

# STATEMENTS OF NACDL POSITIONS AND POLICY

## Outline of Issues

1. Spokesperson
  - a. President
  - b. Another person
    - i. Chosen by him
    - ii. Chosen by designee
  - c. Unavailability of above
    - i. Bd authorized to designate
    - ii. EC authorized to designate
  - d. Statements of members identified w/NACDL
    - i. If permits public identification
    - ii. Restrictions on nature of statement
  - e. Authorization to recite mission statement
2. Determination of Association Policy
  - a. Determined by Board.
  - b. Interim (necessary and appropriate)
    - i. EC
    - ii. Pres
    - iii. Bd or EC may repeal or modify
  - c. Procedure
    - i. By resolution
    - ii. Majority
    - iii. Requests by Directors or Committees
    - iv. Bd to consider

- committee reports
- member reports

- d. Publication
  - i. Website
  - ii. ED discretion

### 3. Determination of Committee Policy

- a. Authorized to issue policy statements in area of interest
- b. Approval – required of Association<sup>1</sup>
- c. Procedure
  - i. Application
  - ii. Contents
  - iii. Procedures for filing
    - method of transmission
    - 30 days before issuance
    - Expedited review: 5 working days
  - iv. Procedure for consideration
    - Any Director or committee chair may object
    - If no objection w/i specific time, committee may proceed
    - Procedure upon objection

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<sup>1</sup> These procedures do not permit Committees to issue public statements or reports absent Association approval. An alternative would be to allow the Committee to issue a public statement or report simply upon the approval of the President with an accompanying notation that it expresses only the position of the committee, and does not express the position of the Association. Considering how quickly Association approval can be obtained with the drafted procedures, the alternative for conditional, limited approval from the President does not seem necessary, especially when weighed against the possibility of misattribution to the Association as a whole

## STATEMENTS OF NACDL POSITIONS AND POLICY

### A. SPOKESPERSON

The President and any members, employees or agents chosen by him or by his designee shall be the only people authorized to express the policy or position of the Association. In any instance in which the President is unavailable to act as spokesperson and has not designated another who is available to act for him, the Board or the Executive Committee shall have the power to authorize another member or employee of the Association to serve as spokesperson. Except as authorized by these procedures, no other member or employee of the Association may represent the Association or a committee of the Association before a legislative, executive or judicial body or express a policy or position of the Association for public dissemination.

Association members are frequently invited to comment publicly on criminal justice and other issues because of their personal or professional reputation and not solely because of their NACDL affiliation. A member who permits himself to be publicly identified as having an official connection with the Association shall not make any statement in such a manner that suggests that the member's statement is the policy or position of the Association unless he has been authorized to express the Association's position.

Association members may recite the mission statement of the Association (as provided in Article 11, Section I of the Association By-Laws) to any legislative, executive or judicial body or for public dissemination without prior authorization.

B. DETERMINATION OF ASSOCIATION POLICY

1. Authorization

The policies and positions of the Association shall be determined by the Board of Directors. Where no current policy or position has been adopted by the Board and a statement of Association or Committee policy or position is necessary and appropriate prior to a meeting of the Board, it may be determined and authorized by the Executive Committee or by the President. The Board may repeal or modify any such policy or position determined or expressed by the Executive Committee or President in any manner in which it is authorized to do business. The Executive Committee may repeal or modify any such policy or position determined or expressed by the President in any manner in which it is authorized to do business.

2. Procedure

- a. All Association policy statements shall be issued in the form of a resolution approved by a majority of the members of the Board of Directors.
- b. Requests for Association policy statements on national issues shall be submitted to the Board of Directors for consideration and may only be made by committees or Board members of the Association.
- c. The Board shall consider reports of committees as well as reports submitted by individual members of the Association concerning the request for Association action.
- d. Any approved Association policy statement shall be made public through the NACDL website and by such additional means as may be determined by the Executive Director

C. DETERMINATION OF COMMITTEE POLICY

1. Authorization

Because of the active involvement of NACDL committees in legislative and judicial proceedings, committees are permitted to issue policy statements in their areas of interest. Any such committee policy statements must be approved by the Association and must be consistent with any current Association policies.

2. Procedure

a. Upon application and approval by a majority of the members of the Board of Directors, or by the Executive Committee where issuance of a statement is necessary and appropriate prior to a meeting of the Board, a committee of the Association may issue a policy statement or public report on matters within its primary or special expertise.

b. The Board shall not approve any committee policy statement or public report that is in conflict with current Association policy statements.

c. The Board shall not approve any Committee policy statement or public report unless the policy statement has been authorized in accordance with any current bylaws that may have been adopted by that committee.

d. Two or more committees may request authorization to file a policy statement or public report jointly.

3. Contents of Application:

The requesting section(s) shall submit to [the Board/the EC] an application containing the following:

- a. A clear statement of the policy statement or public report to be issued or endorsed by the committee(s).
- b. All communications to be presented including, without limitation, any report or resolution, prepared testimony, exhibits, or letter of transmittal.
- c. Disclosures of any material interest in the subject matter of the policy or report on the part of any member of any committee which initiated the proposal.
- d. The date of the anticipated issuance of the proposed statement or report.
- e. A description of any prior Association action on the subject.
- f. The name of the committee taking the proposed position, a description of the committee's jurisdiction to consider the issue, and an identification of any other committee with more specific jurisdiction.
- g. Whether issuance or endorsement of the proposed statement or position constitute campaigning or lobbying.

4. Procedures for filing application:

- a. In transmitting its application, the committee shall utilize personal delivery, facsimile transmission, e-mail or other electronic communication, or express mail.
- b. Normal procedures: At the earliest possible time, but not less than 30 days before the proposed issuance date, the committee shall send an application meeting the requirements listed above to the Executive Director of the

Association for dissemination to each Board member and chair of each committee of the Association.

c. Expedited procedures: In situations where an application may not be made 30 days before the proposed submission date, the committee shall send an application meeting the requirements listed above to the Executive Director not less than 5 working days prior to the proposed submission date. The committee shall also append a statement to its application explaining why expedited consideration is necessary.

5. Procedure for consideration of application:

- a. Any Board member or Committee Chair may object to the application if:
  - i. The proposed statement or report is in conflict with current policy statements;
  - ii. The proposed statement or report is not within the primary or special expertise of the Committee submitting it;
  - iii. The matter is of such significance to the legal community and the Association as a whole that no presentation should be made without specific authorization from the Board;
  - iv. The proposed statement merely reaffirms an existing policy statement;
  - v. The proposed statement is inappropriate for other reasons; or,
  - vi. The requested expedited consideration is inappropriate.

b. If no objection to the Committee presentation is received with the time provided for objections, the Executive Director shall immediately notify the Committee that it may issue its policy statement or report.

c. If a Board member or committee chair objects to the presentation of a committee policy statement or report, that person shall immediately and within 7 working days for a normal application or 2 working days for an expedited application, communicate their objection and reasons therefore by telephone, and electronically, to (i) the President of the Association; (ii) the Executive Director of the Association; and (iii) the Chair of the Committee desiring to submit the policy statement.

d. When an objection has been made within the time limits prescribed, the Executive Director shall immediately notify the Committee seeking to issue a policy statement, and if that Committee so requests, shall notify the Board or if appropriate, the EC, that the Committee is requesting a determination by the Board or the EC.

e. If a timely objection is made, the Committee shall not issue its policy statement unless approval is obtained from the Board or the EC. The Board or the EC shall convene in person or by telephone conference as soon as practical to consider the application. The Executive Director shall immediately notify the Committee of the decision of the Board or the EC.