

AILA Northern California Chapter Board of Directors Policy Statement

Preamble: In 2007 the AILA Northern California Chapter, an unincorporated non-profit organization operating in California voted to become an incorporated non-profit. As part of that incorporation process, a new set of Bylaws was drafted to comply with the law governing California non-profits. A committee comprised of the then AILA Northern California Chapter elected officers, Larry Drumm, Greg Wald, Judi McManigal and Atessa Chehrazi, immediate Past Chapter Chair Angela Moore and Chapter member, Kirsten Schlenger, who was spearheading the incorporation on behalf of the Chapter, drafted the Bylaws. The committee met several times to discuss how best to structure the governance of the Chapter in light of the Chapter's past practice and Bylaws, bearing in mind the goal of minimizing liability to Chapter officers and Board members in connection with their volunteer work on behalf of the Chapter, and at the same time democratically representing the interests of a diverse membership. A majority of the committee agreed that the Bylaws should have the elected Officers and the Past Chapter Chair serve as the Board of Directors of the non-profit entity. Thus, the Board would be a small group of five people—which allowed for a tie break-- rather than the larger previous "Board" which was comprised of government liaisons, committee heads and Chapter administration volunteers (approx. 15-25 people) all appointed by the Chapter Chair.

The prior Bylaws were not clear on what the role/decision making authority this previous "Board" had regarding all Chapter related decisions because this extended "Board" did not exist at the drafting of those Bylaws, but instead evolved over time. The previous Bylaws appeared to provide extensive power to the Chapter Chair alone to make day-to-day Chapter business decisions. In practice, however, the Northern California Chapter evolved to have the larger "Board" which met monthly and assisted in Chapter decision making and participated in the voting at the monthly Board meetings.

The drafters of the new Chapter Bylaws clearly intended that the previous "Board", now called the "Advisory Council" would continue to play a critical role in advising the Board of Directors in their decisions relating to the Chapter. It is recognized that a diversity of viewpoints beyond those of the four officers and former Chapter Chair is beneficial to the Chapter. To that end, there are several Bylaws provisions which underscore the important role of the Advisory Council, including: Article VIII, Section 8.1, which sets for the Advisory Council as one of two standing committees; Article VIII, Section 8.5 which states that the Advisory Council be provided the opportunity to attend and participate at regular and Special Board meetings, and Article V, Section 5.3 which states that Advisory Council will provide input, advice and assistance to the Board in its management of the Chapter's business. However, the ultimate decision making and fiduciary duties flowing from those decisions rests with the smaller Board of Directors in accordance with the California Corporations Code. This Board's decision making and duty in that regard may not be delegated away to the Advisory Council, although their input must be considered.

At the AILA NorCal Chapter Board meeting in 2007 at which the new Bylaws were discussed and then voted upon by the old, extended "Board", the majority of those voting, voted for the new Bylaws. At least two Chapter and previous "Board" members, who had been "Board"

members for several years, expressed deep concern that the new Bylaws wrested power away from the larger body, made it possible for only two Board members to make decisions for a chapter of over 600 members and posed a dangerous risk to the Chapter's democracy.

It was agreed that a Board Policy Statement would be drafted and adopted in order to reflect the intent of the drafters and the current Board to represent the views of the diverse membership in their decisions and to carefully and fully consider the advice of the Advisory Council. It was also intended that this Policy Statement clearly and explicitly lay out the checks and balances that are provided in the Bylaws.

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Historically, and today, the AILA Northern California Chapter Chair and Officers, which now constitute the Board of Directors (with the addition of the immediate Past Chapter Chair), have always leaned heavily on the Advisory Council (previously “Board”) for input, information, and recommendations, in guiding the Chapter as well as in conducting the work of the Chapter. This has been a construct which has served the Chapter well and which this Board agrees should continue. The Advisory Council is made up of leaders in the Chapter who provide information, insight, and recommendations, to the Board. The Advisory Council also serves as a check and balance to the Board by providing diverse and sometimes adverse viewpoints.

The Board of Directors intends to adhere closely to the spirit and language of the relevant provisions of the Bylaws which embrace the critical role of the Advisory Council. Specifically, the Board will provide the opportunity to the Advisory Council to attend and to participate and voice opinions at regular and special Board of Directors meetings. *Bylaws, Article VIII, Section 8.5.* The Board shall consider the advice and opinions of the Advisory Council before making a decision that is in the best interests of the Chapter. *Bylaws, Article V, Section 5.3.*

In practice, one of the ways this has been accomplished since the new Bylaws became effective is as follows: For any decision made by the Board of Directors, first the Advisory Council and any other Chapter member present at the meeting or by phone vote on the issue and this vote is reflected in the minutes of the meeting. Then, the Board members vote and if any Board member decides to vote against the recommendation of the Advisory Council and other Chapter members, that Board member must explain his/her reasons for his/her vote and the minutes of the meeting must include those reasons.

Furthermore, in keeping with the spirit of this Statement and the intent of the drafters of the Bylaws, it is the Chapter’s policy that at least three Board members need to be present and vote against the recommendation of the Advisory Council and other Chapter members for the Board’s vote to effectively reject the recommendation. These practices should be followed as long as the current Bylaws are effective.

The Board holds sole authority in decision making with respect to managing the affairs and activities of the Chapter. It is obligated to and shall vote in accordance with its fiduciary duty to represent the Chapter’s best interests, even if that vote may not be in accord with the view of the Advisory Council members individually or as a group.

The provision in the Bylaws, Article V, Section 5.4, which allows the Board to take action without a meeting, requires the unanimous written consent of the Board members and shall be filed with the minutes of the proceedings of the Board of Directors. This provision is meant to be used only for urgent matters as a rare exception to the ordinary practice of in-person Board Meetings at which the Advisory Council is given the opportunity to voice their opinions and provide input and for these rare circumstances, the Board members should make every effort to notify the Advisory Council by e-mail and seek Advisory Council’s input. Taking action without a meeting should not be used to end-run input from the Advisory Council. To do so would violate the duties of the Board set forth in Bylaws, Article V, Section 5.3, which states

that the Directors will manage the affairs of the Chapter with the advice and assistance of the Advisory Council.

If the Advisory Council and/or other AILA Members do not agree with the decisions of the Board and/or feel that they are threatening fundamentally the health or best interests of the corporation, then they have the following recourse under the By Laws:

- Vote out the current officers/Board in the next annual election. *Bylaws, Article IV, Section 4.3.*
- Call a special meeting of the Chapter members at which they call for a special election to replace the elected Board of Directors before the date of the annual election. *Bylaws, Article VII, Section 7.2(a),*
- Call a special meeting of the Chapter members at which they amend the Bylaws to expand the Board of Directors to include all Advisory Council members. *Bylaws, Article VII, Section 7.2(a); Article IX, Section 9.1.*