF THE PARTIES**

The LSC and the Center agree that neither is an agent, representative or employee of the other. The Memorandum of Understanding does not create an association, joint venture, or partnership between the parties such as to create liability upon either party for the acts of the other. Neither party shall have the power to obligate or bind the other in any manner except as otherwise expressly provided by this Memorandum of Understanding or as the parties may agree in writing. Neither party shall use any name, trademark, logo or any other representation of the other party in any written or oral communication without the other party’s specific written pre-approval.

**Article 6. ENTIRE UNDERSTANDING OF THE PARTIES AND DISPUTE RESOLUTION**

This Memorandum of Understanding contains the entire agreement of the parties with respect to the matters covered herein and supersedes any prior agreements, written or oral, with respect to the matters covered herein. The parties agree to use good faith efforts cooperatively to resolve any disputes and problems that arise during the implementation of this Memorandum of Understanding.

**Article 7. OTHER TERMS**

(1) Neither party shall have any financial obligation under this MOU. To the extent financing is needed for either party to perform any task under this MOU, such party’s performance is contingent upon the availability of sufficient funds. Each party shall be liable for its own costs in connection with this MOU.
(2) This MOU is governed by the laws of the State of Illinois.
(3) This MOU is not intended to constitute a legally binding or enforceable agreement.
IN WITNESS WHEREOF, the parties have executed this Memorandum of Understanding effective as of the date first written above.

Signed:

James Sandman
President
Legal Services Corporation

Jack L. Rives
Executive Director
American Bar Association
MEMORANDUM

TO: Board of Governors
FROM: Rochelle E. Evans
Subject: Requests for Co-Sponsorship
Date: January 12, 2018

The following requests for co-sponsorships have been made. The Guidelines for Co-sponsorship of Programs/Activities with Other Organizations are attached. (Please note: No ABA general revenue is requested or required for these co-sponsorship requests.)

a. Section of Antitrust Law:

   to renew its cosponsorship of the International Competition Network’s (ICN) Training on Demand Project for FY2018-2020. The mission of the project is to create a comprehensive curriculum of training materials to serve as a virtual university on competition law and practice for competition agency officials, especially those from developing countries. At its 2017 Spring Meeting, the Section of Antitrust Law Council approved funding for this project from its Section budget in the amount of $25,000 per year for FY2018-2020.

b. Young Lawyers Division:

   to co-sponsor with the University of South Carolina School of Law, the University of South Carolina Center on Professionalism, and the National Legal Mentoring Consortium a National Mentoring Conference in Columbia, South Carolina to be held April 12 – 14, 2018, at the University of South Carolina School of Law. The conference is an excellent opportunity for the Young Lawyers Division to support mentoring in the legal profession and to engage with thought-leaders on the importance of mentoring, as well as to help shape best practices and identify successful mentoring programs and strategies that could benefit our members.

c. Rule of Law Initiative (2):

   i. to co-sponsor with the United Nations Office on Drugs and Crime (UNODC) trainings or workshops on alternatives to detention in Bahrain. These events would be co-branded with both ABA and UNODC’s logos (in addition to that of our donor, the US government). Both UNODC and ABA ROLI are implementing projects aimed at training Bahraini stakeholders on best practices and tools for implementing alternatives to incarceration, following the July 2017 passage of an alternatives to detention law in Bahrain.
MEMORANDUM

Board of Governors
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ii. to co-sponsor with the George Washington University Elliot School of International Affairs its
day-long conference “When People Flee: Rule of Law and Forced Migration” scheduled to
take place on April 17, 2018, at the George Washington University Elliot School of International
Affairs. This Conference will elaborate the relationship between rule of law and forced
migration and identify effective rule of law responses bringing together leading scholars,
development professionals and policy-makers for a day-long exploration and exchange of
lessons learned. Both the ABA ROLI and the George Washington University Elliot School of
International Affairs logos would appear on all program materials and both organizations would
distribute invitations to the event to their contacts.

d. Section of Science & Technology Law:
to co-sponsor with the Health Information and Management Systems Society (HIMSS18) the
Annual Conference & Exhibition from March 5 – 9, 2018 in Las Vegas, Nevada which brings
together 45,000+ professionals from around the world for five days of education, innovation and
collaboration to help uncover the promise of health information and technology. Since 2013, the
ABA Board of Governors has approved SciTech’s participation as a co-sponsor of HIMSS events
including its Annual Meetings and Health Summits. The section contributes valuable perspectives
and expertise on science and technology issues through its Healthcare Technology and Medical
Devices Committees and eleven committees in its Security, Privacy and Information Law Division.

e. Commission on Homelessness and Poverty:
to co-sponsor with the California Administrative Office of the Courts a three-day national summit on
Homeless Courts and the role of the criminal justice system in addressing to be held on June
28-30, 2018, in San Diego, California, in association with San Diego’s annual Stand Down event
for homeless veterans.

f. ABA Representatives and Observers to the United Nations:
to co-sponsor with the Medical Women’s International Association and Dr. Padmini Murthy, a Senior
Fellow at the Public Private Alliance Foundation, a program entitled “Sexual Violence, Funding and
Technology During Armed Conflict: The Next Step.” The program will be held in New York City in
conjunction with the Commission on the Status of Women 62nd Forum to be held from March

g. Section of Environment, Energy, and Resources: to co-sponsor and financially support with up to
$7,000 the Jeffrey G. Miller Pace National Environmental Law Moot Court Competition with Pace
Law School for the 2018, 2019, and 2020 years which is scheduled for February 22-24, 2018. The
Jeffrey G. Miller Pace National Environmental Law Moot Court Competition is recognized as the
preeminent environmental law moot court competition in the United States and tests skills in
appellate brief writing and oral advocacy involving issues drawn from real cases, providing
experience in environmental litigation first hand.
Welcome and Introductions

Chair See welcomed everyone and asked them to introduce themselves.

a) Matters for Review by the Board

4.1 Nomination for Consortium for Citizens with Disabilities (Commission on Disability Rights)

The term of Arnettia S. Wright of Washington, DC, as the ABA representative to the Consortium for Citizens with Disabilities expires in November 2017. The Commission on Disability Rights requested the election of Deepinder (Deepa) K. Goraya of Washington, D.C., as the ABA representative to the Consortium for Citizens with Disabilities for a three-year term beginning in November 2017 and expiring in November 2020.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Profession, Public Service and Diversity Committee recommended approval of the request of the Commission on Disability Law to elect Deepinder (Deepa) K. Goraya of Washington, D.C., as the ABA representative to the Consortium for Citizens with Disabilities for a three-year term beginning in November 2017 and expiring in November 2020.

4.2 Request from ABA Rule of Law Initiative and the Center for Human Rights to Amend List of Approved Countries of Operation and Registration, Donors and Thematic Program Areas

The ABA Rule of Law Initiative and the Center for Human Rights requested approval to amend the list of Approved Countries of Operation and Registration, Donors and Thematic Programmatic Areas to include the following donors: (1) the Clooney Foundation for Justice; (2) the American Arbitration Association - International Center for Dispute Resolution; and (3) the Corporación-América S.A.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Profession, Public Service and Diversity Committee recommended approval of the request of the ABA Rule of Law Initiative and the Center for Human Rights to amend the list of Approved Countries of Operation and Registration, Donors and Thematic Programmatic Areas to include...
the following donors: (1) the Clooney Foundation for Justice; (2) the American Arbitration Association - International Center for Dispute Resolution; and (3) the Corporación-América S.A.

4.3 a. Request for Approval of ABA Rule of Law Initiative Memoranda of Understanding

The ABA Rule of Law Initiative ("ROLI") requested approval to enter into a Memorandum of Understanding ("MOU") with the Central African Republic’s Magistrates Training School, referred to in French as the Ecole Nationale d’Administration et de Magistrature ("ENAM"). The MOU will outline expectations and responsibilities of the respective institutions and will facilitate effective collaboration to develop a judicial training curriculum and to strengthen the training capacity of ENAM’s professional staff. In cooperation with ENAM, ROLI will work with experienced judicial actors and judges to develop materials for judicial training guides. The curriculum will serve ENAM to improve the ability of judges to effectively control their courts, to identify the elements of cases, and to administer justice uniformly and consistently. In addition, portions of the curriculum will be employed for the quick-impact training of judicial personnel that are selected to serve on the Special Criminal Court that is to be convened under the auspices of the Judiciary and with international support for the prosecution of perpetrators of heinous crimes committed during Central African Republic’s recent crisis.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Profession, Public Service and Diversity Committee recommended approval of the request of the ABA Rule of Law Initiative ("ROLI") to enter into a Memorandum of Understanding ("MOU") with the Central African Republic’s Magistrates Training School, subject to review and approval of the Memorandum of Understanding by the Office of the General Counsel, and a signed copy filed with the Policy and Planning Division.

b. Ministry of Women’s and Family Affairs in Tunisia

The ABA Rule of Law Initiative ("ROLI") requested approval to enter into a Memorandum of Understanding ("MOU") with the Ministry of Women’s and Family Affairs in Tunisia. The MOU will be for the purpose of defining cooperation under an award. ROLI is currently negotiating with the U.S. Department of State Bureau of Democracy, Human Rights, and Labor to support the implementation of a recently passed law on gender-based violence in Tunisia. Cooperation would be in the areas of training for legal professionals and police, and public education on the new law.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Profession, Public Service and Diversity Committee recommended approval of the request of the ABA Rule of Law Initiative to enter into an Memorandum of Understanding ("MOU") with the Ministry of Women’s and Family Affairs in Tunisia subject to review and approval of the MOU by the Office of the General Counsel, and a signed copy filed with the Policy and Planning Division.

c. General Prosecutor’s Office of the Republic of Tajikistan

The ABA Rule of Law Initiative ("ROLI") requested approval to enter into a Memorandum of Understanding ("MOU") with the General Prosecutor’s Office of the Republic of Tajikistan ("GPO") to further facilitate its working relationship with this government agency as part of its in-country programs. Under ROLI’s current U.S. Government programming in Tajikistan, ROLI cooperates frequently with the GPO. This partnership has enabled stakeholders from the GPO to engage in inter-governmental working groups to discuss legislative reform as well as develop practical training initiatives to equip prosecutors with the skills and knowledge to effectively investigate and prosecute criminal cases. An MOU with the GPO...
would enable greater, and more direct, cooperation with the government agency. ROLI anticipates working with the GPO to provide technical assistance in areas related to countering violent extremism, combatting human trafficking, reducing pretrial detention, and ultimately, promoting individual rights. ROLI expects to facilitate this cooperation through exchange programs/study tours and the possible placement of a pro bono legal specialist in either ROLI or GPO office to directly and effectively collaborate with the GPO. An MOU with the GPO would formalize this current relationship and ensure further cooperation in the country to assist with justice sector reforms.

**UPON MOTION DULY MADE, SECONDED AND CARRIED:**

The Profession, Public Service and Diversity Committee recommended approval of the request of the ABA Rule of Law Initiative to enter into an Memorandum of Understanding with the General Prosecutor’s Office of the Republic of Tajikistan to further facilitate its working relationship with this government agency as part of its in-country programs subject to review and approval of the Memorandum of Understanding by the Office of the General Counsel, and a signed copy filed with the Policy and Planning Division.

4.4 Request from ABA Center for Human Rights for Memorandum of Understanding with the International Bar Association, International Commission of Jurists, Pan African Lawyers Union, SADC Lawyers Association and East Africa Lawyers

The Center for Human Rights’ (“Center”) Justice Defenders Program has been closely monitoring threats to the independence of the legal profession in Tanzania since last month, when the Center, in collaboration with the ABA Rule of Law Initiative and the Section of International Law, supported the ABA President to issue statements expressing concern on the proposed abolishment of Tanzania’s Law Society and the shooting of the Tanganyika Law Society President. Multiple other bar associations around the world have also publicly expressed concern. Following up on this collective concern, the Center, through its Justice Defenders Program, plans to participate in a joint fact-finding mission to Tanzania in collaboration with the International Bar Association, International Commission of Jurists, Pan African Lawyers Union, SADC Lawyers Association and East Africa Lawyers Association, to assess the state of the independence of the legal profession in Tanzania. Each association will send a volunteer and/or staff person to participate in a series of meetings on October 16-18, 2017, with lawyers, judges, and government officials to discuss those concerns raised in the ABA President’s public statements, which were echoed in statements issued by our peer associations and members of the joint fact-finding mission. The Center requested approval to issue a joint report with the above organization, subject to the criteria that will be outlined in a Memorandum of Understanding, which will be subject to final review and approval by the ABA’s General Counsel’s Office.

**UPON MOTION DULY MADE, SECONDED AND CARRIED:**

The Profession, Public Service and Diversity Committee recommended approval of the request of the Center for Human Rights to issue a joint report subject to the criteria that will be outlined in a Memorandum of Understanding which will be subject to review and approval by the Office of the General Counsel, and a signed copy filed with the Policy and Planning Division. The Committee further recommended approval of the final report subject to review by the Governmental Affairs Office and Communications and Media Relations Division in advance of distribution.

4.5 Request from Section of Real Property, Trust and Estate Law for Approval of a Scholarship

The Section of Real Property, Trust and Estate Law (“Section”) requested approval to continue a full-tuition scholarship to the University of Miami School of Law’s Heckerling Graduate
Program in Estate Planning or Robert Traurig-Greenberg Traurig Graduate Program in Real Property Development for the 2018-2019 or 2019-2020 academic year.

In June 2007, the Board approved an annual writing competition sponsored by the Section, where the prize was cash. In April 2017, the Board approved awarding the winner, in addition to a cash prize, a full-tuition scholarship to the University of Miami School of Law’s Heckerling Graduate Program in Estate Planning or Robert Traurig-Greenberg Traurig Graduate Program in Real Property Development for the 2017-2018 or 2018-2019 academic year.

Students must apply and be admitted to the graduate program of their choice prior to the May 30, 2018, contest deadline to be considered for the scholarship. Applicants to the Heckerling Graduate Program in Estate Planning must hold a J.D. degree from an ABA accredited law school and must have completed the equivalent of both a J.D. trusts and estates and federal income tax course. Applicants to the Robert Traurig-Greenberg Traurig Graduate Program in Real Property Development must hold a degree from an ABA accredited law school or a foreign equivalent non-U.S. school.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Profession, Public Service and Diversity Committee recommended approval of the request of the Section of Real Property, Trust and Estate Law to continue a full-tuition scholarship to the University of Miami School of Law’s Heckerling Graduate Program in Estate Planning or Robert Traurig-Greenberg Traurig Graduate Program in Real Property Development for the 2018-2019 or 2019-2020 academic year.

b) Matters for Independent Jurisdiction

4.15 Requests for Co-Sponsorship

The Profession, Public Service and Diversity Committee approved co-sponsorship requests from the following entities (no additional ABA general revenue is requested or required for the co-sponsorships at this time):

a. Section of Intellectual Property Law (2):

(i) to co-sponsor with the Intellectual Property Law Organization of the United States the World IP Day to be held in Washington, DC, on April 26, 2018. The World IP Day is celebrated in numerous locations around the world to foster discussion of the role of intellectual property laws in encouraging innovation and creativity. Section funds of no greater than $5,000 have been budgeted to cover some of the costs.

(ii) to co-sponsor with the American Intellectual Property Law Association, the Intellectual Property Owners Association, the American Bar Association Section of Intellectual Property Law and the Industrial Designers Society of America Design Day 2018, an annual conference for design patent practitioners and design examiners. The day-long event will be held in the Madison Auditorium at USPTO Headquarters in Alexandria, Virginia, on April 17, 2018. Section funds of approximately $3,000 have been budgeted to cover some of the costs.

b. Section of Antitrust Law: to co-sponsor with New York University School of Law, the Next Generation of Antitrust Scholars Workshop, in January of 2020, 2022 and 2024 at New York University School of Law, New York, New York. The objective of the Next Generation of Antitrust Scholars Workshop is to increase the visibility of antitrust in law schools, as it has languished in the legal academy. The Section will contribute up to $7,500 from Section funds to cover some of the costs.
c. **Standing Committee on Professionalism**: requested authorization of a three-year renewal of its co-sponsorship of national and international workshops of the National Institute for Teaching Ethics and Professionalism ("NIFTEP"). NIFTEP is the national organization for professionalism and legal ethics instructors. Its national and international workshops bring together leading academics and practitioners involved in teaching legal ethics and promoting professionalism. The Standing Committee on Professionalism has sponsored all semiannual NIFTEP workshops during each of the previous nine ABA fiscal years (2009-2017) and now seeks authorization of continuing co-sponsorship of all NIFTEP workshops during ABA fiscal years 2017-2020.

d. **President Hilarie Bass**: to co-sponsor a forum with the World Justice Project ("WJP") on "The Rule of Law in America." Approval is also sought to seek outside funding for the conference. The multidisciplinary forum which would take place sometime in the next year if sufficient funds are raised, would provide an opportunity for thought leaders, influencers, and advocates from across the ideological spectrum to exchange insights on the rule of law in the United States. The event would be the first of a series of meetings across the country to expand the national dialogue on the rule of law. The forum would feature objective, original data on the rule of law in the U.S. produced by WJP, along with other data sets and sources.

e. **Commission on Hispanic Legal Rights and Responsibilities**: to co-sponsor with Spanish media outlets, such as, Univision Chicago and Telemundo Chicago and their various media affiliates, outlets, etc. to facilitate legal phone banks where Spanish speaking ABA attorneys provide pro-bono legal information (not legal services) to callers on various legal issues. The Hispanic Commission uses phone banks and social media platforms to inform the legal profession and the community of timely legal information relevant to happenings that particularly impact the legally underrepresented Spanish speaking demographic and Hispanics. Due to the nature of the topics (i.e. recent court cases, new Executive Orders or government regulations) these phone banks and social media platforms are usually held without a lot of notice. For example, most recently Univision Chicago asked that the Hispanic Commission immediately assist with the coordination of a legal phone bank to provide critical legal and policy information to the Hispanic and Spanish speaking community impacted by President Trump’s recent decision to end the Deferred Action for Childhood Arrivals program.

The Profession, Public Service and Diversity Committee approved the request of the Hispanic Commission to co-sponsor phone banks and accompanying social media with entities as outlined above subject to review and approval of agreements by the Office of General Counsel and the Profession, Public Service and Diversity Committee. In addition, the Commission will report to the Committee in February 2018 in Vancouver regarding the phone banks conducted.

c) **Matters for Committee Consideration Only**

4.20 **Approval of the Minutes**

a. The Profession, Public Service and Diversity Committee approved the minutes of the August 10, 2017, meeting with the caveat that House of Delegates Chair Deborah Enix-Ross would review the minutes closer and make changes if needed.

b. The Profession, Public Service and Diversity Committee considered the minutes of the Public Service and Diversity Committee’s August 10, 2017, meeting. Committee members who served on the Public Service and Diversity Committee in FY2017 indicated that the minutes needed to be corrected to accurately reflect the discussion and action taken with respect to 4.4 - Reconsideration of Recommendation from Committee on Scope and Correlation of Work to Sunset the Commission on the American Jury and specifically that
no suggestion was made that the Commission become a standing committee and that the language be revised to correctly state that four sections provide and will continue to provide funding to the Commission.

4.21 Status Report to the Board of Governors on the Realignment Project

ABA President Hilarie Bass joined the Committee to discuss the Realignment Project (“Project”). In response to a Committee member’s question regarding the origin of the Project and his concern that the Project would be duplicating the work of the Committee on Scope and Correlation of Work (“Scope”), President Bass stated that the Board of Governors (“Board”) has independent and fiduciary responsibility to oversee the Association. She added that she had met with senior ABA staff and suggested that they recommend to the Board where they believe there are opportunities for greater efficiency in the ABA. This is a project for the Board to identify efficiencies. She asked the two Board Committees to oversee the Project and made it clear to the two Committee chairs that the list of entities provided could be expanded to include additional entities the Committees wished to consider.

House of Delegates Chair Deborah Enix-Ross stated that the Board has an opportunity to look at entities with a different lens and does not imagine there will be a huge difference between what Scope and the Board will recommend in the process. Scope and the Board Committees need to collaborate and she wants Scope to share reports. It is inefficient to have separate reviews that will probably yield the same results. There is more strength in two processes coming together.

Following an in-depth discussion of the entities being reviewed as part of the Realignment Project including where some would best fit, the Committee asked that the priorities set by the Board at the November 2016 meeting in Atlanta be sent to the Committee for consideration.

The Committee was reminded that if any changes were recommended to any standing committee, those changes had to be submitted to the Standing Committee on Constitution and Bylaws by the March 9, 2018, deadline.

4.22 ABA Enterprise Fund Projects – FY2017 Fourth Quarter Reports

Penina K. Lieber, Committee member responsible for the oversight of active Enterprise Fund Projects, reported on the six active projects. Three projects are on track to achieving deliverables, two are submitting the final report and one is requesting a no-cost extension to complete project deliverables. The Profession, Public Service and Diversity Committee approved the no-cost extension for the following Enterprise Fund project: 

*Improving Bar Association Board Governance Through the Creation and Distribution of Board Training Modules* – ten-month no-cost extension from August 2017 to June 2018 to complete project deliverables.

Following discussion of the FY2017 Fourth Quarter Reports, the Committee discussed the future of the Enterprise Fund and specifically a motion passed by the Improving the Profession Committee at the August 10, 2017, meeting that recommended that the Board of Governors consider and evaluate reinstituting the Enterprise Fund in FY2019.

The Committee agreed to recommend that this recommendation be placed as an action item in the February 2018 Board of Governors meeting agenda.
4.23 **Report from Committee on Scope and Correlation of Work**

Committee Chair See invited Thomas M. Fitzpatrick, Chair of the Committee on Scope and Correlation of Work ("Scope"), to update the Committee on its activities. Scope Chair Fitzpatrick reported that in the fall, Scope will take a broad look at the Legal Services area. He added that last year the Board fostered an overall plan for the Legal Services Division and now that the strategic plan has been in place for a year, Scope would like feedback from the Committee on whether Scope should look at the Legal Services area holistically or just take the regular approach in its review. The Committee agreed that Scope should, as part of its review, evaluate whether the Legal Services area has achieved the goals established in the strategic plan developed last year.

Scope Chair Fitzpatrick stated that Scope hopes to have a productive working relationship with the Board Committees as they work on the Realignment Project. He added that although there is an issue with sharing Scope’s internal evaluations, he is prepared to report to Scope at this meeting that with appropriate redactions and working cooperatively with this Committee, Scope can share information on entities being reviewed.

d) **Informational Only**

4.30 **Informational Report on Action Taken Since Last Meeting**

Since its last meeting, the Profession, Public Service and Diversity Committee considered the following requests that required action prior to the October 2017 Committee meeting. (No additional general revenue is requested or required for the requests, unless otherwise indicated.):

a. Approved the request from the ABA Rule of Law Initiative ("ROLI") to have outside organizations co-sponsor its Annual Meeting Luncheon which took place on Monday, August 14, 2017, and featured a discussion with a keynote speaker, addressing current challenges and the state of the rule of law globally.

The Committee also approved ROLI’s request to co-sponsor the International Humanitarian Dialogs in Chautauqua, New York, which took place from August 27-29, 2017, and was co-sponsored by The American Red Cross, The American Society of International Law, Case Western Reserve University School of Law, The Chautauqua Institution, Impunity Watch, The International Peace and Security Institute, The International Bar Association, IntLawGrrls, The NYU Center for Global Affairs, The Planethood Foundation, The Public International Law and Policy Group, The Robert H. Jackson Center, Syracuse University College of Law, Whitney R. Harris World Law Institute at Washington University School of Law, and The United States Holocaust Memorial Museum.

b. Approved the request from the Office of the President to co-sponsor with the Center for Women in Law ("CWIL") at the University of Texas certain research for the Presidential Initiative on Achieving Long-Term Careers for Women in Law and understood that the CWIL would provide $25,000 to support the research to be directed by the Initiative’s Advisory Council and housed in the American Bar Foundation.

c. Approved the request from the Judicial Division to co-sponsor with the National Judicial College and other organizations a program entitled, “Questionable Authorities: What Every Judge and Lawyer Needs to Know about Expert Witnesses” which will be held at Orrick, Herrington & Sutcliffe, New York, NY, on October 19, 2017.

d. Approved the request from the Center on Children and the Law to be listed as a non-fiscal supporting organization of an upcoming Roundtable titled: “Protecting Children &
Mitigating Risks of Child Welfare Involvement for Families Affected by Immigration Enforcement in New Mexico,” which was hosted and organized by the Center on Immigration and Child Welfare, in collaboration with the Annie E. Casey Foundation, Walter S. Johnson Foundation, University of Houston, and the New Mexico State University College of Health and Social Sciences, and is to be held on November 6-7, 2017.

e. Approved the request from the Section of Civil Rights and Social Justice to co-sponsor with the Environmental Law Institute to develop and eventually publish several texts on environmental protection and environmental justice.

f. Approved the request from the Standing Committee on Public Education to be listed as a partner for the American Library Association’s Banned Books Week Rebel Reader Twitter Tournament held from September 24-30, 2017.

e) Other Business

a. The Committee also discussed whether parameters should be set when presidential initiatives are created. As the ABA continues to face funding issues, it is important to have parameters and criteria when presidential initiatives are created because the ABA cannot continue to fund them. The Committee agreed that the Executive Committee should be advised that this Committee discussed the establishment of guidelines/standards for presidential initiatives and that the Executive Committee should also discuss this for further action.

b. Compliance with Federal Corrupt Practices Act

ABA General Counsel Jarisse Sanborn joined the Committee to answer questions regarding compliance with the Federal Corrupt Practices Act (“FCPA”) which was discussed at the August 2017 meeting of the Public Service and Diversity Committee. Several Committee members asked if the ABA is in compliance with the FCPA. The General Counsel reported to the Committee that the ABA is in compliance with the FCPA and that there had been no violations since monitoring began in 2013. She asked that if the Committee had specific questions that were not answered by the report in August 2017, that they identify those issues so she and ROLI could respond.

There being no further business to come before the Profession, Public Service and Diversity Committee, the meeting was adjourned.

Respectfully submitted,

Honorable Ramona G. See, Chair
MEMORANDUM

TO: Board of Governors Profession, Public Service and Diversity Committee

FROM: Laura P. Macias

Subject: Informational Report on Action Taken Since October 2017 Meeting

Date: January 12, 2018

Since the October 2017 meeting, the Profession, Public Service and Diversity Committee considered the following requests that required action prior to the February 2018 Committee meeting. (No additional general revenue is requested or required for the requests, unless otherwise indicated.):

a. Approved the request from the Standing Committee on Legal Assistance for Military Personnel and the ABA Veterans Legal Services Initiative to list the American Bar Association as a co-sponsor of a networking reception held in November 2017 as part of Veterans Day activities planned by the Nestle Corporation in Washington, D.C.

b. Approved the request from the Section of Civil Rights and Social Justice to co-sponsor with the Constitution Project and the Electronic Privacy Information Center a program panel on Carpenter v. United States, entitled "Where Are We With Location Privacy? Reactions to the Supreme Court's Oral Argument in Carpenter v. United States," held at the ABA D.C. office on November 30, 2017.

c. Approved the request from the Section of International Law to co-sponsor the 2017 Moscow Dispute Resolution Conference with the Russian Arbitration Association, held on December 8, 2017.

d. Approved the request from the Commission on Women in the Profession to co-sponsor a luncheon, “The Challenges for Women in Politics – Both Personal and Professional,” presented by the National Conference of Women’s Bar Associations (NCWBA) and the Canadian Bar Association BC Women Lawyers Forum (CBABC Women Lawyers Forum), that will take place in conjunction with the ABA Midyear Meeting on Friday, February 2, 2018.

e. Approved the request from the Commission on Disability Rights to co-sponsor with the Florida Bar CLE Committee and the Labor and Employment Law Section an annual, two-day Advanced Labor Topics Seminar in the Spring, in which the Commission will work with them in developing some advanced-level programs that focus on disability rights topics in the labor and employment context.
f. Approved the request from the Standing Committee on Delivery of Legal Services to co-sponsor with the Texas A&M University School of Law to conduct a survey of current and former law firm incubator participants and non-profit law firm attorneys designed to obtain greater data about who law firm incubators and non-profit law firms help, and how successful they are in supporting lawyers to provide greater services to modest-income populations.

g. Approved the request from the Commission on Disability Rights (Commission) to have the Pennsylvania Bar Association, the Pennsylvania Bar Institute, the Philadelphia Bar Association’s Legal Rights of Persons with Disabilities Committee, Disability Rights Pennsylvania, and the Association of Corporate Counsel be joint sponsors of the Commission’s Fifth National Conference on Education and Employment Law Issues Impacting Persons with Disabilities to be held in Philadelphia, Pennsylvania, on June 22, 2018. The Commission will work with the ABA Standing Committee on Continuing Legal Education on the panels for the Conference as they are developed.

h. Approved the request from the Council for Diversity in the Educational Pipeline (Council), the Law Student Division, and the Young Lawyers Division to co-sponsor the annual mentoring and networking event for diverse law students and young lawyers hosted by the Kozyak Minority Mentoring Foundation to be held on Saturday, February 3, 2018, in Miami, Florida. The Young Lawyers Division’s Program Support Fund will be used to cover the reduced administrative fee of $500 for the exhibit booth.

i. Approved the request from the Commission on Immigration (Commission) to partner with the American Immigration Council/AILA’s Immigration Justice Campaign (“AIC”) to expand and improve legal representation and advocacy on behalf of detained immigrants and asylum-seekers in South Texas. AIC will hire one full-time attorney/fellow to be placed at ProBAR’s Adult Project in Harlingen, Texas, for a two-year period, a type of secondment.
MEMORANDUM

To: ABA Board of Governors

From: Roberta S. Batley, Chair, Section of Family Law

Subject: Permission to Make a Charitable Contribution to an Outside Organization

Date: January 5, 2018

The Section of Family Law will hold its 2018 Spring CLE Conference in Nashville, Tennessee on May 9-12, 2018. As part of this meeting, the Family Law Section requests permission from the ABA Board of Governors to contribute up to $1,000 to the Jean Crowe Advocacy Center, which aids survivors of domestic violence as they navigate through the criminal and civil court systems in Davidson County, Tennessee. The contribution will be made from Section funds as part of the community service component of the Section’s meeting.

Jean Crowe was an active member of the Family Law Section and a former Family Law Section Council member. The Section of Family Law also gives an annual award, the ABA Section of Family Law Jean Crowe Pro Bono Award, to honor Mrs. Crowe’s legal work. This contribution will further the tribute to her work and advance the Section’s mission.

The Section’s staff has discussed this with the Fund or Justice and Education who has researched the Center and determined that it can receive a contribution from the Section of Family Law.
Consolidated Financial Statements, Report of Independent Certified Public Accountants and Single Audit Reports

American Bar Association

August 31, 2017 and 2016
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REPORT OF INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS

Board of Governors
American Bar Association

Report on the financial statements
We have audited the accompanying consolidated financial statements of the American Bar Association (the ABA), which comprise the consolidated statements of financial position as of August 31, 2017 and 2016, and the related consolidated statements of activities and changes in net assets, and cash flows for the years then ended, and the related notes to the financial statements.

Management’s responsibility for the financial statements
Management is responsible for the preparation and fair presentation of these consolidated financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of consolidated financial statements that are free from material misstatement, whether due to fraud or error.

Auditor’s responsibility
Our responsibility is to express an opinion on these consolidated financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the consolidated financial statements. The procedures selected depend on the auditor’s judgment, including the assessment of the risks of material misstatement of the consolidated financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the ABA’s preparation and fair presentation of the consolidated financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the
effectiveness of the ABA’s internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion
In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of the American Bar Association as of August 31, 2017 and 2016, and the changes in its net assets and its cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

Other matters

Supplementary information
Our audits were conducted for the purpose of forming an opinion on the consolidated financial statements as a whole. The accompanying details of consolidated statements of financial position, details of consolidated statements of activities and changes in net assets, and functional details of consolidated statements of activities and changes in net assets are presented for purposes of additional analysis and are not a required part of the consolidated financial statements. Such supplementary information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the consolidated financial statements. The information has been subjected to the auditing procedures applied in the audits of the consolidated financial statements and certain additional procedures. These additional procedures included comparing and reconciling the information directly to the underlying accounting and other records used to prepare the consolidated financial statements or to the consolidated financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the supplementary information is fairly stated, in all material respects, in relation to the consolidated financial statements as a whole.

Chicago, Illinois
February XX, 2018
American Bar Association  
CONSOLIDATED STATEMENTS OF FINANCIAL POSITION  
August 31, 2017 and 2016  
(In thousands)

<table>
<thead>
<tr>
<th>ASSETS</th>
<th>2017</th>
<th>2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cash and cash equivalents</td>
<td>$15,450</td>
<td>$17,934</td>
</tr>
<tr>
<td>Accounts receivable, net</td>
<td>14,714</td>
<td>14,478</td>
</tr>
<tr>
<td>Inventory, net</td>
<td>2,649</td>
<td>3,385</td>
</tr>
<tr>
<td>Prepaid and other assets</td>
<td>3,676</td>
<td>2,287</td>
</tr>
<tr>
<td>Due from related parties</td>
<td>178</td>
<td>161</td>
</tr>
<tr>
<td>Long-term investments</td>
<td>296,127</td>
<td>291,324</td>
</tr>
<tr>
<td>Long-term investments held for a related party</td>
<td>276</td>
<td>275</td>
</tr>
<tr>
<td>Property and equipment</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Furniture and equipment</td>
<td>49,381</td>
<td>47,298</td>
</tr>
<tr>
<td>Leasehold improvements</td>
<td>23,929</td>
<td>23,955</td>
</tr>
<tr>
<td>Work in progress</td>
<td>374</td>
<td>293</td>
</tr>
<tr>
<td>Accumulated depreciation</td>
<td>(62,067)</td>
<td>(58,743)</td>
</tr>
<tr>
<td>Property and equipment, net</td>
<td>11,617</td>
<td>12,803</td>
</tr>
<tr>
<td>TOTAL ASSETS</td>
<td>$344,687</td>
<td>$342,647</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>LIABILITIES AND NET ASSETS</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>LIABILITIES</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Accounts payable</td>
<td>$9,269</td>
<td>$8,241</td>
</tr>
<tr>
<td>Deferred revenue</td>
<td>59,573</td>
<td>61,127</td>
</tr>
<tr>
<td>Deferred rent abatement</td>
<td>18,146</td>
<td>19,538</td>
</tr>
<tr>
<td>Other liabilities</td>
<td>10,474</td>
<td>9,094</td>
</tr>
<tr>
<td>Pension liability</td>
<td>48,774</td>
<td>55,337</td>
</tr>
<tr>
<td>Term debt</td>
<td>26,000</td>
<td>34,000</td>
</tr>
<tr>
<td>Due to related parties</td>
<td>336</td>
<td>335</td>
</tr>
<tr>
<td>Total liabilities</td>
<td>172,572</td>
<td>187,672</td>
</tr>
<tr>
<td>NET ASSETS</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Unrestricted</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Undesignated</td>
<td>37,402</td>
<td>28,693</td>
</tr>
<tr>
<td>Board-designated</td>
<td>122,170</td>
<td>115,107</td>
</tr>
<tr>
<td>Total unrestricted</td>
<td>159,572</td>
<td>143,800</td>
</tr>
<tr>
<td>Temporarily restricted</td>
<td>5,153</td>
<td>3,961</td>
</tr>
<tr>
<td>Permanently restricted</td>
<td>7,390</td>
<td>7,214</td>
</tr>
<tr>
<td>Total net assets</td>
<td>172,115</td>
<td>154,975</td>
</tr>
<tr>
<td>TOTAL LIABILITIES AND NET ASSETS</td>
<td>$344,687</td>
<td>$342,647</td>
</tr>
</tbody>
</table>

The accompanying notes are an integral part of these statements.
American Bar Association  
CONSOLIDATED STATEMENTS OF ACTIVITIES AND CHANGES IN NET ASSETS  
Years ended August 31, 2017 and 2016  
(In thousands)

The accompanying notes are an integral part of these statements.
American Bar Association  
CONSOLIDATED STATEMENTS OF ACTIVITIES AND CHANGES IN NET ASSETS - CONTINUED  
Years ended August 31, 2017 and 2016  
(In thousands)

<table>
<thead>
<tr>
<th>Temporary restricted net assets</th>
<th>2017</th>
<th>2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gifts and pledges</td>
<td>$2,455</td>
<td>$1,713</td>
</tr>
<tr>
<td>Investment income</td>
<td>919</td>
<td>601</td>
</tr>
<tr>
<td>Net assets released from restrictions</td>
<td>(2,182)</td>
<td>(2,671)</td>
</tr>
<tr>
<td>Change in temporarily restricted net assets</td>
<td>1,192</td>
<td>(357)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Permanently restricted net assets</th>
<th>2017</th>
<th>2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gifts and pledges</td>
<td>176</td>
<td>157</td>
</tr>
<tr>
<td>Change in permanently restricted net assets</td>
<td>176</td>
<td>157</td>
</tr>
</tbody>
</table>

**CHANGE IN TOTAL NET ASSETS**

<table>
<thead>
<tr>
<th></th>
<th>2017</th>
<th>2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net assets at beginning of year</td>
<td>154,975</td>
<td>174,592</td>
</tr>
<tr>
<td>Net assets at end of year</td>
<td>$172,115</td>
<td>$154,975</td>
</tr>
</tbody>
</table>

The accompanying notes are an integral part of these statements.
American Bar Association  
CONSOLIDATED STATEMENTS OF CASH FLOWS  
Years ended August 31, 2017 and 2016  
(In thousands)  
The accompanying notes are an integral part of these statements.

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<tr>
<th>Cash flows from operating activities</th>
<th>2017</th>
<th>2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Change in total net assets</td>
<td>$ 17,140</td>
<td>$(19,617)</td>
</tr>
<tr>
<td>Adjustments to reconcile change in total net assets to net cash used in operating activities</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Depreciation expense</td>
<td>3,324</td>
<td>3,346</td>
</tr>
<tr>
<td>Pension expense</td>
<td>5,686</td>
<td>13,562</td>
</tr>
<tr>
<td>Realized and change in unrealized gains from investing activities</td>
<td>(28,393)</td>
<td>(18,786)</td>
</tr>
<tr>
<td>Changes in operating assets and liabilities</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Increase in accounts receivable</td>
<td>(236)</td>
<td>(29)</td>
</tr>
<tr>
<td>Decrease in inventory</td>
<td>736</td>
<td>397</td>
</tr>
<tr>
<td>(Increase) decrease in prepaid and other assets</td>
<td>(1,389)</td>
<td>191</td>
</tr>
<tr>
<td>Increase in investments held for related parties</td>
<td>(1)</td>
<td>(17)</td>
</tr>
<tr>
<td>(Increase) decrease in due to from related parties, net</td>
<td>(16)</td>
<td>209</td>
</tr>
<tr>
<td>Increase (decrease) in accounts payable</td>
<td>1,028</td>
<td>(1,480)</td>
</tr>
<tr>
<td>(Decrease) increase in deferred revenue</td>
<td>(1,554)</td>
<td>6,409</td>
</tr>
<tr>
<td>Decrease in deferred rent abatement</td>
<td>(1,392)</td>
<td>(1,108)</td>
</tr>
<tr>
<td>Contributions to pension plan</td>
<td>-</td>
<td>(41,710)</td>
</tr>
<tr>
<td>Pension change other than net periodic pension cost</td>
<td>(12,249)</td>
<td>4,460</td>
</tr>
<tr>
<td>Increase (decrease) in other liabilities</td>
<td>1,380</td>
<td>(28)</td>
</tr>
<tr>
<td>Net cash used in operating activities</td>
<td>(15,936)</td>
<td>(54,201)</td>
</tr>
</tbody>
</table>

| Cash flows from investing activities                                     |         |         |
| Sales of investments                                                     | 145,317 | 51,185  |
| Purchases of investments                                                 | (121,727)| (19,448)|
| Purchases of property and equipment                                      | (2,138) | (667)   |
| Net cash provided by investing activities                                 | 21,452  | 31,070  |

| Cash flows from financing activities                                      |         |         |
| Proceeds from term debt borrowings                                       | -       | 40,000  |
| Proceeds from borrowings on short-term debt                             | 5,000   | 10,000  |
| Principal payments on term borrowings                                   | (8,000) | (6,000) |
| Principal payments on short-term debt                                   | (5,000) | (10,000)|
| Net cash (used in ) provided by financing activities                    | (8,000) | 34,000  |
| (Decrease) increase in cash and cash equivalents                        | (2,484) | 10,869  |

| Cash and cash equivalents at beginning of year                           | 17,934  | 7,065   |
| Cash and cash equivalents at end of year                                 | $ 15,450| $17,934 |

| Supplemental disclosures of cash flow information                         |         |         |
| Cash paid for interest                                                   | $ 574   | $ 490   |
| Cash paid for income taxes                                                | 41      | 6       |
NOTE A - ORGANIZATION

The American Bar Association (the ABA) is the national professional association for the nation's lawyers and provides a wide range of services to its members and the public. The ABA’s mission is to serve equally its members, its profession and the public by defending liberty and delivering justice as the national representative of the legal profession.

The consolidated financial statements of the ABA include the accounts of the ABA and the American Bar Association Fund for Justice and Education (the FJE).

The ABA established the FJE as a separate fund in order to obtain tax deductibility for contributions made to the FJE. The FJE has no existence separate from the ABA other than its having applied for and maintained its status as a tax-exempt fund. The FJE’s bylaws require that the FJE maintain its assets separate and apart from the general and unrestricted assets of the ABA, that these assets may not be used in any manner for the general purposes of the ABA and that the FJE maintain books and records separate and apart from the general books and records of the ABA.

NOTE B - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Basis of Presentation

The ABA’s consolidated financial statements are prepared in conformity with accounting principles generally accepted in the United States of America (U.S. GAAP). These principles require management to make estimates and judgments that affect the reported amounts of assets and liabilities, the disclosure of contingent assets and liabilities, and the reported amounts of revenues and expenses in the reporting period. Actual results could differ from those estimates.

Financial statement presentation follows the accounting standards for not-for-profit organizations. Under these standards, net assets, revenues, and investment income or loss are classified based on the existence or absence of donor-imposed restrictions, as follows:

- Permanently restricted net assets are assets subject to donor-imposed restrictions that do not expire over time or cannot be removed or satisfied by the entity itself.

- Temporarily restricted net assets are assets with donor restrictions that expire with the passage of time, the occurrence of an event or the fulfillment of certain conditions. Earnings related to temporarily restricted net assets are recorded as temporarily restricted net assets until amounts are expensed in accordance with the donor’s specified purposes. When donor restrictions are met, temporarily restricted net assets are reclassified as unrestricted net assets and reported in the consolidated statements of activities and changes in net assets as “net assets released from restrictions.”
Unrestricted net assets are not subject to donor-imposed stipulations other than broad restrictions relating to the nature or purposes of the entity. The ABA uses unrestricted contributions at its complete discretion without time or purpose limits. Board-designated net assets are unrestricted net assets designated by the Board to be used for several specific purposes. The Board retains control over these net assets and may, at its discretion, subsequently use the net assets for other purposes.

Cash and Cash Equivalents

Cash equivalents include money market funds with underlying securities having a dollar-weighted average maturity of 90 days or less at the time of purchase. The ABA can liquidate shares of the fund at any time without cost. The ABA had deposits in excess of federally insured limits at August 31, 2017 and 2016. The ABA has not experienced any losses in such deposit accounts and believes it is not exposed to any significant credit risk on cash and cash equivalents. The cash equivalents were $38 and $474 in 2017 and 2016, respectively.

Accounts Receivable

Accounts receivable are stated at amounts due, net of an allowance for doubtful accounts. The ABA evaluates the collectability of its accounts receivable based on the length of time the receivable is outstanding and the anticipated future uncollectible amounts based on historical experience. Accounts receivable are charged to the allowance for doubtful accounts when they are deemed uncollectible, and payments subsequently received on such receivables are credited to the allowance for doubtful accounts.

Inventory

Inventory consists of book publications and is stated at the lower of cost or market. This accounting method takes into consideration both selling price and cost. The ABA uses the weighted-average cost method in determining inventory costs.

Inventories are stated net of a reserve for excess and obsolete items. Reserves for excess and obsolete inventories are based on the value of inventory items in excess of 18 months of sales activity or specific identification. The reserve for excess and obsolete inventory was $4,392 and $4,311 in 2017 and 2016, respectively.

Investments

The ABA records at fair value all investments in debt securities and equity securities with readily determinable fair values based on quoted market prices. Investments held for related parties represent investments that are the property of related-party organizations (see note C), which are maintained in the ABA investment portfolio.

The estimated fair values of investments that do not have readily determinable fair values are based on the net asset value (NAV) per share or based on estimates provided by external investment managers. These fair values are examined through a valuation review process performed by management. A range of possible values exists for these securities and, therefore, the estimated values may differ from the values that would have been used had a ready market for these securities existed.
Property and Equipment

The ABA records leasehold improvements, furniture and equipment at cost and capitalizes acquisitions of such items having an initial cost of $5 or more. Acquisitions with a cost of less than $5 are expensed in the current period. Depreciation and amortization are computed using the straight-line method over the estimated useful life of the assets ranging from five to 16 years.

Fair Value of Financial Instruments

Financial instruments of the ABA consist of cash and cash equivalents, accounts receivable, inventory, long-term investments and accounts payable. The fair value of financial instruments approximates their carrying value in the financial statements, for which fair value information is provided in note E.

Net Assets/Board-Designated Funding of Operations

The ABA’s unrestricted net assets include certain amounts the Board has designated as a reserve for operations. As part of the ABA’s annual budgeting process, the Board decides whether it is appropriate to increase or decrease operating revenues by transferring amounts from or to the non-operating section of the consolidated statements of activities and changes in net assets. Amounts equal to the amounts transferred, if any, are then reclassified within the net assets section of the consolidated statements of financial position between Board-designated and undesignated. In the case of amounts transferred to operating revenues, the Board-designated amounts are decreased and the undesignated amounts are increased by the amounts transferred. In the case of amounts transferred from operating revenues, the Board-designated amounts are increased and the undesignated amounts are decreased by the amounts transferred. Allocations for operations from Board-designated reserves were $3,338 and $1,807 for the fiscal years 2017 and 2016, respectively.

Operations

In the consolidated financial statements, revenues earned and expenses incurred in conducting the programs and services of the ABA are presented as operating activities. Non-operating activities include investment income or loss, net of income designated for operations, pension changes other than net periodic pension costs, gains or losses on the sale or disposal of property and equipment if applicable, and other non-operating items.

Gifts and Contributions

The ABA recognizes cash gifts and contributions as revenue in the period received. Pledges are recognized in the period pledged and recorded at fair value. Gifts and contributions are reported as either temporarily or permanently restricted if they are received with donor restrictions that limit their use other than for broad restrictions relating to the nature or purposes of the ABA. The expiration or fulfillment of donor-imposed restrictions on contributions result in those contributions being reported as net assets released from restrictions in the accompanying consolidated statements of activities and changes in net assets.

Membership Dues

Revenue is recognized in the period when the latter of the following has occurred: (1) goods and services are provided and (2) payment for those goods and services has been received. Membership dues received for a future fiscal period are accounted for as deferred revenue. That deferred revenue is recognized as revenue in the fiscal period when the goods and services paid for are provided.
Meeting Fees

Meeting fees for the current fiscal year are recognized when the meeting dates have occurred. Payments received for meetings being held in the next fiscal year are accounted for as deferred revenue.

Grant Revenue

Grant activity is recorded as exchange transactions. Grant revenue is recognized when the expenses have been incurred for the purpose specified by the grantor. Payments received in advance of when expenses have been incurred are initially recorded as deferred revenue.

Publications Revenue

The ABA publishes and distributes numerous magazines and books. Payment is requested in advance for all publications, except for publications sold to libraries and government agencies. Revenue is recorded when the invoice is issued; invoices are issued upon shipment.

Royalty Revenue

The ABA receives various royalties from other organizations. These royalties are primarily from membership benefits offered to members and staff of the ABA. The revenue is recognized when earned according to contractual agreements with each organization.

Advertising Expense

The ABA expenses advertising costs as incurred.

Income Taxes

The ABA and the FJE are qualified under the U.S. Internal Revenue Code (the IRC) as tax-exempt organizations or, in the case of the FJE, as a tax-exempt fund, and are exempt from tax on income related to their tax-exempt purposes under Section 501(a) of the IRC. The ABA is exempt from income taxes as an association described in Section 501(c)(6) of the IRC. The FJE is exempt under Section 501(c)(3). Management believes there are no material uncertain tax positions that require recognition in the accompanying consolidated financial statements. While exempt from income tax under IRC Section 501(a), the ABA is subject to tax on income unrelated to its exempt purposes, unless that income is otherwise excluded by the IRC.

Prior-Year Reclassifications

Certain amounts in the 2016 consolidated financial statements have been reclassified to conform to the current year presentation. These reclassifications had no effect on the change in consolidated net assets.

Adoption of New Accounting Standards

In May 2014, the Financial Accounting Standards Board (FASB) issued Accounting Standards Updated (ASU) No. 2014-09, Revenue from Contracts with Customers, which supersedes most of the current revenue recognition requirements. The underlying principle is that an entity will recognize revenue to depict the transfer of goods or services to customers at an amount that the entity expects to be entitled to in exchange for those goods or services.
services. The guidance provides a five-step analysis of transactions to determine when and how revenue is recognized. Other major provisions include capitalization of certain contract costs, consideration of time value of money in the transaction price, and allowing estimates of variable consideration to be recognized before contingencies are resolved in certain circumstances. The guidance also requires enhanced disclosures regarding the nature, amount, timing and uncertainty of revenue and cash flows arising from an entity's contracts with customers. The guidance is currently effective for the ABA for fiscal year 2020 (early adoption is permitted). The guidance permits the use of either a retrospective or cumulative effect transition method.

In February 2016, the FASB issued ASU No. 2016-02, Leases, which supersedes most of the current lease accounting and presentation guidance. The core principle is that a lessee should recognize the assets and liabilities that arise from leases (with an exception for leases with a term of 12 months or less) by recognizing in the statement of position a liability to make lease payments and a right-of-use asset representing its right to use the underlying asset. This guidance is currently effective for the ABA for fiscal year 2021. Early adoption is permitted. ABA is evaluating whether this will have a material impact on the consolidated financial statements.

In August 2016, the FASB issued ASU No. 2016-14, Presentation of Financial Statements of Not-for-Profit Entities, which is intended to improve how a not-for-profit entity classifies its net assets, as well as the information it presents in its financial statements about its liquidity and availability of resources, expenses and investment return, and cash flows. The guidance replaces the three classes of net assets currently presented on the statement of financial position with two new classes of net assets, which are based on the existence or absence of donor-imposed restrictions. ASU No. 2016-14 includes specific disclosure requirements intended to improve a financial statement user's ability to assess an entity's available financial resources, along with its management of liquidity and liquidity risk. The guidance requires all not-for-profit entities to present expenses by both their natural and functional classification in a single location in the financial statements. ASU No. 2016-14 is effective for annual financial statements for the ABA for fiscal year 2019. Early adoption is permitted and entities are required to adopt the guidance retrospectively, but if comparative financial statements are presented, they have the option to omit certain information for any periods presented that are prior to the period of adoption. ABA is currently evaluating the impact this guidance will have on the consolidated financial statements.

NOTE C - RELATED-PARTY TRANSACTIONS

Each of the American Bar Endowment, the American Bar Foundation, the ABA Retirement Funds and the National Judicial College is under its own management, but each is related to the ABA through some common directors, officers or members.

The American Bar Endowment contributed $2,931 and $3,247 to the ABA in 2017 and 2016, respectively. The FJE contributed $220 and $225 to the National Judicial College in 2017 and 2016, respectively. The ABA held $276 and $275 in long-term investments for the National Judicial College in 2017 and 2016, respectively. In
addition, the ABA’s expenses were reduced by $1,658 and $1,698 in 2017 and 2016, respectively, for expense reimbursements received from the following related organizations:

<table>
<thead>
<tr>
<th></th>
<th>2017</th>
<th>2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>ABA Retirement Funds</td>
<td>$1,015</td>
<td>$1,039</td>
</tr>
<tr>
<td>American Bar Endowment</td>
<td>309</td>
<td>289</td>
</tr>
<tr>
<td>National Judicial College</td>
<td>66</td>
<td>70</td>
</tr>
<tr>
<td>American Bar Foundation</td>
<td>97</td>
<td>109</td>
</tr>
<tr>
<td>American Lawyers Insurance Plans, Inc.</td>
<td>91</td>
<td>91</td>
</tr>
<tr>
<td>National Association of Women Lawyers</td>
<td>45</td>
<td>45</td>
</tr>
<tr>
<td>National Association of Bar Executives</td>
<td>22</td>
<td>30</td>
</tr>
<tr>
<td>National Conference of Bar Presidents</td>
<td>13</td>
<td>25</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$1,658</strong></td>
<td><strong>$1,698</strong></td>
</tr>
</tbody>
</table>

The expense reimbursements are principally for compensation, rent and services provided by the ABA that are either directly chargeable to the related organization or are allocated based on usage studies.

**NOTE D - INVESTMENTS**

The ABA’s consolidated long-term investments (excluding cash equivalents and long-term investments held for related parties) at August 31, 2017 and 2016, are as follows:

<table>
<thead>
<tr>
<th></th>
<th>2017</th>
<th>2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Equity securities</td>
<td>$213,892</td>
<td>$192,709</td>
</tr>
<tr>
<td>Fixed income</td>
<td>81,945</td>
<td>92,697</td>
</tr>
<tr>
<td>Other investments</td>
<td>290</td>
<td>5,918</td>
</tr>
<tr>
<td><strong>Total long-term investments</strong></td>
<td><strong>$296,127</strong></td>
<td><strong>$291,324</strong></td>
</tr>
</tbody>
</table>

Investment returns in each net asset category for the years ended August 31, 2017 and 2016, are as follows:

<table>
<thead>
<tr>
<th></th>
<th>2017 Unrestricted</th>
<th>2017 Temporarily restricted</th>
<th>2017 Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Management fees, net of interest and dividends</td>
<td>$(391)</td>
<td>$(21)</td>
<td>$(412)</td>
</tr>
<tr>
<td>Realized gains, net</td>
<td>16,767</td>
<td>707</td>
<td>17,474</td>
</tr>
<tr>
<td>Unrealized gains in market value, net</td>
<td>10,687</td>
<td>232</td>
<td>10,919</td>
</tr>
<tr>
<td><strong>Total investment return</strong></td>
<td><strong>$27,063</strong></td>
<td><strong>$918</strong></td>
<td><strong>$27,981</strong></td>
</tr>
</tbody>
</table>
On an annual basis, the Board may approve the allocation of investment income to operating revenue. Investment income allocated to operations in 2017 and 2016 totaled $12,420 and $13,582, respectively. The allocated amount includes all short-term investment income earned and a percentage of the average balance of the long-term investments for a prior 12-quarter period. Investment returns on long-term investments, excluding the return on long-term investments allocated to operations, are recorded as a non-operating activity and totaled $14,643 and $4,471 for fiscal years 2017 and 2016, respectively.

The ABA pays management fees to various fund managers, and investment income is netted against those fees and included in total investment return. Management fees were $1,650 and $1,421 for fiscal years 2017 and 2016, respectively. The liability related to long-term investments held for related parties is included under the caption, “Due from related parties” or “Due to related parties” on the accompanying consolidated statements of financial position.

### NOTE E - FAIR VALUE OF FINANCIAL INSTRUMENTS

The ABA values its financial assets based on the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. In order to increase consistency and comparability in fair value measurements, a fair value hierarchy that prioritizes observable and unobservable inputs is used to measure fair value in three broad levels, which are described below:

- **Level 1** - Quoted prices (unadjusted) in active markets that are accessible at the measurement date for identical assets or liabilities.
- **Level 2** - Observable inputs other than Level 1 prices such as quoted prices for similar assets or liabilities, quoted prices in inactive markets, or model-derived valuations in which all significant inputs are observable or can be derived principally from or corroborated with observable market data.
- **Level 3** - Unobservable inputs are used when little or no market data is available.

<table>
<thead>
<tr>
<th>Description</th>
<th>2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Management fees, net of interest and dividends</td>
<td>(135)</td>
</tr>
<tr>
<td>Realized gains, net</td>
<td>146</td>
</tr>
<tr>
<td>Unrealized gains in market value, net</td>
<td>451</td>
</tr>
<tr>
<td><strong>Total investment return</strong></td>
<td><strong>$18,653</strong></td>
</tr>
</tbody>
</table>

The ABA values its financial assets based on the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. In order to increase consistency and comparability in fair value measurements, a fair value hierarchy that prioritizes observable and unobservable inputs is used to measure fair value in three broad levels, which are described below:

- **Level 1** - Quoted prices (unadjusted) in active markets that are accessible at the measurement date for identical assets or liabilities.
- **Level 2** - Observable inputs other than Level 1 prices such as quoted prices for similar assets or liabilities, quoted prices in inactive markets, or model-derived valuations in which all significant inputs are observable or can be derived principally from or corroborated with observable market data.
- **Level 3** - Unobservable inputs are used when little or no market data is available.
In determining fair value, the ABA uses valuation techniques that maximize the use of observable inputs and minimize the use of unobservable inputs to the extent possible, as well as considers counterparty credit risk in its assessment of fair value. Financial assets carried at fair value at August 31 are classified in the tables below.

<table>
<thead>
<tr>
<th>Money market accounts</th>
<th>2017</th>
<th></th>
<th>2016</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Level 1</td>
<td>Total</td>
<td>Level 1</td>
<td>Total</td>
</tr>
<tr>
<td>Money market accounts</td>
<td>$ 38</td>
<td>$ 38</td>
<td>$ 474</td>
<td>$ 474</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Long-term investments</th>
<th>2017</th>
<th></th>
<th>2016</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Level 1</td>
<td>Total</td>
<td>Level 1</td>
<td>Total</td>
</tr>
<tr>
<td>Fixed (measured at NAV)</td>
<td>-</td>
<td>81,945</td>
<td>-</td>
<td>92,697</td>
</tr>
<tr>
<td>Equity (measured at NAV)</td>
<td>-</td>
<td>151,958</td>
<td>-</td>
<td>132,221</td>
</tr>
<tr>
<td>Other (measured at NAV)</td>
<td>-</td>
<td>290</td>
<td>-</td>
<td>5,918</td>
</tr>
<tr>
<td>Mutual funds</td>
<td>61,934</td>
<td>61,934</td>
<td>60,489</td>
<td>60,488</td>
</tr>
<tr>
<td>Total long-term investments</td>
<td>61,934</td>
<td>296,127</td>
<td>60,489</td>
<td>291,324</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Long-term investments held for related parties</th>
<th>2017</th>
<th></th>
<th>2016</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Level 1</td>
<td>Total</td>
<td>Level 1</td>
<td>Total</td>
</tr>
<tr>
<td>Equity (measured at NAV)</td>
<td>-</td>
<td>276</td>
<td>-</td>
<td>275</td>
</tr>
<tr>
<td>Total assets at fair value</td>
<td>$61,972</td>
<td>$296,441</td>
<td>$60,963</td>
<td>$292,073</td>
</tr>
</tbody>
</table>

The following table sets forth the investment strategies and redemption terms for those investments that are measured at NAV per share as of August 31:

<table>
<thead>
<tr>
<th>2017 Fair value</th>
<th>2016 Fair value</th>
<th>Restrictions</th>
<th>Redemption frequency</th>
<th>Redemption period</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fixed</td>
<td>$81,945</td>
<td>$92,697</td>
<td>No lock-up</td>
<td>Daily</td>
</tr>
<tr>
<td>Equity</td>
<td>152,234</td>
<td>132,496</td>
<td>No lock-up</td>
<td>Daily</td>
</tr>
<tr>
<td>Other</td>
<td>290</td>
<td>5,918</td>
<td>No lock-up</td>
<td>Daily</td>
</tr>
<tr>
<td>Total</td>
<td>$234,469</td>
<td>$231,111</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Limited liability company (fixed, equity, other) - provides exposure to broadly diversified funds of return seeking assets including global equities, real assets and global fixed income.
NOTE F - ACCOUNTS RECEIVABLE

Accounts receivable consist of the following at August 31:

<table>
<thead>
<tr>
<th></th>
<th>2017</th>
<th>2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grants (net of allowance for doubtful accounts of $341 in 2017 and $477 in 2016)</td>
<td>$ 6,951</td>
<td>$ 6,195</td>
</tr>
<tr>
<td>Non-dues revenue general receivables (net of allowance for doubtful accounts of $133 in 2017 and $190 in 2016)</td>
<td>4,453</td>
<td>4,731</td>
</tr>
<tr>
<td>Special advances on international grants</td>
<td>2,455</td>
<td>2,302</td>
</tr>
<tr>
<td>Royalties</td>
<td>654</td>
<td>708</td>
</tr>
<tr>
<td>Mailing list</td>
<td>201</td>
<td>262</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$14,714</strong></td>
<td><strong>$14,198</strong></td>
</tr>
</tbody>
</table>

NOTE G - EMPLOYEE BENEFIT PLANS

The employees of the ABA, together with the employees of the American Bar Endowment, the American Bar Foundation and the National Judicial College (the Plan Sponsors) participate in the A-E-F-C Pension Plan (the Pension Plan), a defined benefit plan, and the ABA Thrift Plan, a contributory and defined contribution plan, (the Thrift Plan). In an amendment effective January 1, 2007, employees hired on or after that date are not eligible to participate in the Pension Plan, but participate in the defined contribution portion of the Thrift Plan. Employees as of December 31, 2006, could remain in and accrue additional benefits under the Pension Plan or elect to convert to the defined contribution plan as of January 1, 2007. Annual contributions to the defined contribution plan are 5% of the participant’s annual salary. Employees who converted to the defined contribution plan retain vested benefits accrued as of December 31, 2006, under the Pension Plan.

In April 2015, the ABA Board of Governors approved an amendment to allow lump sum settlements to former employees with vested pension benefits in the Pension Plan. The election period ended on October 31, 2015, and as of that date 340 people elected a lump sum distribution in the amount of $22,740. These payments were disbursed in December 2015. The acceleration of the pension payments resulted in a settlement charge of $8,842 in fiscal 2016.

Under the Thrift Plan, participants may contribute to a 401(k) in which the employer matches each contribution dollar-for-dollar to a maximum of $300 (amount not in thousands). Thereafter, the employer contributes at a rate of 50% of the participant’s contribution up to an employer maximum of 3% of a participant’s annual salary.

The ABA’s portion of the Pension Plan expense for the years ended August 31, 2017 and 2016, was $5,686 and $13,562, respectively. Effective January 1, 2011, the Pension Plan was amended to reduce the plan benefit formula with the intent that the expected cost of ABA’s future accrual would approximate 5% of total participants’ pay.

The Pension Plan pays management and consulting fees to various entities that are netted against investment income. These fees are in support of the Pension Plan as a whole, which also supports some ABA related parties. Total fees paid were $1,969 and $2,046 for fiscal years 2017 and 2016, respectively.
The funded status of the ABA’s portion of the Pension Plan at the measurement dates, August 31, 2017 and 2016, and the accrued pension costs recognized in the ABA’s consolidated statements of financial position at August 31, 2017 and 2016, are as follows:

<table>
<thead>
<tr>
<th></th>
<th>2017</th>
<th>2016</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Change in projected benefit obligation</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Projected benefit obligation at beginning of year</td>
<td>$189,730</td>
<td>$193,594</td>
</tr>
<tr>
<td>Service cost</td>
<td>1,577</td>
<td>1,432</td>
</tr>
<tr>
<td>Interest cost</td>
<td>6,788</td>
<td>7,646</td>
</tr>
<tr>
<td>Actuarial (gain) loss</td>
<td>(7,162)</td>
<td>17,015</td>
</tr>
<tr>
<td>Benefits paid</td>
<td>(10,396)</td>
<td>(29,957)</td>
</tr>
<tr>
<td><strong>Projected benefit obligation at end of year</strong></td>
<td>180,537</td>
<td>189,730</td>
</tr>
</tbody>
</table>

| **Change in Pension Plan assets** |            |            |
| Fair value of Pension Plan assets at beginning of year | 134,393    | 114,568    |
| Actual return on Pension Plan assets | 7,766      | 8,072      |
| Benefits paid                   | (10,396)   | (29,957)   |
| Employer contributions          | -          | 41,710     |
| **Fair value of assets at end of year** | 131,763    | 134,393    |

| **Funded status as of the measurement date** | $(48,774) | $(55,337) |

| **Components of adjustments to unrestricted net assets** |            |            |
| Unrecognized prior service cost | $(548)     | $(909)     |
| Unrecognized net loss           | 67,089     | 79,699     |

| **Total adjustments to unrestricted net assets** | $66,541    | $78,790    |

| **Amounts recognized in the consolidated statements of financial position** |            |            |
| Pension liability               | $(48,774)  | $(55,337)  |

| **Accumulated benefit obligation** | $180,537   | $189,730   |
American Bar Association  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS - CONTINUED  
Years ended August 31, 2017 and 2016  
(In thousands)

<table>
<thead>
<tr>
<th>Weighted-average assumptions used to determine benefit obligations</th>
<th>2017</th>
<th>2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Discount rate</td>
<td>3.91%</td>
<td>3.69%</td>
</tr>
<tr>
<td>Rate of compensation increase</td>
<td>3.21</td>
<td>3.25</td>
</tr>
<tr>
<td>Expected return on Pension Plan assets</td>
<td>7.00</td>
<td>7.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Components of net periodic pension costs</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Service cost</td>
<td>$1,577</td>
<td>$1,432</td>
</tr>
<tr>
<td>Interest cost</td>
<td>6,788</td>
<td>7,646</td>
</tr>
<tr>
<td>Actual return on Pension Plan assets</td>
<td>(9,403)</td>
<td>(9,444)</td>
</tr>
<tr>
<td>Amortization of net loss</td>
<td>7,085</td>
<td>5,447</td>
</tr>
<tr>
<td>Amortization of prior service credit</td>
<td>(361)</td>
<td>(361)</td>
</tr>
<tr>
<td>Settlement charge</td>
<td>-</td>
<td>8,842</td>
</tr>
</tbody>
</table>

Total net periodic pension cost                                      | $5,686  | $13,562 |

Weighted-average assumptions used to determine net periodic benefit cost

| Discount rate                                                      | 3.69%   | 4.47%   |
| Rate of compensation increase                                      | 3.25    | 3.31    |
| Expected return on Pension Plan assets                             | 7.00    | 7.00    |

Components of pension-related changes other than net periodic pension costs are as follows at August 31

| Net (gain) loss                                                   | $(5,524) | 18,388  |
| Settlement charge                                                | -        | (8,842) |
| Amortization of net loss                                         | (7,086)  | (5,447) |
| Amortization of prior service credit                             | 361      | 361     |

Total pension changes other than net periodic pension costs         | (12,249) | 4,460   |

Total net periodic pension (gain) cost and pension changes other than net periodic pension cost

<table>
<thead>
<tr>
<th></th>
<th>2017</th>
<th>2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total net periodic pension (gain) cost and pension changes other than net periodic pension cost</td>
<td>$(6,563)</td>
<td>$18,022</td>
</tr>
</tbody>
</table>
### Pension Plan Assets

The composition of Pension Plan assets at the measurement dates of August 31, 2017 and 2016, is as follows:

<table>
<thead>
<tr>
<th>Category</th>
<th>2017</th>
<th>2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Equity securities</td>
<td></td>
<td></td>
</tr>
<tr>
<td>U.S. equity</td>
<td>16.1%</td>
<td>18.1%</td>
</tr>
<tr>
<td>Global Ex U.S.</td>
<td>17.6</td>
<td>14.2</td>
</tr>
<tr>
<td>Emerging markets</td>
<td>4.8</td>
<td>5.7</td>
</tr>
<tr>
<td>Total equity securities</td>
<td>38.5</td>
<td>38.0</td>
</tr>
<tr>
<td>Debt securities</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fixed income</td>
<td>34.4</td>
<td>35.5</td>
</tr>
<tr>
<td>Invested cash</td>
<td>2.3</td>
<td>1.8</td>
</tr>
<tr>
<td>Total debt securities</td>
<td>36.7</td>
<td>37.3</td>
</tr>
<tr>
<td>Real asset fund</td>
<td>2.0</td>
<td>1.9</td>
</tr>
<tr>
<td>Absolute return</td>
<td>10.1</td>
<td>11.5</td>
</tr>
<tr>
<td>Equity hedge funds</td>
<td>12.7</td>
<td>11.3</td>
</tr>
<tr>
<td>Total</td>
<td>100.0%</td>
<td>100.0%</td>
</tr>
</tbody>
</table>

The investment policy of the Pension Plan Administration Committee (Committee) seeks reasonable asset growth at prudent risk levels within target allocations. Asset allocation target ranges are reviewed quarterly and rebalanced to within policy target allocations. The investment policy is reviewed at least annually, and revised, as deemed appropriate, by the Committee.

The Pension Plan’s investments are diversified to mitigate risks of loss yet maximize investment returns. Due to the volatility of the capital markets, there is a reasonable possibility of changes in fair value, resulting in additional losses in the near term. It is the intention of the ABA to fund its portion of the Pension Plan as required by the Employee Retirement Income Security Act of 1974.
The fair values of the Pension Plan assets at August 31, by asset category are as follows:

<table>
<thead>
<tr>
<th></th>
<th>Level 1</th>
<th>Total</th>
<th>Level 1</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Common stock funds</td>
<td>$ 2,664</td>
<td>$ 2,664</td>
<td>$ 5,871</td>
<td>$ 5,871</td>
</tr>
<tr>
<td>Money market funds</td>
<td>-</td>
<td>1,963</td>
<td>-</td>
<td>2,413</td>
</tr>
<tr>
<td>Mutual funds</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fixed</td>
<td>9,071</td>
<td>9,071</td>
<td>43,800</td>
<td>43,800</td>
</tr>
<tr>
<td>Equity</td>
<td>19,870</td>
<td>19,870</td>
<td>28,934</td>
<td>28,934</td>
</tr>
<tr>
<td>Collective trust funds</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fixed (measured at NAV)</td>
<td>-</td>
<td>11,076</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Equity (measured at NAV)</td>
<td>-</td>
<td>19,648</td>
<td>-</td>
<td>6,527</td>
</tr>
<tr>
<td>Limited liability company (measured at NAV)</td>
<td>-</td>
<td>26,163</td>
<td>-</td>
<td>6,729</td>
</tr>
<tr>
<td>Hedge funds (measured at NAV)</td>
<td>-</td>
<td>41,308</td>
<td>-</td>
<td>40,119</td>
</tr>
<tr>
<td>Total investments</td>
<td>$31,605</td>
<td>$131,763</td>
<td>$78,605</td>
<td>$134,393</td>
</tr>
</tbody>
</table>

The following table sets forth the investment strategies and redemption terms for those investments that are measured at NAV per share as of August 31:

<table>
<thead>
<tr>
<th></th>
<th>2017</th>
<th>2016</th>
<th>Restrictions</th>
<th>Redemption frequency</th>
<th>Redemption period</th>
</tr>
</thead>
<tbody>
<tr>
<td>Limited liability company</td>
<td></td>
<td></td>
<td>No lock-up</td>
<td>Monthly</td>
<td>100 days</td>
</tr>
<tr>
<td>Collective trust funds</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fixed</td>
<td>11,076</td>
<td>6,729</td>
<td>No lock-up</td>
<td>Daily</td>
<td>1 - 2 days</td>
</tr>
<tr>
<td>Equity</td>
<td>19,648</td>
<td>6,527</td>
<td>No lock-up</td>
<td>Monthly</td>
<td>6 - 10 days</td>
</tr>
<tr>
<td>Hedge funds</td>
<td>41,308</td>
<td>40,119</td>
<td>0 - 24-month lock-up</td>
<td>Monthly, quarterly or annually</td>
<td>30 - 90 days</td>
</tr>
<tr>
<td>Total</td>
<td>$98,195</td>
<td>$53,375</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The limited liability company invests in predominantly U.S. large-cap equities. This fund is valued using NAV.

Collective trust funds (fixed) are designed to protect capital with low-risk investments and include cash, bank notes, corporate notes, government bills and various short-term debt instruments. These investments are valued using the NAV provided by the administrator of the fund.

Collective trust funds (equity) are designated to protect capital with low-risk investments and include cash, global energy equities, global metals and mining equities, non-U.S. equities, commodities, and U.S. Treasury inflation protected securities. They are valued using NAV.

Hedge funds consist of investments in a diverse range of hedge funds as well as common stocks. These investments are valued using the NAV provided by the administrator of the fund as well as direct market quotes. There are currently diverse amounts of redemption restrictions depending on the fund.
To determine the expected annual long-term rate of return for the Pension Plan, the historical performance, investment community forecasts and current market conditions are analyzed to develop expected returns for each of the asset classes used by the Pension Plan. The expected returns for each asset class are then weighted by the target allocations of the Pension Plan. Effective September 1, 2010, and continued through 2017, the expected long-term rate of return assumption used to determine pension expense is 7.00%.

Cash Flows

Expected contributions for the fiscal year ending August 31, 2018 are $2,836.

Estimated future benefit payments reflecting expected future service for the fiscal years ending August 31:

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2018</td>
<td>$11,962</td>
</tr>
<tr>
<td>2019</td>
<td>11,363</td>
</tr>
<tr>
<td>2020</td>
<td>12,029</td>
</tr>
<tr>
<td>2021</td>
<td>11,879</td>
</tr>
<tr>
<td>2022</td>
<td>11,714</td>
</tr>
<tr>
<td>2023 through 2027</td>
<td>56,558</td>
</tr>
</tbody>
</table>

ABA Thrift Plan

The ABA’s expense related to the 401(k) match of the Thrift Plan for the years ended August 31, 2017 and 2016, totaled $1,461 and $1,419, respectively. The ABA’s expense related to the discretionary contribution of the defined contribution for the plan years ended August 31, 2017 and 2016, totaled $1,931 and $1,809, respectively.

NOTE H - DEBT

In May 2015, the ABA entered into a variable rate line of credit agreement with a financial institution to borrow up to $10,000 to fund normal operating expenses. Interest charged on the loan is based on a rate of 115 basis points above the LIBOR rate and interest is due and payable in the month incurred.

In fiscal 2017, the ABA borrowed $5,000 against the line of credit in April and repaid the entire balance in July. Interest totaling $30 was incurred and paid in fiscal 2017. In fiscal 2016, the ABA borrowed $5,000 against the line of credit in January, and an additional $5,000 in April, with the total due and payable by May 31, 2017. Loan repayments of $5,000 each were made in June and July, and interest totaling $52 was incurred and paid in fiscal 2016. There was no outstanding balance against the line of credit as of August 31, 2017 and August 31, 2016.

In October 2015, the ABA entered into a variable rate term loan agreement with a financial institution to borrow $40,000, which was contributed to the Pension Plan. Interest charged to the loan is based on, at the ABA’s discretion, either (i) the CB Floating Rate or (ii) the Adjusted LIBOR rate for the interest period in effect plus 100 basis points. The interest rate as of August 31, 2017 was 2.22%. This loan is secured by the ABA’s long-term investments and matures on September 30, 2020. Beginning on December 31, 2015, the ABA was required to make $2,000 in principal installments on the last day of each calendar quarter until the maturity.
date. Principal loan repayments of $8,000 and $6,000 were made in fiscal 2017 and 2016, respectively. Total interest expense incurred and paid was $544 in 2017 and $438 in 2016.

Future annual principal loan repayments under the terms of the agreement as of August 31, 2017, are as follows:

<table>
<thead>
<tr>
<th>Fiscal years ending August 31</th>
<th>Term debt principal repayments</th>
</tr>
</thead>
<tbody>
<tr>
<td>2018</td>
<td>$ 8,000</td>
</tr>
<tr>
<td>2019</td>
<td>8,000</td>
</tr>
<tr>
<td>2020</td>
<td>8,000</td>
</tr>
<tr>
<td>2021</td>
<td>2,000</td>
</tr>
<tr>
<td>Total term debt principal repayments</td>
<td>$26,000</td>
</tr>
</tbody>
</table>

**NOTE I - COMMITMENTS AND CONTINGENCIES**

The ABA leases certain facilities under non-cancelable operating leases. In August 2017, the ABA amended the current operating lease agreement for the Chicago office space (North Clark Lease). The amendment extended the current lease for an additional seven-year period through June 2031, with a renewal option for an additional five years and the payment of allocated real estate taxes and certain other expenses. The amendment also reduced the overall square footage being leased.

In November 2016, the ABA entered into a lease agreement for office space located in Harlingen, TX. The lease commenced on March 1, 2017, and terminates on February 28, 2025.

In February 2012, the ABA entered into a lease agreement for office space located in Washington, D.C. (Washington Square Lease). The lease commenced on June 1, 2013, and terminates on February 29, 2028.
Future minimum payments under these leases with initial or remaining terms of one year or more and future minimum sublease rental income from related parties as of August 31, 2017, are as follows:

<table>
<thead>
<tr>
<th>Fiscal years ending August 31,</th>
<th>Minimum lease payments</th>
<th>Minimum sublease rental income</th>
<th>Net minimum lease payments</th>
</tr>
</thead>
<tbody>
<tr>
<td>2018</td>
<td>$ 8,823</td>
<td>$ 301</td>
<td>$ 8,522</td>
</tr>
<tr>
<td>2019</td>
<td>8,884</td>
<td>300</td>
<td>8,584</td>
</tr>
<tr>
<td>2020</td>
<td>9,078</td>
<td>236</td>
<td>8,842</td>
</tr>
<tr>
<td>2021</td>
<td>9,276</td>
<td>240</td>
<td>9,036</td>
</tr>
<tr>
<td>2022</td>
<td>9,490</td>
<td>244</td>
<td>9,246</td>
</tr>
<tr>
<td>Thereafter</td>
<td>81,715</td>
<td>445</td>
<td>81,270</td>
</tr>
<tr>
<td>Total minimum lease payments</td>
<td>$127,266</td>
<td>$1,766</td>
<td>$125,500</td>
</tr>
</tbody>
</table>

Certain leases contain clauses allowing the ABA to terminate the agreements. If these options are exercised, financial penalties will be incurred.

In conjunction with the Washington Square Lease, the landlord has made contributions for tenant improvements amounting for $6,110 in 2014. These contributions are reflected as a leasehold improvement and deferred rent abatement in the accompanying consolidated statements of financial position. The leasehold improvement contribution will be amortized over the lesser of the term of the lease or the useful life of the assets from the time they are put into service. The deferred rent abatement is being accreted over 15.75 years, the term of the lease, and is included as a reduction in rent expense, which also is included in facilities expense. The amortization and accretion amounted to $427 for the years ended August 31, 2017 and 2016, and the remaining unamortized balance is $4,320 and $4,747 at August 31, 2017 and 2016, respectively.

The Washington Square Lease granted additional rent abatements totaling $3,856. These abatements are reflected as a reduction in rent expense over the life of the lease on a straight-line basis in the consolidated statements of activities and changes in net assets with the deferred rent abatement in the consolidated statements of financial position. The amortization amounted to $245 for the years ended August 31, 2017 and 2016, and the remaining unamortized balance is $5,315 and $5,120 at August 31, 2017 and 2016, respectively, which includes the straight-line impact of escalating rents.

In conjunction with the North Clark Lease, the landlord made contributions for tenant improvements amounting to $10,266 and $980 in 2004 and 2011, respectively. These contributions are reflected as a leasehold improvements and deferred rent abatement in the consolidated statements of financial position. The first leasehold improvement contribution is being amortized over 15 years, the life of the lease, and is included in facilities expense in the accompanying consolidated statements of activities and changes in net assets. The second leasehold improvement contribution is being amortized over 13 years, the life of the lease extension, and is included in facilities expense in the accompanying consolidated statements of activities and changes in net assets. The deferred rent abatement is being accreted over 15 years and is included as a reduction in rent expense, which also is included in facilities expense. The amortization and accretion amounted to $760 for the years ended August 31, 2017 and 2016, and the remaining unamortized balance is $1,775 and $2,535 at August 31, 2017 and 2016, respectively.
The North Clark Lease includes additional rent abatements of $8,393. These abatements are reflected as a reduction in rent expense over the life of the lease on a straight-line basis in the consolidated statements of activities and changes in net assets with the deferred rent abatement in the consolidated statements of financial position. The amortization amounted to $313 for the years ended August 31, 2017 and 2016, and the remaining unamortized balance is $6,736 and $7,135 at August 31, 2017 and 2016, respectively, which includes the straight-line impact of escalating rents.

In August 2017, lease amendment and extension of the North Clark Lease stipulates the changed rental date is effective September 1, 2017. As such, landlord contributions to tenant improvements and additional rent abatements provided for in the amendment have not been recorded as of August 31, 2017, and are not reflected in the above disclosures or in table below.

The following table includes balances related to both of the ABA leases detailed above:

<table>
<thead>
<tr>
<th></th>
<th>2017</th>
<th>2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tenant improvement - rent abatement</td>
<td>$17,356</td>
<td>$17,356</td>
</tr>
<tr>
<td>Amortization of abatement on tenant improvements</td>
<td>$(11,260)</td>
<td>$(10,073)</td>
</tr>
<tr>
<td>Rent expense - rent abatement, net</td>
<td>12,050</td>
<td>12,255</td>
</tr>
<tr>
<td>Deferred rent abatement</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$18,146</strong></td>
<td><strong>$19,538</strong></td>
</tr>
</tbody>
</table>

Rent expense for all operating leases totaled $9,232 and $9,050 for the years ended August 31, 2017 and 2016, respectively.

The ABA subleases space to several related organizations. Under these agreements, annual sublease rental income may be adjusted for increases in operating expenses. Total sublease rental income for the years ended August 31, 2017 and 2016, totaled $295 and $286, respectively.

The ABA has been named as a defendant in several lawsuits arising in the ordinary course of business. It is the opinion of the ABA that these suits will not have a material adverse effect on the ABA’s financial position or operations.

**NOTE J - FUNCTIONAL EXPENSES**

The ABA’s mission is to serve equally its members, its profession and the public by defending liberty and delivering justice as the national representative of the legal profession. Expenses related to program functions, general and administrative functions, and fundraising functions are as follows for the years ended August 31:

<table>
<thead>
<tr>
<th></th>
<th>2017</th>
<th>2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Programs</td>
<td>$175,229</td>
<td>$175,694</td>
</tr>
<tr>
<td>General and administrative</td>
<td>38,524</td>
<td>48,181</td>
</tr>
<tr>
<td>Fundraising</td>
<td>1,466</td>
<td>1,340</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$215,219</strong></td>
<td><strong>$225,215</strong></td>
</tr>
</tbody>
</table>
NOTE K - TEMPORARILY AND PERMANENTLY RESTRICTED NET ASSETS

Temporarily restricted net assets include gifts and investment income for which donors’ restrictions have not yet been met. Temporarily restricted net assets are available for the following purposes at August 31:

<table>
<thead>
<tr>
<th>Fund/Program</th>
<th>2017</th>
<th>2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fund for Judicial Improvement Projects</td>
<td>$2,231</td>
<td>$1,909</td>
</tr>
<tr>
<td>FJE Endowment Fund</td>
<td>611</td>
<td>514</td>
</tr>
<tr>
<td>Center for Innovation</td>
<td>300</td>
<td>-</td>
</tr>
<tr>
<td>Veterans Legal Services Program</td>
<td>282</td>
<td>-</td>
</tr>
<tr>
<td>Death Penalty Representation Support Fund</td>
<td>257</td>
<td>308</td>
</tr>
<tr>
<td>Senior Woman in the Legal Profession</td>
<td>249</td>
<td>-</td>
</tr>
<tr>
<td>Library of Congress STC Program Support Fund</td>
<td>135</td>
<td>162</td>
</tr>
<tr>
<td>DRC Africa's Legal Scholarship Fund</td>
<td>129</td>
<td>93</td>
</tr>
<tr>
<td>Commission on Immigration - IJT Gifts and Donations</td>
<td>71</td>
<td>90</td>
</tr>
<tr>
<td>Move to End Violence</td>
<td>69</td>
<td>76</td>
</tr>
<tr>
<td>Magna Carta Memorial Restoration</td>
<td>61</td>
<td>33</td>
</tr>
<tr>
<td>Spurgeon Professional Elder Law Education Program</td>
<td>54</td>
<td>60</td>
</tr>
<tr>
<td>E. Lawrence Barcella Jr. Fund</td>
<td>53</td>
<td>39</td>
</tr>
<tr>
<td>Public Contract Law Education Projects</td>
<td>52</td>
<td>62</td>
</tr>
<tr>
<td>Legal Opportunity Scholarship Fund</td>
<td>38</td>
<td>-</td>
</tr>
<tr>
<td>Benjamin Civiletti Fund</td>
<td>28</td>
<td>10</td>
</tr>
<tr>
<td>Marilyn Neforus Scholarship Fund</td>
<td>28</td>
<td>13</td>
</tr>
<tr>
<td>Commission on Sexual Orientation and Gender Identity</td>
<td>27</td>
<td>31</td>
</tr>
<tr>
<td>IBM Cybersecurity Legal Task Force</td>
<td>25</td>
<td>25</td>
</tr>
<tr>
<td>Francis Shattuck Security/ Peace Initiative</td>
<td>22</td>
<td>22</td>
</tr>
<tr>
<td>50/50 Anniversary Fund</td>
<td>21</td>
<td>23</td>
</tr>
<tr>
<td>Robert B. Yegge Program</td>
<td>21</td>
<td>22</td>
</tr>
<tr>
<td>Addressing State Responsibility for Sexual Violence as a Weapon of War</td>
<td>20</td>
<td>20</td>
</tr>
<tr>
<td>Standing Committee on Pro Bono National Pro Bono Website</td>
<td>20</td>
<td>71</td>
</tr>
<tr>
<td>National Veterans Legal Network Summit</td>
<td>18</td>
<td>30</td>
</tr>
<tr>
<td>TIPS Fellows Fund</td>
<td>8</td>
<td>37</td>
</tr>
<tr>
<td>Fund for Non Violence</td>
<td>-</td>
<td>35</td>
</tr>
<tr>
<td>Individual Rights and Responsibilities Programs</td>
<td>-</td>
<td>15</td>
</tr>
<tr>
<td>Next Steps</td>
<td>-</td>
<td>9</td>
</tr>
<tr>
<td>Other</td>
<td>323</td>
<td>252</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$5,153</strong></td>
<td><strong>$3,961</strong></td>
</tr>
</tbody>
</table>
During fiscal years 2017 and 2016, temporarily restricted net assets of $2,182 and $2,671, respectively, were released to cover program expenses meeting the donor restrictions. Released temporarily restricted net assets consist of the following for the years ended August 31:

<table>
<thead>
<tr>
<th>Fund Name</th>
<th>2017</th>
<th>2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Litigation Fellows Support Fund</td>
<td>$312</td>
<td>$364</td>
</tr>
<tr>
<td>Fund for Justice and Education</td>
<td>302</td>
<td>1,000</td>
</tr>
<tr>
<td>Fund for Judicial Improvement Projects</td>
<td>149</td>
<td>175</td>
</tr>
<tr>
<td>Death Penalty Representation</td>
<td>146</td>
<td>78</td>
</tr>
<tr>
<td>Legal Opportunity Scholarship Fund</td>
<td>134</td>
<td>98</td>
</tr>
<tr>
<td>Standing Committee on Pro Bono National Pro Bono Website</td>
<td>101</td>
<td>15</td>
</tr>
<tr>
<td>Legal Assistance for Military</td>
<td>84</td>
<td>43</td>
</tr>
<tr>
<td>Commission on Immigration</td>
<td>77</td>
<td>131</td>
</tr>
<tr>
<td>Commission on Women</td>
<td>74</td>
<td>29</td>
</tr>
<tr>
<td>Public Education</td>
<td>72</td>
<td>101</td>
</tr>
<tr>
<td>Women in Profession</td>
<td>70</td>
<td>117</td>
</tr>
<tr>
<td>Commission on Racial and Ethnic Diversity</td>
<td>70</td>
<td>27</td>
</tr>
<tr>
<td>Public Contract Law</td>
<td>41</td>
<td>23</td>
</tr>
<tr>
<td>Fund for Non Violence</td>
<td>35</td>
<td>-</td>
</tr>
<tr>
<td>Tax Assistance Public Service Fund</td>
<td>35</td>
<td>-</td>
</tr>
<tr>
<td>International Criminal Court Project</td>
<td>33</td>
<td>16</td>
</tr>
<tr>
<td>TIPS Fellows Fund</td>
<td>32</td>
<td>9</td>
</tr>
<tr>
<td>Civil Rights and Social Justice</td>
<td>31</td>
<td>77</td>
</tr>
<tr>
<td>Library of Congress</td>
<td>27</td>
<td>21</td>
</tr>
<tr>
<td>Commission on Disability Rights</td>
<td>23</td>
<td>18</td>
</tr>
<tr>
<td>Pro Bono and Public Service Support Fund</td>
<td>22</td>
<td>7</td>
</tr>
<tr>
<td>DRC Africa’s Legal Scholarship Fund</td>
<td>19</td>
<td>28</td>
</tr>
<tr>
<td>Parent Representation Project</td>
<td>19</td>
<td>8</td>
</tr>
<tr>
<td>Commission on Law and Aging</td>
<td>18</td>
<td>40</td>
</tr>
<tr>
<td>Young Lawyers</td>
<td>-</td>
<td>31</td>
</tr>
<tr>
<td>Magna Carta Memorial Restoration</td>
<td>-</td>
<td>31</td>
</tr>
<tr>
<td>CEELI Committee</td>
<td>-</td>
<td>23</td>
</tr>
<tr>
<td>Other</td>
<td>256</td>
<td>161</td>
</tr>
<tr>
<td>Total</td>
<td>$2,182</td>
<td>$2,671</td>
</tr>
</tbody>
</table>
Permanently restricted net assets are maintained in perpetuity and invested according to the ABA investment policy and donor-imposed restrictions. The investment income is available to support various programs and operations as restricted by the donor. Permanently restricted net assets consist of the following at August 31:

<table>
<thead>
<tr>
<th>Fund Name</th>
<th>2017</th>
<th>2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>FJE Endowment Fund</td>
<td>$3,457</td>
<td>$3,457</td>
</tr>
<tr>
<td>Justice Funds</td>
<td>2,024</td>
<td>2,014</td>
</tr>
<tr>
<td>Marie Walsh Sharpe Fund</td>
<td>927</td>
<td>927</td>
</tr>
<tr>
<td>Tax Assistance Public Service Endowment Fund</td>
<td>341</td>
<td>216</td>
</tr>
<tr>
<td>Benjamin Civiletti Fund</td>
<td>228</td>
<td>192</td>
</tr>
<tr>
<td>E. Lawrence Barcella Fund</td>
<td>110</td>
<td>110</td>
</tr>
<tr>
<td>Carols Morris Fund for Professional Education</td>
<td>100</td>
<td>100</td>
</tr>
<tr>
<td>Erskine M. Ross Fund</td>
<td>100</td>
<td>100</td>
</tr>
<tr>
<td>Henry C. Morris Fund</td>
<td>50</td>
<td>50</td>
</tr>
<tr>
<td>Ned Spurgeon Fund</td>
<td>30</td>
<td>25</td>
</tr>
<tr>
<td>Other</td>
<td>23</td>
<td>23</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$7,390</strong></td>
<td><strong>$7,214</strong></td>
</tr>
</tbody>
</table>

The FJE endowment fund consists of 43 individual funds established for a variety of purposes. Its endowments are classified as donor-restricted endowment funds. As required by U.S. GAAP, net assets associated with endowment funds are classified and reported based on the existence or absence of donor-imposed restrictions.

The ABA has interpreted the Uniform Prudent Management of Institutional Act of 2006 (UPMIFA) as requiring the presentation of the fair value of the original gift as of the gift date of the donor-restricted endowment funds, absent explicit donor stipulations to the contrary. As a result of this interpretation, the ABA classifies as permanently restricted net assets (1) the original value of gifts donated to the permanent endowment, (2) the original value of subsequent gifts to the permanent endowment and (3) accumulations to the permanent endowment made in accordance with the direction of the applicable donor gift instrument at the time the accumulation is added to the fund. The remaining portion of the donor-restricted endowment fund that is not classified as permanently restricted net assets is classified as temporarily restricted net assets until those amounts are appropriated for expenditure by the organization in a manner consistent with the standard of prudence prescribed by UPMIFA.

In accordance with UPMIFA, the ABA considers the following factors when making a determination to appropriate or accumulate donor-restricted funds:

- The duration and preservation of the fund.
- The purposes of the ABA and the FJE, as applicable, and the donor-restricted endowment fund.
- General economic conditions.
- The possible effect of inflation and deflation.
- The expected total return from income and the appreciation of investments.
The ABA has adopted investment and spending policies for endowment assets that attempt to provide a predictable stream of funding to programs supported by its endowments while seeking to maintain purchasing power of endowment assets. Endowment assets include those assets of donor-restricted funds that the FJE must hold in perpetuity. Under this policy, endowment assets are invested in a manner that is intended to produce a real return, net of inflation and investment management costs, of at least 5% annually over the long term. Actual returns in any given year may vary from this amount.

To satisfy its long-term rate-of-return objectives, the ABA relies on a total return strategy in which investment returns are achieved through both capital appreciation (realized and unrealized) and current yield (interest and dividends). The ABA targets a diversified asset allocation that places a greater emphasis on equity-based investments to achieve its long-term objectives within prudent risk constraints.

The ABA has a policy of appropriating for distribution each year 5% of its endowment funds’ rolling average fair value over the prior 36 months through the calendar year-end immediately preceding the fiscal year in which the distribution is planned. In establishing this policy, the ABA considered the long-term expected return on its endowments. Accordingly, over the long-term, the ABA expects the current spending policy to allow its endowments to grow at an average of the estimated long-term rate of inflation. This is consistent with the ABA’s objective to maintain the purchasing power of endowment assets held for a specific term, as well as to provide additional real growth through new gifts and investment return.

From time to time, the ABA receives contributions subject to donor restrictions requiring their use for the specific purpose of an existing permanent endowment, but only temporarily restricting the use of those funds. These types of contributions are classified in the composition table below as temporarily or unrestricted assets, depending on the intent of the donor.

Endowment net asset composition is as follows as of August 31:

<table>
<thead>
<tr>
<th></th>
<th>2017</th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Unrestricted</td>
<td>Temporarily restricted</td>
<td>Permanently restricted</td>
<td>Total</td>
</tr>
<tr>
<td>Donor-restricted endowment funds</td>
<td>$   -</td>
<td>$2,951</td>
<td>$7,390</td>
<td>$10,341</td>
</tr>
<tr>
<td>Quasi-endowment funds</td>
<td>4,458</td>
<td></td>
<td></td>
<td>4,458</td>
</tr>
<tr>
<td>Total funds</td>
<td>$4,458</td>
<td>$2,951</td>
<td>$7,390</td>
<td>$14,799</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>2016</th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Unrestricted</td>
<td>Temporarily restricted</td>
<td>Permanently restricted</td>
<td>Total</td>
</tr>
<tr>
<td>Donor-restricted endowment funds</td>
<td>$   -</td>
<td>$2,502</td>
<td>$7,214</td>
<td>$ 9,716</td>
</tr>
<tr>
<td>Quasi-endowment funds</td>
<td>3,851</td>
<td></td>
<td></td>
<td>3,851</td>
</tr>
<tr>
<td>Total funds</td>
<td>$3,851</td>
<td>$2,502</td>
<td>$7,214</td>
<td>$13,567</td>
</tr>
</tbody>
</table>
Changes in endowment net assets are as follows:

<table>
<thead>
<tr>
<th></th>
<th>Unrestricted</th>
<th>Temporarily restricted</th>
<th>Permanently restricted</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Endowment net assets, August 31, 2016</td>
<td>$3,851</td>
<td>$2,502</td>
<td>$7,214</td>
<td>$13,367</td>
</tr>
<tr>
<td>Investment return</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Net appreciation (realized and unrealized)</td>
<td>335</td>
<td>919</td>
<td>-</td>
<td>1,254</td>
</tr>
<tr>
<td>Total investment return</td>
<td>335</td>
<td>919</td>
<td>-</td>
<td>1,254</td>
</tr>
<tr>
<td>Contributions</td>
<td>150</td>
<td>-</td>
<td>176</td>
<td>326</td>
</tr>
<tr>
<td>Transfer</td>
<td>122</td>
<td>(122)</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Appropriation of endowment assets for expenditures</td>
<td>-</td>
<td>(348)</td>
<td>-</td>
<td>(348)</td>
</tr>
<tr>
<td>Endowment net assets, August 31, 2017</td>
<td>$4,458</td>
<td>$2,951</td>
<td>$7,390</td>
<td>$14,799</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Unrestricted</th>
<th>Temporarily restricted</th>
<th>Permanently restricted</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Endowment net assets, August 31, 2015</td>
<td>$3,416</td>
<td>$2,921</td>
<td>$7,057</td>
<td>$13,394</td>
</tr>
<tr>
<td>Investment return</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Net appreciation (realized and unrealized)</td>
<td>93</td>
<td>586</td>
<td>-</td>
<td>679</td>
</tr>
<tr>
<td>Total investment return</td>
<td>93</td>
<td>586</td>
<td>-</td>
<td>679</td>
</tr>
<tr>
<td>Contributions</td>
<td>342</td>
<td>-</td>
<td>157</td>
<td>499</td>
</tr>
<tr>
<td>Appropriation of endowment assets for expenditures</td>
<td>-</td>
<td>(1,005)</td>
<td>-</td>
<td>(1,005)</td>
</tr>
<tr>
<td>Endowment net assets, August 31, 2016</td>
<td>$3,851</td>
<td>$2,502</td>
<td>$7,214</td>
<td>$13,567</td>
</tr>
</tbody>
</table>

**NOTE L - SUBSEQUENT EVENTS**

The ABA evaluated events and transactions occurring subsequent to August 31, 2017 through February xx, 2018, the date the consolidated financial statements were available to be issued. During this period, there have been no subsequent events requiring recognition or disclosure in the consolidated financial statements, other than the following.

In November 2017, the ABA entered into a loan agreement with a financial institution to borrow $44,000, which was funded on December 1, 2017. Proceeds of the loan were used to pay off the existing long-term debt balance of $24,000 and to contribute $20,000 to the Pension Plan. $22,000 of the loan bears a fixed interest rate of 3.09% per annum, and $22,000 accrues interest at a variable rate equal to the one month LIBOR rate.
plus 105 basis points. The ABA also has the option to lock in at the two, three, or six month LIBOR rate. Commencing on December 31, 2017, the ABA shall make $2,000 in principal payments on the last day of each calendar quarter, to be split equally between the fixed and variable portions of the loan, on the last day of each calendar quarter until the maturity date. The loan matures on March 31, 2023.

The ABA took $5,000 draw on their existing line of credit on February 1, 2018.
DETAILS OF CONSOLIDATION
## American Bar Association
### DETAILS OF CONSOLIDATED STATEMENTS OF FINANCIAL POSITION
#### August 31
(In thousands)

<table>
<thead>
<tr>
<th>ASSETS</th>
<th>American Bar Association</th>
<th>ABA Fund for Education</th>
<th>Consolidated</th>
<th>American Bar Association</th>
<th>ABA Fund for Education</th>
<th>Consolidated</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Cash and cash equivalents</strong></td>
<td>$ 15,278</td>
<td>$ 172</td>
<td>$ 15,450</td>
<td>$ 17,949</td>
<td>(15)</td>
<td>$ 17,934</td>
</tr>
<tr>
<td><strong>Accounts receivable, net</strong></td>
<td>4,552</td>
<td>10,162</td>
<td>14,714</td>
<td>5,158</td>
<td>9,320</td>
<td>14,478</td>
</tr>
<tr>
<td><strong>Inventory, net</strong></td>
<td>2,579</td>
<td>70</td>
<td>2,649</td>
<td>3,332</td>
<td>53</td>
<td>3,385</td>
</tr>
<tr>
<td><strong>Prepaid and other assets</strong></td>
<td>3,629</td>
<td>47</td>
<td>3,676</td>
<td>2,222</td>
<td>65</td>
<td>2,287</td>
</tr>
<tr>
<td><strong>Due from related parties</strong></td>
<td>178</td>
<td>-</td>
<td>178</td>
<td>(274)</td>
<td>435</td>
<td>161</td>
</tr>
<tr>
<td><strong>Long-term investments</strong></td>
<td>280,932</td>
<td>15,195</td>
<td>296,127</td>
<td>277,398</td>
<td>13,926</td>
<td>291,324</td>
</tr>
<tr>
<td><strong>Long-term investments held for a related party</strong></td>
<td>276</td>
<td>-</td>
<td>276</td>
<td>275</td>
<td>-</td>
<td>275</td>
</tr>
<tr>
<td><strong>Property and equipment</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Furniture and equipment</td>
<td>49,372</td>
<td>9</td>
<td>49,381</td>
<td>47,289</td>
<td>9</td>
<td>47,298</td>
</tr>
<tr>
<td>Leasehold improvements</td>
<td>23,929</td>
<td>-</td>
<td>23,929</td>
<td>23,955</td>
<td>-</td>
<td>23,955</td>
</tr>
<tr>
<td>Work in progress</td>
<td>374</td>
<td>-</td>
<td>374</td>
<td>293</td>
<td>-</td>
<td>293</td>
</tr>
<tr>
<td>Accumulated depreciation</td>
<td>(62,058)</td>
<td>(9)</td>
<td>(62,067)</td>
<td>(58,736)</td>
<td>(7)</td>
<td>(58,743)</td>
</tr>
<tr>
<td><strong>Property and equipment, net</strong></td>
<td>11,617</td>
<td>-</td>
<td>11,617</td>
<td>12,801</td>
<td>2</td>
<td>12,803</td>
</tr>
<tr>
<td><strong>TOTAL ASSETS</strong></td>
<td>$319,041</td>
<td>$25,646</td>
<td>$344,687</td>
<td>$318,861</td>
<td>$23,786</td>
<td>$342,647</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>LIABILITIES AND NET ASSETS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>LIABILITIES</strong></td>
</tr>
<tr>
<td>Accounts payable</td>
</tr>
<tr>
<td>Deferred revenue</td>
</tr>
<tr>
<td>Deferred rent abatement</td>
</tr>
<tr>
<td>Other liabilities</td>
</tr>
<tr>
<td>Pension liability</td>
</tr>
<tr>
<td>Term debt</td>
</tr>
<tr>
<td>Due to related parties</td>
</tr>
<tr>
<td><strong>Total liabilities</strong></td>
</tr>
<tr>
<td><strong>NET ASSETS</strong></td>
</tr>
<tr>
<td>Undesignated</td>
</tr>
<tr>
<td>Board-designated</td>
</tr>
<tr>
<td><strong>Total unrestricted</strong></td>
</tr>
<tr>
<td>Temporarily restricted</td>
</tr>
<tr>
<td>Permanently restricted</td>
</tr>
<tr>
<td><strong>Total net assets</strong></td>
</tr>
</tbody>
</table>

**TOTAL LIABILITIES AND NET ASSETS**  
$319,041  $25,646  $344,687  
$318,861  $23,786  $342,647
# American Bar Association

## DETAILS OF CONSOLIDATED STATEMENTS OF ACTIVITIES AND CHANGES IN NET ASSETS

Years ended August 31, 2017 (In thousands)

<table>
<thead>
<tr>
<th>Unrestricted Operating Revenues</th>
<th>2017</th>
<th>2016</th>
<th>Consolidated</th>
<th>Consolidated</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>ABA Fund</strong></td>
<td><strong>American Bar Association</strong></td>
<td><strong>For Justice and Education</strong></td>
<td><strong>Consolidated</strong></td>
<td><strong>Consolidated</strong></td>
</tr>
<tr>
<td>Membership dues</td>
<td>$ 68,671</td>
<td>$</td>
<td>$ 68,671</td>
<td>$ 71,232</td>
</tr>
<tr>
<td>Meeting fees</td>
<td>26,039</td>
<td>1,025</td>
<td>27,064</td>
<td>26,867</td>
</tr>
<tr>
<td>Advertising</td>
<td>2,474</td>
<td>-</td>
<td>2,474</td>
<td>2,485</td>
</tr>
<tr>
<td>Grants</td>
<td>-</td>
<td>54,015</td>
<td>54,015</td>
<td>55,055</td>
</tr>
<tr>
<td>Gifts and sponsorships</td>
<td>8,481</td>
<td>3,874</td>
<td>12,355</td>
<td>11,819</td>
</tr>
<tr>
<td>Publications</td>
<td>7,391</td>
<td>354</td>
<td>7,745</td>
<td>7,739</td>
</tr>
<tr>
<td>Royalties</td>
<td>8,731</td>
<td>46</td>
<td>8,777</td>
<td>9,565</td>
</tr>
<tr>
<td>Accreditation fees</td>
<td>4,558</td>
<td>332</td>
<td>4,890</td>
<td>4,809</td>
</tr>
<tr>
<td>Other</td>
<td>3,496</td>
<td>94</td>
<td>3,590</td>
<td>3,045</td>
</tr>
<tr>
<td>Investment income for operations</td>
<td>12,170</td>
<td>250</td>
<td>12,420</td>
<td>13,582</td>
</tr>
<tr>
<td>Designated reserve for operations</td>
<td>3,338</td>
<td>-</td>
<td>3,338</td>
<td>1,807</td>
</tr>
<tr>
<td>Net assets released from restrictions</td>
<td>-</td>
<td>2,182</td>
<td>2,182</td>
<td>2,671</td>
</tr>
<tr>
<td><strong>Total operating revenues</strong></td>
<td>145,349</td>
<td>62,172</td>
<td>207,521</td>
<td>207,676</td>
</tr>
<tr>
<td><strong>Expenses</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Salaries, wages and benefits</td>
<td>69,824</td>
<td>29,455</td>
<td>99,279</td>
<td>97,786</td>
</tr>
<tr>
<td>Professional fees and services</td>
<td>8,356</td>
<td>22,981</td>
<td>31,337</td>
<td>32,055</td>
</tr>
<tr>
<td>Meetings and travel</td>
<td>31,289</td>
<td>9,433</td>
<td>40,722</td>
<td>41,749</td>
</tr>
<tr>
<td>Advertising and marketing</td>
<td>3,356</td>
<td>56</td>
<td>3,412</td>
<td>3,518</td>
</tr>
<tr>
<td>Printing and publications</td>
<td>9,354</td>
<td>637</td>
<td>9,991</td>
<td>11,107</td>
</tr>
<tr>
<td>Facilities</td>
<td>18,190</td>
<td>5,507</td>
<td>23,697</td>
<td>22,733</td>
</tr>
<tr>
<td>Pension settlement loss</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>8,842</td>
</tr>
<tr>
<td>General operations</td>
<td>2,285</td>
<td>4,496</td>
<td>6,781</td>
<td>7,425</td>
</tr>
<tr>
<td><strong>Total operating expenses</strong></td>
<td>142,654</td>
<td>72,565</td>
<td>215,219</td>
<td>225,215</td>
</tr>
<tr>
<td><strong>Inter-fund transfers</strong></td>
<td>10,791</td>
<td>(10,791)</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td><strong>Total operating expenses and transfers</strong></td>
<td>153,445</td>
<td>61,774</td>
<td>215,219</td>
<td>225,215</td>
</tr>
<tr>
<td><strong>Excess operating revenues over (under) expenses after transfers</strong></td>
<td>(8,096)</td>
<td>398</td>
<td>(7,698)</td>
<td>(17,539)</td>
</tr>
<tr>
<td><strong>Non-operating</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Investment income and realized and unrealized gains, net</td>
<td>14,466</td>
<td>177</td>
<td>14,643</td>
<td>4,471</td>
</tr>
<tr>
<td>Pension changes other than net periodic pension cost</td>
<td>12,249</td>
<td>-</td>
<td>12,249</td>
<td>(4,460)</td>
</tr>
<tr>
<td>Designated reserve for operations</td>
<td>(3,338)</td>
<td>-</td>
<td>(3,338)</td>
<td>(1,807)</td>
</tr>
<tr>
<td>Other non-operating items</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>(82)</td>
</tr>
<tr>
<td><strong>Total non-operating</strong></td>
<td>23,293</td>
<td>177</td>
<td>23,470</td>
<td>(1,878)</td>
</tr>
<tr>
<td><strong>Change in unrestricted net assets</strong></td>
<td>15,197</td>
<td>575</td>
<td>15,772</td>
<td>(19,417)</td>
</tr>
<tr>
<td><strong>Temporarily restricted</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Gifts and pledges</td>
<td>-</td>
<td>2,455</td>
<td>2,455</td>
<td>1,713</td>
</tr>
<tr>
<td>Investment income</td>
<td>-</td>
<td>919</td>
<td>919</td>
<td>601</td>
</tr>
<tr>
<td>Net assets released from restrictions</td>
<td>-</td>
<td>(2,162)</td>
<td>(2,162)</td>
<td>(2,671)</td>
</tr>
<tr>
<td><strong>Change in temporarily restricted net assets</strong></td>
<td>-</td>
<td>1,192</td>
<td>1,192</td>
<td>(357)</td>
</tr>
</tbody>
</table>
American Bar Association  
DETAILS OF CONSOLIDATED STATEMENTS OF ACTIVITIES AND CHANGES IN NET ASSETS  
Years ended August 31,  
(In thousands) 

<table>
<thead>
<tr>
<th></th>
<th>2017</th>
<th></th>
<th>2016</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>American Bar</td>
<td>ABA Fund</td>
<td>Consolidated</td>
<td>Consolidated</td>
</tr>
<tr>
<td></td>
<td>Association</td>
<td>For Justice</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>and Education</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Permanently restricted</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Gifts and pledges</td>
<td>$ -</td>
<td>$ 176</td>
<td>$ 176</td>
<td>$ 157</td>
</tr>
<tr>
<td>Change in permanently restricted net assets</td>
<td>$ -</td>
<td>176</td>
<td>176</td>
<td>157</td>
</tr>
<tr>
<td><strong>CHANGE IN TOTAL NET ASSETS</strong></td>
<td>15,197</td>
<td>1,943</td>
<td>17,140</td>
<td>(19,617)</td>
</tr>
<tr>
<td>Net assets at beginning of year</td>
<td>139,544</td>
<td>15,431</td>
<td>154,975</td>
<td>174,592</td>
</tr>
<tr>
<td>Net assets at end of year</td>
<td>$154,741</td>
<td>$ 17,374</td>
<td>$172,115</td>
<td>$154,975</td>
</tr>
</tbody>
</table>
### American Bar Association

**FUNCTIONAL DETAILS OF CONSOLIDATED STATEMENTS OF ACTIVITIES AND CHANGES IN NET ASSETS**

*Years ended August 31, (In thousands)*

#### Unrestricted

<table>
<thead>
<tr>
<th>Operating Revenues</th>
<th>2017</th>
<th>2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Membership dues</td>
<td>$56,771</td>
<td>$11,900</td>
</tr>
<tr>
<td>Meeting fees</td>
<td>5,760</td>
<td>20,410</td>
</tr>
<tr>
<td>Advertising</td>
<td>1,620</td>
<td>654</td>
</tr>
<tr>
<td>Grants</td>
<td>-</td>
<td>54,015</td>
</tr>
<tr>
<td>Gifts and sponsorships</td>
<td>1,292</td>
<td>7,189</td>
</tr>
<tr>
<td>Publications</td>
<td>2,232</td>
<td>5,368</td>
</tr>
<tr>
<td>Royalties</td>
<td>1,840</td>
<td>1,927</td>
</tr>
<tr>
<td>Accreditation fees</td>
<td>387</td>
<td>4,503</td>
</tr>
<tr>
<td>Other</td>
<td>3,364</td>
<td>170</td>
</tr>
<tr>
<td>Investment income for operations</td>
<td>11,187</td>
<td>1,233</td>
</tr>
<tr>
<td>Designated reserve for operations</td>
<td>3,338</td>
<td>-</td>
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<tr>
<td>Net assets released from restrictions</td>
<td>-</td>
<td>2,176</td>
</tr>
<tr>
<td>Section service fees</td>
<td>348</td>
<td>(348)</td>
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<tr>
<td><strong>Total operating revenues</strong></td>
<td>93,345</td>
<td>53,006</td>
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#### Expenses

<table>
<thead>
<tr>
<th>General operations/ Sections/ Grants/ gifts</th>
<th>Consolidated</th>
<th>Consolidated</th>
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<tbody>
<tr>
<td>Salaries, wages and benefits</td>
<td>67,863</td>
<td>99,279</td>
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<tr>
<td>Professional fees and services</td>
<td>4,444</td>
<td>31,337</td>
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<td>Meetings and travelers</td>
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<td>40,722</td>
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<td>Advertising and marketing</td>
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<tr>
<td>Printing and publications</td>
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<td>9,991</td>
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<tr>
<td>Facilities</td>
<td>15,380</td>
<td>23,697</td>
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<td>Pension settlement loss</td>
<td>-</td>
<td>8,482</td>
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<tr>
<td><strong>General operations</strong></td>
<td>(3,400)</td>
<td>6,781</td>
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<tr>
<td><strong>Total operating expenses</strong></td>
<td>99,682</td>
<td>215,219</td>
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<tr>
<td>Inter-fund/ intra-fund transfers</td>
<td>7,814</td>
<td>-</td>
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<tr>
<td><strong>Total operating expenses and transfers</strong></td>
<td>107,496</td>
<td>215,219</td>
</tr>
<tr>
<td><strong>Excess operating revenues over (under) expenses after transfers</strong></td>
<td>(14,151)</td>
<td>(7,698)</td>
</tr>
</tbody>
</table>

#### Non-operating

| Investment income and realized and unrealized gains, net | 4,809 | 14,643 | 4,471 |
| Pension changes other than net periodic pension costs | 12,249 | 12,249 | (4,460) |
| Designated reserve for operations | (3,338) | (3,338) | (1,807) |
| Other non-operating items | (72) | (84) | (82) |
| **Total non-operating** | 13,648 | 23,470 | (1,878) |
| **Change in unrestricted net assets** | (503) | 15,772 | (19,417) |

#### Temporarily restricted

| Gifts and pledges | - | 2,455 | 2,455 |
| Investment income | - | 919  | 601  |
| Net assets released from restrictions | - | (2,182) | (2,182) |
| **Change in temporarily restricted net assets** | - | 1,192 | 1,192 | (358) |
### Permanent Restricted Gifts and Pledges

#### 2017
- General operations: -
- Sections: -
- Grants/gifts: $176
- Consolidated: $176

#### 2016
- General operations: -
- Sections: -
- Grants/gifts: $176
- Consolidated: $157

#### Change in Permanently Restricted Net Assets
- General operations: -
- Sections: -
- Grants/gifts: $176
- Consolidated: $176

#### Change in Total Net Assets

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<tr>
<th></th>
<th>2017</th>
<th></th>
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<th>2016</th>
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<tr>
<td></td>
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<td>Sections</td>
<td>Grants/gifts</td>
<td>Consolidated</td>
<td>General operations</td>
<td>Sections</td>
<td>Grants/gifts</td>
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<tr>
<td>Permanently restricted</td>
<td>(503)</td>
<td>6,728</td>
<td>10,915</td>
<td>17,140</td>
<td>(19,617)</td>
<td>6,728</td>
<td>10,915</td>
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<tr>
<td>Change in permanently restricted net assets</td>
<td>-</td>
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<td>176</td>
<td>176</td>
<td>-</td>
<td>-</td>
<td>176</td>
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<tr>
<td>Net assets at beginning of year</td>
<td>32,557</td>
<td>99,413</td>
<td>23,005</td>
<td>154,975</td>
<td>32,557</td>
<td>99,413</td>
<td>23,005</td>
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<tr>
<td>Net assets at end of year</td>
<td>$32,054</td>
<td>$106,141</td>
<td>$33,920</td>
<td>$172,115</td>
<td>$32,054</td>
<td>$106,141</td>
<td>$33,920</td>
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OTHER INFORMATION (UNAUDITED)
Established in 1878 as a voluntary not-for-profit association of the legal profession, the ABA was incorporated effective December 7, 1992.

Any person of good moral character in good standing at the bar of a state, territory, or possession of the United States of America is eligible to be a member of the ABA in accordance with the Bylaws. The Bylaws may specify classes of members.

The purposes of the ABA are to uphold and defend the Constitution of the United States and maintain representative government; to advance the science of jurisprudence; to promote throughout the nation the administration of justice and the uniformity of legislation and of judicial decisions; to uphold the honor of the profession of law; to apply the knowledge and experience of the profession to the promotion of the public good; to encourage cordial intercourse among the members of the ABA; and to correlate and promote the activities of the bar organizations in the nation within these purposes and in the interests of the profession and of the public.

Administration of the ABA is to advance the science of jurisprudence and the advancement of the public good; membership dues and other resources are primarily expended on professional, public service, and educational activities.

President Linda A. Klein
President-Elect Hilarie Bass
Immediate Past President Paulette Brown
Chair, House of Delegates Deborah Enix-Ross
Secretary Mary T. Torres
Treasurer G. Nicholas Casey, Jr.
Executive Director Jack L. Rives

The Officers

<table>
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<tr>
<th>Ex-Officio members</th>
<th>First District</th>
<th>Second District</th>
<th>Third District</th>
<th>Fourth District</th>
<th>Fifth District</th>
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SINGLE AUDIT REPORTS
REPORT OF INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS
ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON
COMPLIANCE AND OTHER MATTERS REQUIRED BY GOVERNMENT
AUDITING STANDARDS

Board of Governors and Management
American Bar Association

We have audited, in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States, the consolidated financial statements of the American Bar Association (the ABA), which comprise the consolidated statement of financial position as of August 31, 2017, and the related consolidated statements of activities and cash flows for the year then ended, and the related notes to the financial statements, and have issued our report thereon dated February xx, 2018.

Internal control over financial reporting
In planning and performing our audit of the consolidated financial statements, we considered the ABA’s internal control over financial reporting (internal control) to design audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of internal control. Accordingly, we do not express an opinion on the effectiveness of the ABA’s internal control.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A material weakness is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the ABA’s financial statements will not be prevented, or detected and corrected, on a timely basis. A significant deficiency is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our audit we did...
not identify any deficiencies in the ABA’s internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

Compliance and other matters
As part of obtaining reasonable assurance about whether the ABA’s consolidated financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under Government Auditing Standards.

Intended purpose
The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the ABA’s internal control or on compliance. This report is an integral part of an audit performed in accordance with Government Auditing Standards in considering the ABA’s internal control and compliance. Accordingly, this report is not suitable for any other purpose.

Chicago, Illinois,
February xx, 2018
Board of Governors and Management
American Bar Association

Report on compliance for each major federal program

We have audited the compliance of American Bar Association (the ABA) with the types of compliance requirements described in the U.S. Office of Management and Budget’s OMB Compliance Supplement that could have a direct and material effect on each of its major federal programs for the year ended August 31, 2017. The ABA’s major federal programs are identified in the summary of auditor’s results section of the accompanying schedule of findings and questioned costs.

Management’s responsibility
Management is responsible for compliance with federal statutes, regulations, and the terms and conditions of its federal awards applicable to the ABA’s federal programs.

Auditor’s responsibility
Our responsibility is to express an opinion on compliance for each of the ABA’s major federal programs based on our audit of the types of compliance requirements referred to above. We conducted our audit of compliance in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States; and the audit requirements of Title 2 U.S. Code of Federal Regulations Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance). Those standards and the Uniform Guidance require that we plan and perform the audit to obtain reasonable assurance about whether noncompliance with the types of compliance requirements referred to above that could have a direct and material effect on a major federal program occurred. An audit includes examining, on a test basis, evidence about the ABA’s compliance with those requirements and performing such other procedures as we considered necessary in the circumstances.

We believe that our audit provides a reasonable basis for our opinion on compliance for each major federal program. However, our audit does not provide a legal determination of the ABA’s compliance.
Opinion on each major federal program
In our opinion, the ABA complied, in all material respects, with the types of compliance requirements referred to above that could have a direct and material effect on each of its major federal programs for the year ended August 31, 2017.

Report on internal control over compliance
Management of the ABA is responsible for establishing and maintaining effective internal control over compliance with the types of compliance requirements referred to above. In planning and performing our audit of compliance, we considered the ABA’s internal control over compliance with the types of compliance requirements that could have a direct and material effect on each major federal program to design audit procedures that are appropriate in the circumstances for the purpose of expressing an opinion on compliance for each major federal program and to test and report on internal control over compliance in accordance with the Uniform Guidance, but not for the purpose of expressing an opinion on the effectiveness of internal control over compliance. Accordingly, we do not express an opinion on the effectiveness of the ABA’s internal control over compliance.

A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance with a type of compliance requirement of a federal program on a timely basis. A material weakness in internal control over compliance is a deficiency, or a combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a type of compliance requirement of a federal program will not be prevented, or detected and corrected, on a timely basis. A significant deficiency in internal control over compliance is a deficiency, or a combination of deficiencies, in internal control over compliance with a type of compliance requirement of a federal program that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Our consideration of internal control over compliance was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over compliance that might be material weaknesses or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in the ABA’s internal control over compliance that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

The purpose of this Report on Internal Control Over Compliance is solely to describe the scope of our testing of internal control over compliance and the results of that testing based on the requirements of the Uniform Guidance. Accordingly, this report is not suitable for any other purpose.

Chicago, Illinois
February xx, 2018
<table>
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<tr>
<th>Federal grantor agency/ program title/ pass-through entity/ project description</th>
<th>Agency Award Number</th>
<th>CFDA number</th>
<th>Pass-through ID</th>
<th>Pass through to subrecipients</th>
<th>Federal expenditures</th>
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## American Bar Association
### SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS - CONTINUED

Year ended August 31, 2017
(In thousands)

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<td>National Center on Elder Abuse Project</td>
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<td>National Center for Legal and Judicial Excellence in Child Welfare - Year 2</td>
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<td>USAID Foreign Assistance for Programs Overseas</td>
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<td>CLE For Young Lawyers In Egypt</td>
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<td>98.001</td>
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<td>Judicial Sector Reform in the Philippines</td>
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<td>98.001</td>
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<td>USAID Kyrgyzstan Support To The Kyrgyzstani Legal Defense Community</td>
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<td>USAID Kazakhstan Judicial Independence Program</td>
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<td>98.001</td>
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<td>Egypt Strengthening the Capacity of the Egyptian Judiciary</td>
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<td>1,443</td>
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<td>Sri Lanka Civil Society Initiatives to Promote the Rule of Law</td>
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<td>USAID/TAF China Justice Under Rule of Law in Society (through the Asia Foundation)</td>
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<td>DRC Advancing Human Rights and Promoting Electoral Justice</td>
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<td>Guinea Maternal and Child Survival Program</td>
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<td>23-7424444</td>
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<td>52-1095113</td>
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<td>The Balkans Regional Rule of Law Network Program (through the Freedom House)</td>
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<td>98.001</td>
<td>52-1095113</td>
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<td>Libya Supporting Consensus Building for the National Dialogue, Constitution and Governing Process</td>
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<td>98.001</td>
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<td>2,096</td>
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<td><strong>Total Expenditures of Federal Awards</strong></td>
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<td><strong>$2,244</strong></td>
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<td><strong>38,491</strong></td>
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NOTE A - SCOPE OF FEDERAL AWARDS

The American Bar Association (the ABA) received federal and state funding through grants and contracts with certain federal and state agencies and subawards with various other agencies. The accompanying schedule of expenditures of federal awards includes federal grant activity of the ABA. The information in this schedule is presented in accordance with the requirements of the Title 2 U.S. Code of Federal Regulations Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance). Therefore, some amounts presented in this schedule may differ from amounts presented in, or used in the preparation of, the consolidated financial statements. The ABA has not elected to use the 10% de minimus indirect cost rate allowed under the Uniform Guidance.

NOTE B - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The schedule of expenditures of federal awards has been prepared on the accrual basis of accounting. Expenditures are recorded for program activities and capital purchases in accordance with the terms of the applicable award. Revenues are recognized to the extent of expenditures incurred in the consolidated financial statements of the ABA.

NOTE C - CATEGORIZATION OF EXPENDITURES

The schedule of expenditures of federal awards reflects federal expenditures for all individual grants that were active during the year. The categorization of expenditures by program included in the schedule of expenditures of federal awards is based on the Catalog of Federal Domestic Assistance (CFDA). In accordance with the ABA’s policy, the schedule of expenditures of federal awards for the fiscal year ended August 31, 2017, reflects CFDA changes issued through August 2017.

The ABA has some awards presented on the schedule of expenditures of federal awards that do not have CFDA numbers assigned. When a CFDA number is not assigned, federal awards from the same agency made for the same purpose are combined and considered one program for purposes of determining major programs.

NOTE D - NON-CASH ASSISTANCE

The ABA did not receive any non-cash assistance from federal awards.
American Bar Association
SUMMARY OF FINDINGS AND QUESTIONED COSTS
Year ended August 31, 2011

I. Summary of Auditor’s Results

Financial Statements

Type of auditor’s report issued: Unmodified

Internal control over financial reporting:

- Material weakness (es) identified? _____ Yes   X   No
- Significant deficiency (ies) identified? _____ Yes   X   None reported

Noncompliance material to financial statements noted? _____ Yes   X   No

Federal Awards

Internal control over major programs:

- Material weakness (es) identified? _____ Yes   X   No
- Significant deficiency (ies) identified? _____ Yes   X   None reported

Type of auditors’ report issued on compliance for major programs: Unmodified

Any audit findings disclosed that are required to be reported in accordance with 2 CFR 200.516(a)? _____ Yes   X   No

Identification of major programs:

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<th>CFDA numbers</th>
<th>Name of federal program or cluster</th>
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<td>19.345</td>
<td>International Programs to Support Democracy, Human Rights and Labor</td>
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<td>98.001</td>
<td>USAID Foreign Assistance for Programs Overseas</td>
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</table>

Dollar threshold used to distinguish between Type A and Type B programs: $1,117,820

Auditee qualified as a low-risk auditee? X   Yes   ___   No
II. **Financial Statement Findings**

None noted.

III. **Federal Award Findings and Questioned Costs**

None noted.
Revised Investment Policy
Date: January 8, 2018
To: Board of Governors of the FJE
From: William K. Phelan
Subject: FJE New Awards/Modifications

Financial Services kindly requests that the Board of Governors of the American Bar Association Fund for Justice and Education review and note the acceptance of the restricted grants listed on the attached report. These grants, totaling $16,918,128 and not previously reported to the Board, were awarded through September 30, 2017.

Should you have any questions — or need further information — my staff and I are available to assist.

WKP:nn
Cc: Jack L. Rives
    Jerry Kiska
<table>
<thead>
<tr>
<th>Grantor</th>
<th>Project Title</th>
<th>Amount</th>
<th>Period</th>
<th>End date</th>
<th>NICRA Cost</th>
<th>Rate*</th>
<th>Cost</th>
<th>Overhead Cost</th>
<th>NICRA Cost</th>
<th>Domestic</th>
<th>Entity</th>
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<td>U.S. Department of Homeland Security</td>
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<td>8/31/2017</td>
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<td>$13,975</td>
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<td>Grantor</td>
<td>Project Title</td>
<td>Amount (Estimated)</td>
<td>Amount (Obligated)</td>
<td>Period</td>
<td>End date</td>
<td>NICRA Cost</td>
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<td>G &amp; A Cost</td>
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<td>9/1/2018</td>
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<td>Increasing Access to Justice for Disadvantaged Groups in the Democratic Republic of Congo</td>
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## New Awards / Modifications

**Period:** October 1 - December 31 2017

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<td><strong>Cost</strong></td>
<td><strong>Overhead</strong></td>
<td><strong>NICRA</strong></td>
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## New Awards / Modifications
**Period:** October 1 - December 31 2017

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ABA Fund for Justice and Education

New Awards / Modifications
Period: October 1 - December 31 2017

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Subtotal Modifications $9,755,290 $9,755,290

Grand Total Awards July 1 - September 30, 2017 $16,918,128 $16,918,128 $13,826,263 $1,247,431 $1,844,434

Domestic Total $10,687,017 $10,687,017 $8,892,565 $561,974 $1,232,477

|                      |                             | NICRA Variance From Full Rate |          |          |
|----------------------|-----------------------------|-----------------------------|----------|
| Domestic Full NICRA  | $10,563,042                 | $10,563,042                 | $8,773,211| $557,353 |
| Domestic Partial NICRA | $123,975                     | $123,975                     | $16,376  | $4,621   |

International (ROLI) Total $6,231,112 $6,231,112 $4,033,698 $685,457 $611,957

|                      |                             | NICRA Variance From Full Rate |          |          |
|----------------------|-----------------------------|-----------------------------|----------|
| International Full NICRA | $6,006,112                 | $6,006,112                 | $4,757,614| $652,377 |
| International Partial NICRA | $225,000                     | $225,000                     | $7,212   | $176,084|

NICRA Variance From Full Rate $23,587.45

*NICRA - Approved indirect cost rate in the Negotiated Indirect Cost Rate Agreement
**Received it after Oct 1, 2017
Amend Constitution and Bylaws
Regarding ABA Journal
The ABA Standing Committee on Audit is proposing that the House of Delegates amend Article 31.7 of the ABA Constitution and Bylaws (“C&B”) at the 2018 Annual meeting to more completely and accurately reflect the Committee’s duties as they have been assigned by the Board of Governors. Currently, Article 31.7 (full text attached at Exhibit A) requires the Audit Committee to:

(1) recommend the selection, retention, and compensation of the Association’s independent auditors for approval by the Board of Governors;

(2) ascertain that the Association’s auditors are independent from the Association and its management and are ultimately accountable to the Board of Governors;

(3) review for the Association and all organizations required to be consolidated with the Association under generally accepted accounting principles (a) the results of the annual external audits of all financial statements and records; (b) the reports of independent auditors on the applicable financial statements; (c) any matters required to be communicated to the Committee by the independent auditors under generally accepted auditing standards and the disclosure requirements of the Independence Standards Board; (d) the system of internal controls; (e) the independent auditors’ letter of recommendations; and (f) the Association management’s responses to the letter of recommendations;

(4) review the internal audit function of the Association including (a) the independence and authority of its reporting obligations; (b) the proposed internal audit plan for each fiscal year; and (c) all reports issued by the internal audit department; and
receive, investigate when necessary, and cause response to be made to inquiries or complaints by any member or employee of the Association concerning financial operations of the Association.

The Audit Committee’s currently authorized responsibilities, as outlined above, are primarily limited to oversight of matters related to the *Financial* operations of the Association. However, the need for additional oversight of internal controls, risk management, and staff/member conduct as it may implicate or impact such matters has required the Audit Committee to perform functions outside of its originally defined scope. Although the Audit Committee has been acting in this unofficially “expanded” capacity for many years, specific authority to do so has not been formally reflected in the Constitution and Bylaws of the Association.

Consequently, the Audit Committee is proposing that Article 31.7 of the Constitution and Bylaws be amended to include a sixth responsibility and requests the Board of Governors favorably endorse this request. That amendment is proposed to read as follows:

The Audit Committee shall...

(6) assist the Board of Governors in fulfilling its oversight responsibility relating to (i) the integrity of the Association's financial statements and financial reporting process and the effectiveness of the Association's system of internal accounting and financial controls; (ii) the evaluation of management's processes to identify, assess and manage the Association's enterprise risk issues; (iii) the administration of the Association's Business Conduct Standards, compliance process and activities through the Association's Ethics Office; and (if) such other matters as may be delegated to it by the Board of Governors from time to time".

The specific resolution the Board is requested to approve is:

RESOLVED, the Board of Governors recommends the House of Delegates amend article 31.7 to add a sixth responsibility to the scope of authority of the Standing Committee on Audit, to read as follows:

(6) assist the Board of Governors in fulfilling its oversight responsibility relating to (i) the integrity of the Association's financial statements and financial reporting process and the effectiveness of the Association's system of internal accounting and financial controls; (ii) the evaluation of management's processes to identify, assess and manage the Association's enterprise risk issues; (iii) the administration of the Association's Business Conduct Standards, compliance process and activities through the Association's Ethics Office; and (if) such other matters as may be delegated to it by the Board of Governors from time to time".
Audit. (a) The Standing Committee on Audit consists of seven members including the Treasurer, who is a member ex-officio with a vote. Three members of the Committee shall be Association members who are not members of the Board of Governors. Three members of the committee, other than the Treasurer, shall be members of the Board of Governors representing each of the three Association years of the term on the Board. At the Annual Meeting in 2005 and each succeeding third year, one of these members shall be appointed. At the Annual Meeting in 2006 and each succeeding third year, one of these members shall be appointed. At the annual meeting in 2007 and each succeeding third year, one of these members shall be appointed. Members other than the Treasurer shall be appointed by the Board of Governors upon recommendation of the President. The President shall annually designate a chair. All members should be financially knowledgeable and have no relationship that may interfere with the exercise of their independence with respect to the Association and its management.

(b) The Audit Committee shall:

(1) recommend the selection, retention, and compensation of the Association’s independent auditors for approval by the Board of Governors;

(2) ascertain that the Association’s auditors are independent from the Association and its management and are ultimately accountable to the Board of Governors;

(3) review for the Association and all organizations required to be consolidated with the Association under generally accepted accounting principles (a) the results of the annual external audits of all financial statements and records; (b) the reports of independent auditors on the applicable financial statements; (c) any matters required to be communicated to the Committee by the independent auditors under generally accepted auditing standards and the disclosure requirements of the Independence Standards Board; (d) the system of internal controls; (e) the independent auditors’ letter of recommendations; and (f) the Association management’s responses to the letter of recommendations;

(4) review the internal audit function of the Association including (a) the independence and authority of its reporting obligations; (b) the proposed internal audit plan for each fiscal year; and (c) all reports issued by the internal audit department; and

(5) receive, investigate when necessary, and cause response to be made to inquiries or complaints by any member or employee of the Association concerning financial operations of the Association.
The Finance Committee met on Thursday, October 19, 2017 at The Ritz-Carlton Hotel in Coconut Grove, Florida. Chair Ilene Knable Gotts presided. Committee members available for all or a portion of the meeting were ABA President Hillarie Bass; ABA Treasurer Michelle A. Behnke; Myles V. Link, Paula E. Boggs, Maryann E. Foley, Allen C. Goolsby, Benjamin E. Griffith, Erica R. Grinde, Linda A. Klein, Frank H. Langrock, Randall E. Noel, E. Fitzgerald Parnell III, and via telephone Kevin L. Shepherd. ABA Members present for all or a portion of the meeting were ABA President-Elect Robert M. Carlson William R. Bay, Subcommittee on Investment member Sandra R. McCandless, Chair, Standing Committee on Audit Allan J. Tanenbaum; and Chair, Section Officers Conference Michael Bergmann.

ABA Staff present for all or a portion of the meeting were Executive Director and Chief Operating Officer Jack L. Rives; Senior Associate Executive Director and Chief Financial Officer William K. Phelan; Senior Associate Executive Director and Chief Governance Officer Alpha M. Brady; Deputy Chief Financial Officer and Controller Jerry Kiska; General Counsel and Associate Executive Director Jarisse J. Sanborn; Associate Executive Director Communications and Media Relations Carol Stevens; Chief of Staff Amy Eggert; Senior Presidential Advisors Bethany Myles and Ira Pilchen; and Program Manager Nadine Nunley. Also present for all or a portion of the meeting was Executive Director American Bar Foundation Ajay K. Mehrotra.

Exhibit 4.15 - Requests for Co-sponsorships

The Finance Committee considered the the Section of Intellectual Property Law requests to co-sponsor two programs and the Section of Antitrust Law request to co-sponsor one program. No additional ABA general revenue is requested or required for the co-sponsorships at this time.

a. Section of Intellectual Property Law (2):

   (i) to co-sponsor with the Intellectual Property Law Organization of the United States the World IP Day to be held in Washington, DC, on April 26, 2018. The World IP Day is celebrated in numerous locations around the world to foster discussion of the role of intellectual property laws in encouraging innovation and
creativity. Section funds of no greater than $5,000 have been budgeted to cover some of the costs.

(ii) to co-sponsor with the American Intellectual Property Law Association, the Intellectual Property Owners Association, the American Bar Association Section of Intellectual Property Law and the Industrial Designers Society of America Design Day 2018, an annual conference for design patent practitioners and design examiners. The day-long event will be held in the Madison Auditorium at USPTO Headquarters in Alexandria, Virginia, on April 17, 2018. Section funds of approximately $3,000 have been budgeted to cover some of the costs.

b. Section of Antitrust Law: to co-sponsor with New York University School of Law, the Next Generation of Antitrust Scholars Workshop, in January of 2020, 2022 and 2024 at New York University School of Law, New York, New York. The objective of the Next Generation of Antitrust Scholars Workshop is to increase the visibility of antitrust in law schools, as it has languished in the legal academy. The Section will contribute up to $7,500 from Section funds to cover some of the costs.

RECOMMENDATION:

The Finance Committee recommends approval of the Section of Intellectual Property Law requests to co-sponsor the World IP Day to be held in Washington, DC and the Industrial Designers Society of America Design Day 2018.

The Finance Committee recommends approval of the Section of Antitrust Law request to co-sponsor the Next Generation of Antitrust Scholars Workshop, in January of 2020, 2022 and 2024.

Exhibit 5.1 - Request from Section of Litigation to Contribute Funds to Maine Volunteer Lawyers Project

The Finance Committee considered the request of the Section of Litigation (Section) to contribute $10,000 from Section funds to the Maine Volunteer Lawyers Project as one-time funds to seed a pro bono pilot project in Maine. The Maine pilot project envisions using the ABA Standing Committee on Pro Bono’s “Free Legal Answers” technology as a “Gateway” for representing the majority of pro bono representations. The Maine Volunteer Lawyers Project (MVLP), which promotes pro bono activities throughout Maine, has agreed to administer a program where all Maine pro bono clients can request and receive legal services through the internet using the Gateway. While MVLP will continue to operate legal clinics, most indigent clients do not have the ability to travel to these clinics, but do generally have to access the free internet offered by all libraries in Maine. The plan is to train Maine librarians to assist pro bono clients to use the Gateway, and to train volunteer attorneys to provide high quality representation to the indigent clients who use the Gateway.
It is the Section of Litigation’s hope that the Maine pilot project, once successful, can spread throughout the country.

**RECOMMENDATION:**

The Finance Committee recommends approval of the Section of Litigation to contribute $10,000 from Section funds to the Maine Volunteer Lawyers Project.

**Exhibit 5.2 - A-E-F-C Pension Plan Amendment to Provide for Purchase of Annuities for Small Balances (Annual Benefit < $5,000)**

The Finance Committee recently considered providing for a small annuity retirement buyout for certain former associates to reduce the American Bar Association’s (ABA) Pension Benefit Guarantee Corp (PBGC) expense associated with the A-E-F-C Pension Plan (Plan). The Finance Committee worked with the Plan’s actuaries, Aon, to determine the best course of action to achieve this objective within the 2018 calendar year.

**RECOMMENDATION:**

The Finance Committee recommends the Board of Governors adopt a resolution to amend the A-E-F-C Pension Plan (Plan) to (1) allow the Committee to select an annuity provider to provide a Group Annuity Contract to pay benefits; (2) allow a “Pensioner” whose Accrued Benefit payable to be transferred to the Group Annuity Contract who, as of June 30, 2017 is retired and receiving an Accrued Benefit as a Pensioner, has a vested interest in his or her accrued Benefit or has an annual benefit amount equal to or less than five thousand dollars ($5,000). The Group Annuity Contract will provide a full guarantee of payment of the Accrued Benefit Earned, continued payment of the Accrued Payment in the same form that was effective under the plan and as of the effective date the Plan shall have no further obligation of payment in respect to the Accrued Benefit. The Committee shall send a notice to each Pensioner whose Accrued Benefit payable is transferred, which will include a description of the benefit which the Pensioner is entitled to receive.

The Finance Committee recommends that the Board adopt the following Resolution:

**RESOLVED,** pursuant to Section 10.1 of the A-E-F-C Pension Plan (“Pension Plan”), that the Board of Governors does and hereby authorizes an amendment to the Pension Plan by adopting the Fourth Amendment (attached to these minutes) and which may be executed by the Executive Director of the Association.
Exhibit 5.3 - Request to Amend the FY2018 Section Budget

The Board of Governors approved the FY2018 Budget in August with the understanding that Individual Sections were required to stay within 10% of the revenue and expense they presented at the 2017 Annual Meeting. The Section of Dispute Resolution, Judicial Division, Section of Environment, Energy and Resources, Section of Public Contract Law, and the Section of Science and Technology submitted final operating budgets in excess of the 10% approved variance; the Finance Committee approves the following amended FY 2018 Section Budget of $53.6 million in revenue and $59.8 million in expenses, and requests that the Board adopt the following Resolution:

RECOMMENDATION:

RESOLVED, that in consideration that five (5) individual Sections submitted final operating budgets in excess of the 10% approved variance, the Finance Committee recommends that the Board of Governors approve the following amended FY 2018 Section Budget of $53.6 million in revenue and $59.8 million in expenses.

Exhibit 5.4 - Request for Replacement of Member of A-E-F-C Pension Plan Administration Committee Due to a Resignation

President Hilarie Bass requests the election of Kathryn J. Kennedy of The John Marshall Law School in Chicago as the ABA representative on the A-E-F-C Pension Plan Administration Committee for a three-year term to fill the unexpired term of Sally Doubet King, who resigned. Ms. Kennedy joined The John Marshall Law School as a full-time faculty member after years of private practice. She had practiced with the law firm of McDermott, Will & Emery in Chicago and was an actuary with the actuarial consulting firm of Towers Perrin. Currently, she Chairs the Employee Benefits Committee of the ABA Section of Taxation.

RECOMMENDATION:

The Finance Committee recommends that the Board of Governors elect Kathryn J. Kennedy of The John Marshall Law School, Chicago, Illinois, as the ABA representative on the A-E-F-C Pension Plan Administration Committee for a three-year term.

Exhibit 5.5 - Request to Increase the Pension Loan

Staff provided the Finance Committee with an update on pension funding and informed the Committee that our actuarial advisors has advised us that we will be required to make additional contributions to the pension plan beginning in April 2018. Further, Staff reviewed the economic benefits of the pension loan transaction which the ABA executed in October 2015 when $40 million was borrowed ($24 million of that amount is outstanding as of this date) and the
reasons that loan was put into place: 1) existing obligation which must be paid over next few years; 2) Debt is most cost-effect means to fund existing obligation based on our returns on invested assets; 3) Puts pension plan at (or very near) 80% funded status for foreseeable future, allowing us to lump sum out participants and save PBGC fees; and 4) converts an erratic, volatile series of cash flows to a more predictable one.

After discussion, the Finance Committee concluded that the Association should consider increasing the size of the loan and contributing that amount into the AEFC Pension Plan. Also, given the volatility which exists in financial markets, the Committee does not want to have to wait until the next scheduled board meeting to consummate such a transaction should it be determined to be beneficial to the Association.

RECOMMENDATION:

The Finance Committee makes the following recommendation to the Board of Governors:

Whereas, the Association’s actuarial advisors have informed the Association that additional contributions to the pension plan will be required in the near term; and

Whereas, in light of the volatility of the financial markets along with other factors; and

Whereas, the Board is not scheduled to meet again until February 2018;

Now therefore, be it resolved, that the Board delegates authority to the Executive Committee to execute, before the next scheduled Board meeting, a borrowing transaction to obtain sufficient funds to contribute to the AEFC Pension Plan, provided that the Finance Committee so recommends.

Exhibit 5.20 - Minutes of the Previous Meeting

The minutes of the previous meetings held on Thursday, August 102017 were approved as presented.

In addition, the Finance Committee received the following informational reports and took no action:

Treasurer’s Report
Subcommittee on Investments Update
Section/Division/Forum Financial Trends
Website Design Update
4th Quarter FYTD Variance to Budget Reports
FY2017 Revenue Forecast
There being no further business to come before the Committee, the meeting was adjourned.

Respectfully submitted,

Ilene Knable Gotts, Chair

IKG:nn
Fourth Amendment to the A-E-F-C Pension Plan

WHEREAS, the American Bar Association (the “Association”) previously adopted the A-E-F-C Pension Plan (the “Plan”); and

WHEREAS, the Plan permits the A-E-F-C Pension Plan Administration Committee (“Committee”), in its discretion, to direct that Plan assets be invested in an insurance contract, including a group annuity contract issued by an insurance company authorized to do business in any State of the United States (a “Group Annuity Contract”), as it selects pursuant to Section 4.6 thereof; and

WHEREAS, the Association reserves the right to amend the Plan pursuant to Article X, Section 10.1 thereof; and

WHEREAS, the Association desires to amend the Plan to provide for a Group Annuity Contract to be purchased via a lift-out structured transaction for the benefit of certain retired Participants with a vested interest in their Accrued Benefits; and

WHEREAS, pursuant to this Amendment, the Committee shall be directed to invest Plan assets in a Group Annuity Contract for the benefit of certain retired Pensioners (or their Beneficiaries, if applicable) with a vested interest in their Accrued Benefits so that such Pensioners (or their Beneficiaries, if applicable) receive their Accrued Benefits directly through a Group Annuity Contract.

NOW, THEREFORE, the Plan as amended and restated effective January 1, 2016, and as amended thereafter, is hereby further amended, effective ____________ __, 2017 by adding the following new subsection 5.15 to the end of Article V as follows:

5.15 Small Annuity Retiree Buyout. The Committee shall direct that Plan assets be invested in a Group Annuity Contract to provide the Accrued Benefits payable to certain retired Pensioners described in Section 5.15(b).

(a) Selection of Annuity Provider. The Committee is directed to select an annuity provider which shall be an insurance company authorized to do business in any State of the United States to provide a Group Annuity Contract (“Group Annuity Contract”) to pay benefits in accordance with this Section 5.15. The Committee may retain the services of advisors, including a qualified, independent expert, to act as an independent fiduciary to advise the Committee on the selection of the Group Annuity Contract provider subject to confirmation that this reflects the intent of the Association.

(b) Eligibility. Each Retired Pensioner (or his or her Beneficiary), (referred to collectively in this Section 5.15 as a “Pensioner,” which meaning of the term “Pensioner” is exclusively limited to this Section 5.15 of the Plan) whose Accrued Benefit payable will be transferred to the Group Annuity Contract in accordance with this Section 5.15 shall be one who, as of June 30, 2017:

(i) is retired and is receiving an Accrued Benefit as a Pensioner (which, for the sake of clarity, would include a disability pension pursuant to Section 5.6);
(ii) has a vested interest in his or her Accrued Benefit; and
(iii) has an annual benefit amount equal to or less than five thousand dollars

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($5,000).

(c) Group Annuity Contract Requirements. The Group Annuity Contract shall provide as follows with respect to each eligible Pensioner as defined in Section 5.15(b):
   (i) a full guarantee of the payment of the Accrued Benefit earned by such Pensioner;
   (ii) continued payment of the Pensioner’s Accrued Benefit in the same form that was in effect under the Plan immediately before the purchase of the Group Annuity Contract; and
   (iii) as of the effective date of the purchase of the Group Annuity Contract, the Plan shall have no further obligation to make any payment with respect to any Accrued Benefit of the Pensioner.

(d) Notice to Pensioners. The Committee shall send a notice to each Pensioner whose Accrued Benefit payable is transferred to the Group Annuity Contract as provided for in this Section 5.15 which shall include a description of the Accrued Benefit which the Pensioner is entitled to receive. After a provider for the Group Annuity Contract has been selected, such provider shall distribute to each such Pensioner a certificate or other document setting forth the Pensioner’s Accrued Benefit entitlement to be paid pursuant to the Group Annuity Contract.

(e) Termination as Plan Participant. As of the effective date of the Group Annuity Contract, each Pensioner whose Accrued Benefit payable has been transferred to the Group Annuity Contract in accordance with this Section 5.15 shall cease to be a Participant covered under the Plan.