M E M O R A N D U M

TO: Section and Committee Chairs
    Presidents and Executive Directors of State and Local Bar Associations
    House of Delegates
    ABA Senior Managers, Directors and Staff Liaisons

FROM: Alpha M. Brady

SUBJECT: Summary of Action of the November 11-12, 2016, Board of Governors Meeting

DATE: November 18, 2016

Attached is the Summary of Action of the November 11-12, 2016, meeting of the Board of Governors held at the Georgia State University College of Law in Atlanta, Georgia. This Summary does not constitute official Minutes of the meeting. Minutes of the meeting will be presented to the Board for approval at its next meeting in February, 2017.

If you have any questions with respect to the action taken, please do not hesitate to contact me.

cc: Board of Governors
1. REPORTS OF OFFICERS AND THE EXECUTIVE DIRECTOR

The Board received the reports of the President, President-Elect, Chair of the House of Delegates, Immediate Past President, Secretary, Treasurer and Executive Director. The minutes of the Board’s August 5 and September 30, 2016 meeting and conference call were approved. The minutes of the Executive Committee’s meetings and/or conference calls on July 15 and 19, August 3 and 23, September 26, and October 12, 2016 were received.

The Board received the Report of the Secretary on the Exercise of Blanket Authority and adopted a Memorial Resolution for Former ABA Secretary Gibson Gayle, Jr.

The Board, sitting as members of the Board of the American Bar Association Fund for Justice and Education (“ABA/FJE”): a) approved the minutes of the August 5, 2016 meeting of the ABA/FJE Board as presented; and b) accepted the ABA/FJE restricted grants and contributions received or awarded through September 30, 2016, and not previously reported, as requested by the Association’s Financial Services Division.

In addition, the Board, sitting as members of the National Judicial College Board of Trustees (“NJC”) re-elected Toni E. Clark of Marlboro, Maryland; Kim D. Hogrefe of Warren, New Jersey; and Wm. T. Robinson III of Florence, Kentucky, each for a second three-year term on the NJC Board of Trustees, effective June 2016.

MATTERS FOR DIRECT BOARD ACTION

2.1 Recap of Planning Session

The Board discussed the planning sessions conducted the previous day.

2.2 Executive Session

The Board met in executive session to discuss and took certain actions regarding the American Bar Endowment, the Public Service Loan Forgiveness Program, and discussed the policy regarding editing policy for entity publications.

2.3 Reports from Committee Chairs

The Board received reports regarding the work of the Board Committees from Ruthe Ashley, Chair of Public Service and Diversity; Pamela A. Bresnahan, Chair of Improving the Profession; G. Nicholas Casey, Jr., Chair of Finance and Internal Operations; and Alan Van Etten, Chair of Member Services.
2.4 Discussion Regarding Section Officers Conference Fall Meeting

The Board received a report from Orlando Lucero regarding the 2016 Fall meeting of the Section Officers Conference.

2.5 Consent Calendar

The Board adopted the Consent Calendar (with the exception of 3.6, 6.4, and 6.5) as presented by the Secretary. Action on all items contained on the Consent Calendar is set forth in items 3 through 6 of this Summary of Action relating to the reports of the Board Committees.

2.6 Report from Board Governance Committee

The Board received a report from Mary T. Torres, Chair, Board Governance Committee, regarding the work of the Board Governance Committee.

OTHER MEETING

2.20 ABA CEELI, Inc.

The Board, sitting as members of ABA CEELI, Inc. (“Corporation”) re-elected Paulette Brown and Mary T. Torres and elected Linda A. Klein as members of the Board of Directors of the Corporation.

WRITTEN INFORMATIONAL REPORTS

2.25 ABA Journal Board of Editors Report of Proceedings

The Board received a written report regarding the meeting of the Board of Editors of the ABA Journal, held in Chicago, Illinois on September 19-21, 2016.

2.26 Update from Task Force on Building Public Trust in the American Justice System

The Board received a written report regarding the work of the Task Force on Building Public Trust in the American Justice System.

MEMBER SERVICES

A. MATTERS FOR REVIEW BY THE BOARD

3.1 Requests for Bylaw Amendments

The Board approved the requests to amend bylaws from the following entities:

   a. Law Student Division
   b. Tort Trial and Insurance Practice Section
   c. Young Lawyers Division
3.2 Requests to Charge Fees at 2017 Midyear Meeting

a. The Board approved the request of the Government and Public Sector Lawyers Division to charge no more than $50.00 each for up to four CLE programs.

b. The Board approved the requests of the Section of State and Local Government Law to charge $40 for three CLE programs during the ABA 2017 Midyear Meeting; to charge a registration fee of $300 to attend the Land Use Institute program on February 1-2, 2017; and to co-sponsor a reception with multiple diversity or minority bar associations or groups and with local law schools.

c. The Board approved the request of the Commission on Disability Rights to charge a fee of no more than $50.00 for the CLE program “Representing Clients with Diminished Capacity.”

3.3 Request from President Linda A. Klein to Amend Jurisdictional Statement for Task Force on Building Public Trust in the American Justice System and to Seek Outside Funding

The Board approved the request of President Klein for an amendment to the jurisdictional statement for the Task Force on Building Public Trust in the American Justice System (“Task Force”) to allow for one additional member to serve and to seek outside funding. The Board also approved the request to change the jurisdictional statement so the mission of the Task Force will be: “To strengthen the rule of law by collaborating with other organizations, including bar associations, to increase the public’s trust in the justice system.”

3.4 Requests to Enter Into Memoranda of Understanding

a. The Board approved the request of the Health Law Section to enter into a Memorandum of Understanding (“MOU”) with the Health Information Management Systems Society, subject to review and approval of the MOU by the ABA Office of General Counsel and a signed copy provided to the Policy and Planning Division.

b. The Board approved the request of the Judicial Division – Appellate Judges Conference for an amendment to the 2003 Memorandum of Understanding (“MOU”) between the ABA and the Appellate Judges Educational Institute to remove the Southern Methodist University Dedman School of Law representatives and replace them with the representatives of Duke University School of Law on its Board of Directors, subject to the execution of a MOU between The Appellate Judges Education Institute and Duke University School of Law. In addition, upon execution of the amended MOU between the Conference and Duke University School of Law and the MOU between the ABA and the Conference, the Board approved the request to amend the Conference’s bylaws to reflect that the Dean of Duke University School of Law shall hold office as a director during the term of the deanship.
3.5 Request from Standing Committee on Meetings and Travel Regarding ABA 2018 Paris Sessions

The Board approved the request of the Standing Committee on Meetings and Travel for a meeting to be held on June 7-10, 2018, in Paris, with the understanding that the meeting will be a stand-alone, self-funded meeting. The Board also approved the request to create a Paris Planning Committee to be appointed by the ABA President–Elect.

3.6 Request to Approve General Operations Funded Meetings

The Board concurred in the recommendation of the Member Services Committee to defer action on the request of the ABA Treasurer and the Executive Committee to set business rules for meetings of 100% General Operations funded entities.

3.7 Request from Fund for Justice and Education to Restructure Voluntary Dues Contribution on ABA Membership Renewal Statement

The Board approved the request of the Fund for Justice and Education (“FJE”) for multiple giving options to the FJE Annual Fund during the membership renewal process to go into effect during the 2017-2018 membership cycle, if the ABA’s dues payment processing capability can accommodate these options.

3.8 Request from Standing Committee on Membership for 2017 Dues Pilots

The Board approved the request of the Standing Committee on Membership for the Full Firm Section Membership Program and the State Bar of Montana dues pilot programs.

PUBLIC SERVICE AND DIVERSITY

A. MATTERS FOR REVIEW BY THE BOARD

4.1 Awards

a. The Board approved the request of the Section of Dispute Resolution to conduct an annual Cyberweek Ethical Dilemma Competition for all students (not just law students) age 18 or older.

b. The Board approved the request of the Criminal Justice Section to create a scholarship to assist attorneys of diverse backgrounds in attending the National Institute on White Collar Crime. All costs associated with this scholarship will be derived from Section funds. The Board did not approve the naming of the scholarship after a living individual.

c. The Board approved the request of the Public Contract Law to amend the Marilyn Neforas Scholarship (“Scholarship”) from awarding a “single Section program or event scholarship” and provided that “no individual should receive more than one such scholarship” to the following: “Scholarships may be awarded at such times and in such amounts as the Marilyn Neforas Scholarship funds permit and may include funding for up to four Section meetings per year and may include: waiver of the meeting registration fees; complimentary tickets to meeting networking
events, and/or funding of reasonable travel-related costs, up to but not exceeding $4,000 per year.”

d. The Board approved the request of the Forum on Construction Law to create the following four scholarships for 2016, 2017, and 2018:

   a) Diversity Scholarship;
   b) Division 13 (Government Construction) Scholarship;
   c) Diversity Fellowship; and
   d) In-House Fellowship.

4.2 Requests from Rule of Law Initiative

a. Memoranda of Understanding

The Board approved the request of ABA Rule of Law Initiative (“ROLI”) to enter into five Memoranda of Understanding, subject to review and approval of the Memoranda of Understanding by the ABA Office of General Council and signed copies provided to the Policy and Planning Division:

   a) Ministry of Internal Affairs of the Republic of Tajikistan
   b) United Nations High Commissioner for Refugees in Tajikistan
   c) Ministry of Local Government in Libya
   d) Ministry of Justice of Guinea
   e) InterAction Democracy, Rights, and Governance Initiative

b. Update List of Approved Countries of Operation, Donors and Thematic Program Areas

The Board approved the request of ROLI for an updated list of Approved Countries of Operation, Donors, and Thematic Program Areas, and specifically to request approval of Arizona State University and Armenia Fund as new donors.

c. Request to Participate in Armenia’s Fund Telethon

The Board approved the request of ROLI to participate in Armenia Fund’s annual Thanksgiving telethon on November 24, 2016.

4.3 Request from Coalition on Racial and Ethnic Justice to Co-sponsor “Digital Justice Initiative: Co-Creating Connections Among Police and Community” and to Seek Outside Funding

The Board approved the request of the Coalition on Racial and Ethnic Justice, on behalf of its newly created Digital Justice Initiative, to seek outside funds and to solicit outside organizations to co-sponsor the public dialogue meetings and hackathon programs in Miami, St. Louis, San Francisco, and New York City in 2016-2017 to address substantive issues, and identify solutions regarding the conflict between communities of color and law enforcement.
IMPROVING THE PROFESSION

A. MATTERS FOR REVIEW BY THE BOARD

5.1 Nominations to National Judicial College

The Board elected Edward R. Blumberg of Miami, Florida, to serve as the ABA representative on the National Judicial College Board of Trustees for the term beginning immediately and expiring in July 2018.

5.2 Request to Approve Program Support Fund for Center for Innovation

The Board approved the request of the Fund for Justice and Education to create a program support fund for the Center for Innovation.

5.3 Request to Approve Strategic Planning Policy

The Board adopted the following strategic planning policy:

“The Board of Governors urges all entities within the American Bar Association to engage in strategic planning, produce written planning documents, adopt a multi-year strategic plan, regularly review progress achieved toward the goals and objectives of the plan, and revise the plan as circumstances warrant.”

MATTERS OF INDEPENDENT JURISDICTION

5.15 Requests for Co-sponsorships

The Improving the Profession Committee approved co-sponsorship requests from the following entities with certain conditions, with no additional ABA general revenue requested or required, except for 5.15f.

a. Standing Committee on Gun Violence: to co-sponsor a program on gun violence in collaboration with the American Medical Association in the spring of 2017 at a Chicago venue.

b. Standing Committee on Public Education: to co-sponsor with Civic Nation and others the Action Civics Initiative.

c. Young Lawyers Division (3 requests):

   (i) to co-sponsor by partnering with the Law School Admission Council, Inc., the program What Do Lawyers Do?

   (ii) to co-sponsor with BuzzFeed, Inc. for 2016-17 in connection with the YLD Public Service Project, subject to review and approval of agreement by the ABA Office of General Council.
(iii) to co-sponsor with the National Bar Association YLD for 2016-17 to create and promote a Young Lawyer Social Justice Toolkit.

d. Judicial Division (3 requests):

(i) to co-sponsor a reception with the Tennessee Bar Association and the Tennessee Lawyers’ Association for Women on Thursday, March 30, 2017.

(ii) to co-sponsor a project with the Brennan Center to create a manual which focuses on best practices to achieve the diverse selection of Article I judges.

(iii) to co-sponsor a reception between the Lawyers Conference, the National Conference of Specialized Court Judges, The Tribal Courts Council, and the law firm of Carlton Fields at the ABA 2017 Midyear Meeting.


f. The Board deferred action on the request from the Commission on Hispanic Legal Rights and Responsibilities to co-sponsor with external entities in the implementation of Resolution 110 which urges federal, state, local and territorial law-enforcement authorities to provide a culturally, substantively and accurate translation of the Miranda warning in Spanish.

g. Section of Environment, Energy, and Resources (2 requests):

(i) to co-sponsor and make financial contributions from Section funds of up to $6,000 in 2017 and 2019 for the Rocky Mountain Mineral Law Foundation's Natural Resources Law Teachers Institute.

(ii) to co-sponsor with specific non-ABA entities for non-CLE Section programs that may be held in the 2016-2017 and 2017-2018 association years.

h. ABA Rule of Law Initiative (2 requests):

(i) to co-sponsor with California Western School of Law the “Mexico Mock Trial Competition” in the summer of 2017.

(ii) to co-sponsor with Dar Al Riyadh, an MTA Holdings subsidiary in the Kingdom of Saudi Arabia, training programs on a range of rule of law topics for Saudi government ministry officials and legal professionals.

i. Solo, Small Firm and General Practice Division: to collaborate with the American Medical Association to establish a Physician Contract Review Program, subject to review and approval by the ABA General Counsel.
j. **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 of 2017.

k. **President-Elect Hilarie Bass:** to seek outside funding and to co-sponsor with the Commission on Homelessness and Poverty, Section of Litigation Children’s Rights Litigation Committee, the Center on Children and the Law, and the Commission on Youth at Risk a two-day international summit in Brazil on the legal needs of street youth in collaboration with Baker & McKenzie, Consortium for Street Children, Canadian Observatory on Homelessness, Covenant House International/Casa Alianza, European Federation of National Organisations, and National Network for Youth.

**FINANCE AND INTERNAL OPERATIONS**

**A. MATTERS FOR REVIEW BY THE BOARD**

6.1 **Request from Section of Taxation to Contribute Funds to American Tax Policy Institute**

The Board approved the request of the Section of Taxation to contribute $50,000, from Section funds not derived from member dues, to the American Tax Policy Institute.

6.2 **Request from Rule of Law Initiative to Contribute Funds to Washington Foreign Law Society Gala**

The Board approved the request of the ABA Rule of Law Initiative (“ROLI”) to purchase a table for $2,500, from funds derived from the ROLI General Operating Fund, for the Washington Foreign Law Society Gala to be held on November 15, 2016, in Washington D.C.

6.3 **Request to Revise Outside Counsel Retention Guidelines**

The Board approved the request of the ABA Office of General Counsel for a revision to the outside counsel retention guidelines so that Board approval is not required for payment of outside counsel invoices. The Finance and Internal Operations Board Committee (“Committee”) would be consulted for matters entailing significant legal, financial or reputational risk and which the Committee would be most concerned about from a strategic, oversight perspective.

6.4 **Request to Approve Financial At Risk Policy – Sections**

This item was deferred by the Finance and Internal Operations Committee.

6.5 **Investment Subcommittee Recommendation on 5.5% General Operations Funding Policy**

The Board deferred the request of the Finance and Internal Operations Committee regarding the level of General Operations funding.
6.6  Request to Approve Amendment to Pension Plan

The Board approved the request of the ABA and the A-E-F-C Pension Plan Administration Committee for an amendment to the A-E-F-C Pension Plan ("Plan") to allow the Committee discretion regarding the recoupment of overpayments in accordance with a change in the law in 2015.

6.7  Loan Forgiveness Program

In executive session, the Board approved the request regarding the Public Service Loan Forgiveness Program.