From the Desk of the President

More than half a century has passed since our National College of Probate Judges (NCPJ) was organized in 1968 by a dedicated and prescient group of Probate professionals who wanted to officially launch a charitable and educational corporation dedicated to promoting the efficient administration of Probate justice in all our country's courts that exercise Probate jurisdiction.

These founding judges and others who followed them have guided our NCPJ for more than 50 years in supporting and accomplishing these noble educational and charitable objectives. Until 2020 we have met personally across our beautiful country in many places for our national conferences, but we have been engaged since 2020 in fighting a COVID pandemic which has severely tested our resolve to accomplish NCPJ's worthwhile goals and aspirations for most of 2020 and 2021.

Although I will serve only until November 2022 as your President, I pledge to you my sincere resolve to dedicate my efforts until then and thereafter to keep NCPJ on the right course to continue our good work, and to do so with humility and honesty and by obtaining the advice and counsel of all of you as we continue doing this good work.

NCPJ has suffered in 2020 and most of 2021 during which time we lost the ability to meet personally because of national COVID restrictions. We did have a very fulfilling and valuable conference in Savannah, Georgia in November 2021, where I was sworn in as your current President. I ask all of you to help me to work toward fulfilling these noble charitable and educational purposes and objectives which our forebears have established NCPJ to strive to fulfill. Let us all work diligently as members of NCPJ to promote Probate justice nationwide for all persons who seek Probate services in our Courts.

Please join with me as we put COVID behind us in helping me to build NCPJ back even better than it has ever been before as we renew in Colorado Springs in May 2022 our vigorous pursuit in promoting nationwide the efficient administration of Probate justice in all American Courts with probate jurisdiction.

I am looking forward as your President to greeting all of you in May 2022 in Colorado Springs in the shadow of Pike's Peak for our important Spring 2022 National Probate Conference. See you then!

Sincerely,

James P Dunleavy

SPECIAL THANKS

NCPJ extends a special thanks to Judge Heather Galvin, who co-edited and secured articles for this edition of the Journal.
Virtual Representation

By: J. Aaron Nelson, Jr.

Virtual representation has long been a part of the common law, and has been codified for individuals who are beneficiaries of trusts in the Uniform Trust Code (“UTC”) provisions in Sections 301 through 305. There are many situations where it is advantageous or required that unknown or minor beneficiaries be given notice of an action, or their consents obtained. A non-exhaustive list of examples includes: (1) trust combinations and divisions; (2) trust decantings; (3) modifications with the consent of all beneficiaries; and (4) releases. Each of these examples requires either notice to (for combinations, divisions, and decantings), or consent from (trust modifications and releases), groups of people who may contain minors, those whose identity is not known, or those who may be part of a class that is still open. In these situations, there are two solutions to obtaining the requisite notice or consent: (1) the court can appoint a guardian ad litem for the beneficiary(ies); or (2) under the authority of the UTC, certain individuals may be appointed to represent and bind the beneficiary(ies). As discussed in more detail below, guardian ad litem are an underutilized tool for the probate practitioner, and may represent and bind other beneficiaries. This article will focus on the parameters of Sections 301 through 304 (the substantive virtual representation provisions of the Uniform Trust Code) and the interactions of various protections for those represented.

When Virtual Representation is Sufficient

Section 301 of the Code sets the groundwork for virtual representation by providing that notice on a “beneficiary representative” has the same effect as if provided to the represented person. Further, that consent of a beneficiary representative is binding on the represented person unless the represented person objects to such representation before the consent becomes effective. The comments to Section 301 make it clear that consents are valid for both judicial and non-judicial matters; however, the notice provisions are only effective for non-judicial matters. For notice of judicial matters, the relevant rules of civil procedure must be followed. For consents, having the consent be effective for both judicial and non-judicial matters is especially useful where court proceedings and non-judicial settlement agreements require the participation of “interested persons” which, oftentimes, is quite a large group of people. In many cases, the consent of all “beneficiaries” is required. For purposes of the Uniform Trust Code, “beneficiary” is defined quite broadly to include anyone who has an interest in the trust, current or future, vested or contingent. As such, the consent of even those listed as “takers of last resort” must be obtained.

Methods of Virtual Representation

There are three main methods of virtual representation, representation by: (1) holders of a general powers of appointment; (2) fiduciaries and parents; and (3) persons who have a substantially identical interest. Each of these methods stipulate that there be no conflict of interest between the person representing and the person being represented, as discussed in further detail below.

Holders of General Powers of Appointment

Section 302 allows the holder of a general power of appointment to bind both the takers in default of the exercise of the power of appointment, and permissible appointees of such power. At first blush, this appears to be a very broad virtual representation provision; however, the restrictions with respect to conflicts of interests dramatically reduces its availability because of the prevalence of conflicts under this scenario.

Representation by Fiduciaries and Parents

Section 303 sets forth a list of individuals who may be nominated or appointed to represent and bind others through virtual representation, including conservators, guardians, agents under a durable powers of attorney, trustees, and personal representatives. Perhaps the subsection most frequently used by practitioners is that a parent may represent and bind such person’s minor or unborn child if there is no other guardian or conservator.

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Virtual Representation (continued from page 2)

Notably, however, a parent cannot represent unascertained beneficiaries under this subsection although often, the need to represent unborn beneficiaries is more relevant than unascertained beneficiaries.

Representation by Person Having Substantially Identical Interest
Section 304 allows individuals who have a “substantially identical interest with respect to the particular question or dispute” to virtually represent a minor, incapacitated, or unborn individual, or someone whose identity and location is unknown and not reasonably ascertainable. Importantly, this section allows an individual to represent an incapacitated or unascertained beneficiary. This representation is commonly used when trusts provide that an interest be distributed per stirpes to the grantor’s then-living descendants, many of whom may not yet be born (and their parents may not yet be born or are still minors themselves), but they still possess a future contingent interest in the trust. As before, this representation is predicated on the representing and represented individuals having no conflict of interest. This representation is commonly used when trusts provide that an interest be distributed per stirpes to the grantor’s then-living descendants, many of whom may not yet be born (and their parents may not yet be born or are still minors themselves), but they still possess a future contingent interest in the trust. As before, this representation is predicated on the representing and represented individuals having no conflict of interest.

Substantially Identical Interest, Conflict of Interest, and Adequate Representation
The remainder of this article focuses on the interactions between three different concepts that permeate the three virtual representation methods – most prominently in Section 304 (in both the model act, and as such act has been adopted by various Uniform Trust Code states).

Substantially Identical Interest
Having a substantially identical interest is a specific prerequisite for virtual representation under Section 304, but requiring only that the interest be “substantially” identical, not “exactly” identical. Of course, this alignment of interest is most easily satisfied when both the representing and represented individuals are members of the same class. Nevertheless, it is possible that other interests not described as class gifts could be substantially identical. It is also possible that members of the same class not have substantially identical interests. For example, if one individual has an interest as a beneficiary and another individual has a similarly-situated beneficiary interest, but is also a trustee, these could be determined to not be substantially identical interests. Note here that the Uniform Trust Code does not limit an individual’s interest to his or her interest as a beneficiary, but as to any interest in the trust. An interest a trustee must be take into account and may, in some circumstances, make is that interests are disparate enough so as to not be substantially identical. Substantially identical interests are the most easily analyzed because of the limited set of facts that must be considered: the trust document and its assets. One does not need to go beyond the trust and its assets (for example, looking to a beneficiary’s outside interests and prior relationships as is required when checking for conflicts of interest) when determining whether this requirement is met.

Conflict of Interest
Turning to the two more subjective matters of consideration – lack of conflict of interest and adequate representation – we’ll first look at conflicts of interest. It is possible for a person to have a substantially identical interest, but also have a conflict of interest. The comments to Section 304 clarify that when examining conflicts of interest, one does need to look outside the trust document and its assets. That is, interests existing outside of a trust may make representation impossible due to a conflict of interest, and both financial and non-financial interests must be examined. For example, a beneficiary representative may have a prior relationship with the trustee, which could give rise to a conflict. Often-times in trust documents, parents may be appointed as Trustees for their minor children. In matters relating to the duties of the trustee-parent, the non-trustee-

(continued on page 4)
Virtual Representation (continued from page 3)

parent may have a conflict of interest and would be unable to serve as the virtual representative of a minor beneficiary, this would mean that the non-trustee-parent could not grant appropriate releases, waive any notices required, or approve accountings on behalf of the minor beneficiary. The non-trustee-parent may, however, be able to represent the minor child in matters not related to the duties of the trustee (for instance, a non-judicial settlement agreement construing an ambiguity in the terms of the trust).

In what may be particularly concerning to those serving as Trustees is that at least one court has held that Trustees have a duty to ensure that there is no conflict of interest in matters of virtual representation, and in cases where there is a conflict of interest, to affirmatively ensure that a guardian ad litem is appointed to represent the interest of the relevant individual(s). While trustees naturally desire to keep costs down for the trust and try to avoid court proceedings for the sole purpose of appointing a guardian ad litem, trustees should be wary of taking shortcuts and allowing family members to serve as beneficiary representatives because of the potential violation of the trustee’s duties to the trust beneficiaries. The only disadvantages of beginning proceedings for the purpose of having a guardian ad litem appointed are the cost of the action and lengthening the process by having a court involved.

Adequate Representation

As mentioned above, some states have added the additional requirement to Section 304 that requires the represented beneficiary’s interest must be “adequately represented.” The comments make clear that this inquiry, where applicable, should focus on whether there was any hostility to the interest or person represented, but they do not give much clarification on what level of representation is sufficient to ensure adequate representation. Presumably, in the model act, the drafters determined that “substantially identical interest” ensures that a representative has sufficient “skin in the game” to ensure that the represented individual’s interest is “adequately represented;” however, it is a separate requirement that must be separately analyzed in those states where applicable.

Conclusion

Virtual representation has been around for quite some time, yet there is minimal case law with respect to the UTC to guide trustees and beneficiaries and to give comfort that the virtual representation will be effective. What has become particularly concerning is the broad reach of the lack of conflict of interest requirement and its prohibition against representation, as well as what seems, at times, to be the practitioners and trustees quick dismissal of conflicts of interest when determining beneficiary representation. Given the affirmative duty of trustees to ensure that beneficiaries are represented and a practitioner’s duty of candor to the court, both trustees and practitioners are cautioned to take a more conservative (yet costly and lengthy) approach and institute proceedings to have guardians ad litem appointed as virtual representatives. Doing so will better serve their own interests as well as the interest of the trust by avoiding additional litigation as to whether beneficiary representation was sufficient.

Harassment in Chambers: What You Need to Know

By: Attorneys Tom Green and Sean McKinley, Kastner with Westman & Wilkins, LLC

While the federal court system has been the center of recent efforts to address ongoing concerns regarding workplace harassment, discrimination, and retaliation, state and local courts are not immune from the realities of workplace misconduct. For example, in 2020, Forsyth County, Georgia Probate Court Judge Lynwood Jordan agreed to step down from his position and remain off the bench permanently following accusations of sexual harassment. Although the details of the complaint were not made public, once the Georgia Judicial Qualifications Commission opened an
investigation into Judge Jordan, he decided to step down. Further, in 2021, the Alabama Court of the Judiciary removed Judge Nakita Blocton of Jefferson County, Alabama from the bench, finding that she “engaged in a pattern of abuse of staff, attorneys, and litigants.”

According to the Alabama Judicial Inquiry Commission, Judge Blocton was found to have referred to an employee as a “heifer” and had a habit of making inappropriate comments to court staff and fellow judges alike. Another more recent example comes from the Massachusetts Supreme Court, which earlier this year suspended Associate Justice Paul M. Sushchyk of the Family and Probate Court indefinitely without pay for allegedly groping a court employee at a conference in 2019 while walking behind her, and then lying about it when confronted. These few examples are indicative of a larger problem within the judiciary, where harassment and discrimination often go unreported by court staff and law clerks due to fear of retaliation. While efforts to reform the judicial workplace have been brewing at the federal level, Probate and State court judges must keep in mind that their chambers are a workplace and subject to state and federal employment laws, just like other workplaces.

Regulating issues between and among the branches of government are never easy, however. Just last month, the U.S. House Judiciary’s Subcommittee hosted a hearing on bolstering workplace protections for federal judicial branch employees, subtitled “Flaws in the Current System and the Need for Statutory Change.” At the hearing, members and witnesses discussed the Judiciary Accountability Act, a bipartisan bill that would ensure the 31,000 federal judicial branch employees have strong statutory rights and protections against discrimination, sexual harassment, retaliation, and other forms of workplace misconduct.

The bill would extend to judicial branch employees the same anti-discrimination rights afforded to other government employees, protect whistleblowers, and establish an independent special counsel to investigate workplace complaints and report its findings to Congress. The law would also create an oversight commission made up of individuals with experience enforcing civil rights laws.

The legislation was opposed by the Judicial Conference, however, on the grounds that it interferes with the internal governance of the Third Branch, creating structures that compete with existing governing authorities within the Judiciary and imposes intrusive requirements on Judicial Conference procedures. Judge Roslynn R. Mauskopf, US District Judge for the Eastern District of New York and Secretary of the Judicial Conference, penned a letter in August of 2021 conveying the Conference’s position on the bill, noting that the legislation “fails to recognize the robust safeguards that have been in place within the Judiciary to protect Judiciary employees, including law clerks, from wrongful conduct in the workplace, including protections against discrimination, harassment, retaliation, and abusive conduct.”

Although many judges have resisted calls for comprehensive protection of Judicial Branch employees from the legislative branch, instead raising separation of powers concerns and arguing that their internal governance structure is sufficient to protect Judicial Branch personnel, many civil rights groups and former employees disagree. Instead, they point to a variety of instances of unlawful conduct within the judicial branch that would otherwise be unlawful under Title VII and similar state laws, including Judge Alex Kozinski’s resignation from the U.S. Court of Appeals for the Ninth Circuit in 2017 after at least 15 female law clerks and staffers accused him of sexual harassment. The allegations against Kozinski include groping, unwanted bear
“abusive conduct” is defined as “a pattern of demonstrably egregious and hostile conduct not based on a Protected Category that unreasonably interferes with an employee's work and creates an abusive working environment. Abusive conduct is threatening, oppressive or intimidating.”

Considering the ongoing battle at the federal level, Probate and other State Court judges should be mindful of the following to minimize risks and ultimately prevent harassing or discriminatory behavior in the workplace:

- Remember that unlike employees of the federal judicial branch, state judicial branch employees may not be exempt from the protections of Title VII. As such, these employees may have causes of action for harassment and discrimination based on membership to various protected classes. Therefore, state court judges should be aware of the contours of Title VII and EEOC guidance on workplace harassment and discrimination.

- Recognize the unique risks associated with judicial workplace and how these risks may increase the likelihood of harassment and discrimination. For example, there are significant power disparities between judges and law clerks, as well as the other employees who work in or with the judicial branch. These power disparities may deter employees from challenging or reporting objectionable conduct.

- In the event of allegations of harassment or discrimination, appropriate court personnel should conduct a prompt and thorough workplace investigation.

- Take steps to avoid problems in the first place:
  
  You, your law clerks and other staff should receive positive employee relations, or anti-harassment training, at least once every year or two, and all new judges and other employees should receive such training. In person, interactive training beats online or other automated training any day. If automated training is all that’s available, however, it is better than nothing.

  Ask for help! If a complaint or concern is brought to your attention by a judicial staff member, and you are unsure what to do, seek assistance from court personnel, legal counsel, or HR profession-

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Harassment in Chambers: What You Need to Know (continued from page 6)

− Set a good example! Be a good leader, and don’t engage in inappropriate or questionable behavior. Remember, EEO and anti-discrimination laws set the floor not the ceiling. As such, you should not engage in or tolerate any questionable workplace behavior, even if it does not rise to the level of being actionable under the law. This means that law clerks, court staff, and judges can still maintain the personal relationships necessary for effective work to be done, but remember that your chambers are still a workplace, and all behavior should be reflective of such.

− Do not retaliate! It is natural to be offended by allegations of harassment or discrimination, particularly if they are not true. However, retaliating against the complainant for a good-faith complaint is itself a violation of the law.

** Attorneys Tom Green and Sean McKinley are workplace lawyers with Kastner Westman & Wilkins, LLC, a boutique labor and employment law firm in Akron, Ohio, where its lawyers have been representing management exclusively for over 22 years. Tom is a partner in the firm, has two decades of workplace law experience, and has represented public, private and non-profit employers of all sizes in administrative proceedings, as well as in state and federal courts, throughout the country. Tom provides guidance and training to human resource professionals, and in some cases the entire workforce, on employment law topics, including but not limited to harassment and workplace conduct, employee relations, disability accommodation compliance, and leave management. Tom also completed a rigorous peer review and examination process in order to be certified by the Ohio State Bar Association as a Specialist in Labor and Employment Law. Sean is an associate with the firm, and a recent graduate of the Moritz College of Law at the Ohio State University. In law school, Sean was actively involved in the Black Law Student Association and the John Mercer Langston Bar Association in Columbus, Ohio. Sean provides counsel to employers of all sizes, including multi-state employers, on myriad workplace compliance and EEO issues.

Award Applications

Nominations are due by July 1 for the Treat Award for Excellence that is presented at the Annual Meeting. This award recognizes and encourages achievements in the field of probate law and related fields consistent with the goals of the NCPJ. Nominations should be submitted to Sydney Rohnow, Association Manager of the National Center for State Courts at www.ncsc.org either via email at NCPJ@ncsc.org or by mail to 300 Newport Avenue, Williamsburg, VA 23185.

Article Submissions

The NCPJ Journal is published in the spring and fall and welcomes scholarly submissions for publication. If you or someone you know is interested in submitting an article for publication in a future NCPJ Journal, please do so by emailing ncpj@ncsc.org.
Upcoming Conferences

Spring 2022 — Colorado Springs, CO
May 16-22, 2022
We hope to see you at the 2022 NCPJ Spring Conference in Colorado Springs, Colorado! From the Garden of the Gods to Pikes Peak, the fullest of Colorado’s natural beauty is certainly on display in Colorado Springs. This town, being as diverse as it is beautiful, will also provide for an unparalleled cultural experience. What is more, it is home to the United States Air Force Academy. We hope to arrange tours of the Academy for NCPJ members, pending local and national protocol.

Fall 2022 — Destin, FL
November 15-18, 2022
The Henderson Hotel Beach Resort & Spa
200 Henderson Resort Way
Destin, FL 32541
Welcome Reception: November 15
Education Program: November 16-18

Spring 2023 — Tucson, AZ
May 2023
Loews Ventana Canyon Resort
7000 N Resort Drive
Tucson, AZ 85750
Proposed Amended Bylaws

Under the leadership of Judge Dunleavy, President of NCPJ, the Bylaws Committee drafted amendments to the association’s bylaws, which were presented to, and approved by, the NCPJ Executive Committee. Judge Dunleavy would like members to please review and provide feedback regarding the following proposed amendments, by emailing him at dlopa2001@yahoo.com.

Please mark your calendar to attend the Annual Business Meeting at the 2022 Fall Conference in Destin, FL, where a vote will take place on these Amended Bylaws.

ARTICLE I
NAME, TYPE, REGISTERED OFFICE AND REGISTERED AGENT

1. The name of the organization shall be "National College of Probate Judges," hereinafter referred to as the College. The College shall be a non-profit corporation, operated exclusively for educational and charitable purposes within the meaning of Section 501 (c)(3) of the Internal Revenue Code of 1986, now in effect or as subsequently amended.

2. The College shall have and continuously maintain in the State of Texas a registered office and a registered agent, whose office is identical with such registered office, as required by the Texas Non-Profit Corporation Act. The registered office may be, but need not be, identical with the College’s principal office in the State of Texas, and the address of the registered office may be changed from time to time by the Executive Committee.

ARTICLE II
PURPOSES, POWERS AND OBJECTIVES

1. The College is organized for the purpose of promoting the efficient administration of justice in the probate courts of the United States, and other courts with jurisdiction primarily concerned with probate and related matters. The College shall, at such times as it may be expedient to do so, conduct seminars and other types of educational conferences, publish magazines, news bulletins, and other types of educational and informational publications, establish dues for membership in the College and solicit donations to the College for the support of its educational and charitable objectives, and generally do all and everything necessary, suitable or proper for the accomplishment of any of the purposes, the attainment of any of the objectives or the furtherance of any of the powers of the College, either in conjunction with other organizations or individuals, or as sole principal, and do every other act or acts incidental or pertinent to, or growing out of, or connected with the aforesaid objects, purposes, powers, or objectives.

ARTICLE III
EXECUTIVE COMMITTEE

1. The Board of Directors of the College shall be comprised of the members of the Executive Committee of the College who shall consist of: the President, the Immediate Past President, the President-Elect, and a Secretary/Treasurer, who shall be considered Officers, as well as six additional non-Officer members. Only voting members of the College may serve on the Executive Committee. Except as specifically provided below, election to the Executive Committee shall be by a majority of the regular members of the College voting at the annual business meeting of the College. The term of each Executive Committee Officer and member shall begin at the swearing-in ceremony held at the annual meeting.

President

2. The President's term shall be limited to one year.

President-Elect

3. The President-Elect shall be elected for a period of one year and shall succeed to the office of President when said office is vacated. Any nominee for President-Elect shall have served on the Executive Committee for a minimum of two years prior to nomination, and have served as a judge exercising probate jurisdiction and be a graduate of an ABA accredited law school.

Immediate Past President

4. The Immediate Past President shall serve for a period of one year. The term shall commence at the conclusion of that person’s term as President. Commencing in 2021 the Immediate Past President shall accede to the honorary office of President Emeritus, and shall be entitled to attend Executive Committee meetings but not to vote at said meetings.

Secretary/Treasurer

5. The Secretary/Treasurer shall be elected for a term of one year and may be elected to succeeding one-year terms for a maximum of three more years. Any nominee for Secretary/Treasurer shall have served on the Executive Committee for at least two years of the preceding six year period to such initial nomination.

Non-Officer Executive Committee Members

6. The six non-Officer Executive Committee members shall be elected for a term of two years. The terms of these six (continued on page 10)
additional members of the Executive Committee shall be arranged so that the terms of three such members expire each year.

7. No non-Officer member of the Executive Committee shall serve more than six years, and no Executive Committee member shall serve more than ten years as an Executive Committee member and/or Officer.

General Provisions

8. Whenever a vacancy occurs in the office of President, the President-Elect then in office shall serve as President during the unexpired term created by the vacancy, and shall continue to serve as President for one year more after said service of that unexpired term.

9. Whenever a vacancy occurs in the office of President-Elect, the remaining Executive Committee members shall select a qualified member of the College, so long as that member shall not have served a total of ten years on the Executive Committee at the time of this selection, to serve as President-Elect Pro Tem until the next annual meeting of the College, at which time a President and a President-Elect each shall be elected for a one year term.

10. Whenever a vacancy occurs in the office of Immediate Past President, that position shall be filled by a qualified member of the College, which may be a President Emeritus who has not then served a full ten year term on the Executive Committee, who shall be selected by the members of the Executive Committee.

11. Whenever a vacancy occurs in the office of Secretary/Treasurer, the remaining Executive Committee members shall select a qualified member of the College who is not then on the Executive Committee who has not already served ten years on the Executive Committee to serve as Secretary/Treasurer Pro Tem for the remaining term of that office, after which time a Secretary/Treasurer shall be nominated by the Nominations Committee and elected for a one year term at the annual meeting of the College as set forth herein.

12. The number of members on the Executive Committee shall be maintained constantly at ten. If any vacancy exists on the Executive Committee after the application of the foregoing provisions, it shall be filled by the election of a new member, to be designated a director pro tem, by a majority vote of the remaining members of the Executive Committee until the next annual meeting of the College at which time a new member will be elected to fill the unexpired term created by the vacancy.

ARTICLE IV

POWERS AND DUTIES OF OFFICERS AND EXECUTIVE COMMITTEE

1. The President shall preside at all meetings and shall be the chief executive of the College with responsibility for directing the implementation of the policies of the College.

2. The President shall serve as chair of the Treat Award Committee and the Isabella Horton Grant Award Committee. The President shall be an ex-officio member of all committees.

3. The President-Elect shall have the duty and responsibility to assist the President and the Immediate Past President in any projects that those individuals may seek to delegate to the President-Elect. The President-Elect shall serve as a member of the Treat Award Committee, the Nominations Committee, and the Endowment Committee and shall report to the Executive Committee following each conference on the results of the membership survey regarding topics of interest for future conferences, ratings provided for the topics presented, presentations made, services provided, and choice of site for the prior conference, and other member comments of interest.

4. The Secretary/Treasurer shall be responsible for collecting and disbursing the funds of the College; shall be charged with the responsibility for the safekeeping of funds and making periodic reports concerning the fiscal affairs of the College; and shall be responsible for keeping the records of the College, calling meetings at the direction of the President, issuing notices, maintaining an agenda for meetings, and for general supervision of the administrative affairs of the College under the direction of the President. The Secretary/Treasurer shall serve as chair of the Endowment Committee. The Secretary/Treasurer or their designee shall keep a current list of the names and terms of members of all committees so that members and terms may be promptly filled when there are vacancies.

5. The Immediate Past President shall serve as chair of the Nominations Committee and the Site Selection Committee and as a member of the Isabella Horton Grant and Treat Award Committees.

6. From time to time the Executive Committee may choose a secretariat as association manager for the College to which some of the duties of the Secretary/Treasurer may be delegated; but overall responsibility for carrying out the duties of the Secretary/Treasurer shall remain with that Officer.

7. The Executive Committee shall carry out the policies of (continued on page 11)
Proposed Amended Bylaws (continued from page 10)

the College, supervise the collection, disbursement, and investment of funds, and have overall responsibility for the management of the College. The Executive Committee shall select the conference and curriculum co-chairs for the Spring and Fall conferences. Five members shall constitute a quorum, and all actions shall be taken by a majority vote of those present and voting.

ARTICLE V
PRESIDENT EMERITUS

1. An Honorary Office of President Emeritus and honorary memberships in the College may be designated by the Executive Committee. Such Honorary Officer may attend meetings of the Executive Committee but may not vote at said meetings and, commencing in the year 2021, the retiring Immediate Past President shall accede to the office of President Emeritus of the College, and shall be entitled to the same reimbursement for attending such meetings as members of the Executive Committee unless said President Emeritus has another reimbursement source.

ARTICLE VI
VACANCIES

Notwithstanding anything to the contrary stated herein, whenever a vacancy of a non-officer member of the Executive Committee occurs, the remaining members of the Executive Committee shall select a President Emeritus, who has not served a full ten year term on the Executive Committee, or another qualified member of the College, to serve in this position during the unexpired term created by the vacancy, at which time a non-officer member of the Executive Committee shall be nominated by the Nominations Committee and elected for a two year term at the annual meeting of the College as set forth herein.

ARTICLE VII
MEETINGS

General Provisions

1. The College and the Executive Committee shall meet in such places as the Executive Committee may from time to time determine.

2. The time, place, and mode (in-person or electronic video conference) of meetings shall be determined by the Executive Committee.

3. The Rules of Parliamentary Procedure set forth in Robert's Rules of Order, as such rules may be revised from time to time, shall govern the proceedings of the College, subject to such special rules as may be adopted by the College.

Meetings of the College

4. The College shall conduct a Spring and Fall conference in each calendar year. The annual business meeting of the College shall occur at the Fall conference.

Meetings of the Executive Committee

5. Executive Committee shall meet at least once every two months.

6. At each meeting of the Executive Committee, the presence of five of the voting members of the Executive Committee shall be necessary to constitute a quorum for the transaction of business, except as otherwise provided by applicable law, the Articles of Incorporation or these Bylaws. If a quorum is not present at any meeting of the Executive Committee, a majority of the members of the Executive Committee present may adjourn the meeting from time to time, without notice other than announcement at the meeting, until such time as a quorum shall be present. At any resumed meeting at which a quorum is present, any business may be transacted which, but for the lack of a quorum, could have been transacted at the meeting as originally scheduled.

ARTICLE VIII
DISSOLUTION

1. The College shall continue in perpetuity unless two-thirds of the then current membership of the College vote at the annual business meeting or a specially called business meeting to dissolve the College. In such event, all of the liabilities and obligations of the College shall be paid, satisfied and discharged. Thereafter, all of the remaining funds and assets of the College shall be distributed to or for the use of such charitable organizations, in such amounts and for such charitable purposes as the Executive Committee shall then select and determine; provided, however, that: (1) no organization shall be qualified to receive such funds and assets unless it shall be organized and operated exclusively for charitable, religious and/or educational purposes and shall be qualified as an organization (i) which is exempt from federal income tax under the provisions of section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or any successor provision thereto, and (ii) to which deductible contributions may be made under section 170(c)(2) of the Internal Revenue Code of 1986, as amended, or any successor provision thereto, provided that any organization to which the assets shall be distributed must be exempt under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended; and (2) any principal and undistributed (continued on page 12)
Proposed Amended Bylaws (continued from page 11)

income remaining in endowment funds shall be returned to the donors thereof, if the donors still exist. If the endowment funds remaining at the time of dissolution are less in amount than the total contributed by the donors, the amount to be returned will be calculated proportionately based on the amount of each donor's contribution proportionate to the contributions of the other donors. If a donor does not exist, distribution of funds and assets will be made in accordance with this Article without regard to any contributions made by such donor.

ARTICLE IX
MEMBERSHIP

A. Membership Classes – The College shall consist of the following membership classes:

1. Regular Membership – Any judge, former judge, retired judge, judge-elect, surrogate, registrar, chief clerk, or any duly appointed referee, magistrate, commissioner, Chief Administrative Officer or otherwise designated judicial officer exercising probate jurisdiction, without regard for age, gender, religion, race, national origin or sexual orientation, shall be eligible to be a Regular Member of the College upon enrollment and payment of the annual regular membership dues as established for the membership category sought by the applicant. Each Regular Member shall be entitled to all benefits and privileges of membership, including the right to vote and hold office, except the President and President-Elect of the College must hold or have held a position that makes judicial decisions and be a graduate of an ABA accredited law school.

2. Group Membership – A Group Membership includes those persons who qualify for Regular Membership and join the College through their state probate judges association. To be eligible for Group Membership, at least fifty percent (50%) of the state association members must apply to the College. Each Group Member shall have the same benefits and privileges as a Regular Member and is entitled to reduced membership dues.

3. Life Membership – A person who qualifies for Regular membership may elect to become a Life Member by paying life membership dues. The life membership dues are a one-time payment. Each Life Member is entitled to the same benefits and privileges as a Regular Member. The fee for Life Membership shall be set by the Executive Committee.

4. Honorary Membership – An Honorary Member is a person designated by the Executive Committee in recognition of his or her outstanding service and contribution to the furtherance of the purposes of the College. An Honorary Membership is a Lifetime Membership awarded by a vote of the Executive Committee. An Honorary Member does not have to pay dues.

5. Professional Membership – Any attorney, law professor, financial advisor, conference exhibitor and or sponsor, law firm, corporation, trust, bank or trust company, bank or trust company officer, foundation or association may become a Professional Member upon the payment of the designated annual Professional Membership dues and the approval of the Executive Committee. A Professional Member is not eligible to vote or hold office and may only serve on committees by appointment of the Executive Committee.

6. Judicial Position Membership – In those states or territories which have a unified court system, or which do not otherwise have a separate court exercising probate jurisdiction a judicial circuit or district may be eligible to hold one or more regular memberships in the name of the circuit or district to be filled by the judge(s) exercising probate jurisdiction during the annual membership period. Each Judicial Position Member shall be entitled to all benefits and privileges of Regular Membership, including the right to vote and hold office if the member is a graduate of an ABA accredited law school.

7. Associate Membership – All court personnel, support staff and others having an interest in probate matters who do not meet the specifications and criteria established for the other categories of membership may become an Associate Member upon payment of the designated annual Associate Membership dues and the approval of the Executive Committee. An Associate Member is not eligible to vote or hold office and may only serve on committees by appointment of the Executive Committee.

B. Membership Dues and Other Fees

1. Dues for Regular, Group, Life, Professional, Judicial Position and Associate Memberships and other fees shall be established by the Executive Committee and published to the membership.

2. The dues established by the Executive Committee for Regular, Group, Professional, Judicial Position and Associate Members shall be annual dues, effective for a period commencing on the first day of

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the month following the receipt of the initial payment of dues.

C. Membership Record

1. The College shall keep a Membership Record containing the name, address and class of each member and the date of admission to membership.

D. Grandfather Clause

1. Any member in good standing on the effective date of this amendment is grandfathered as a member in the class of membership then held.

E. Reduced Conference Registration Fee

1. Any judge, registrar, chief clerk or any duly appointed referee, magistrate, commissioner, Chief Administrative Officer, or otherwise designated judicial officer exercising probate jurisdiction who has retired from office and who was a member of the College prior to retirement, may attend a conference hosted by the College for a reduced fee that covers the cost of the conference receptions and banquet dinner at the conference. A person attending under this reduced conference registration fee provisions shall not be eligible for continuing judicial or legal education credit. The Executive Committee shall determine the reduced fee amount for such attendance at a conference hosted by the College.

ARTICLE X

ENDOWMENT COMMITTEE AND ENDOWMENT FUND

The Executive Committee shall establish and appoint an Endowment Committee. The committee shall consist of the Secretary/Treasurer serving as chair, the President-Elect serving as a member, and two regular members of the College plus one member of the Executive Committee. The terms of office for members of the Endowment Committee shall be three years, who may serve no more than two consecutive three-year terms. Vacancies on the Endowment Committee shall be filled by the Executive Committee.

The Executive Committee shall establish an endowment fund or funds, one of which shall be known as the "Educational Endowment Fund of the National College of Probate Judges." hereinafter all fund or funds shall be known as Fund. Such Fund shall consist of contributions made for endowment purposes by public or private donors by gift, devise or bequest or added to such fund by the Executive Committee. No gift, devise or bequest of any property may be received if it is conditioned or limited in a manner inconsistent with the tax exemption authorized by Section 501(c)(3) of the Internal Revenue Code of 1986, as now in effect or subsequently amended.

In addition to its duties described below with respect to the Fund, the Endowment Committee shall advise the Executive Committee and the College concerning the investment of all funds of the College. The Executive Committee, however, shall have the final authority and responsibility for investment of all College funds.

All property received and accepted by the College shall be held in the Fund. The return (current income such as dividends, and interest together with such portion of capital appreciation as may be allocated to income under the principles of prudent investing) shall be used for the activities or projects of the College as the Executive Committee sees fit. A donor may request that income from such donor's contributions be first used for a specific purpose, and then if income remains, for any general purpose of the College. No part of the principal or income of the Fund shall inure to the personal benefit of any member of the Endowment Committee or to any other member of the College. No principal or income from the Fund shall be used for propaganda purposes or otherwise attempt to influence legislation, or participation (including publication or distribution of statements) in any political campaign on behalf of any candidate for public office.

The principal and undistributed income of the Fund shall be conservatively invested in the following manner:

(a) The Endowment Committee shall propose an investment policy to the Executive Committee at least every three years at the annual meeting of the Executive Committee. Said policy shall cover (a) asset allocation, that is the percentage of investment in equities, fixed income obligations, and cash equivalents; (b) a total return objective; and (c) a current spending ratio objective. On the advice of the Endowment Committee, the Executive Committee shall invest and manage the principal and undistributed income of the Fund in accordance with the terms and guidelines of the Prudent Investor Act. The Executive Committee shall invest in accordance with the following guidelines:

1. The Executive Committee is under a duty to the College to invest and manage the endowment fund as a prudent investor would, in light of the purposes, terms, distribution requirements, and other circumstances of the Fund.

2. This standard requires the exercise of reasonable care, skill and caution, and is to be applied to investments not in isolation but in the context of the endowment portfolio and as a part of an overall investment strategy, which should incorporate risk and return objectives reasonably suitable to the
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3. In making and implementing investment decisions, the Executive Committee has a duty to diversify the investments of the funds unless, under the circumstances, it is prudent not to do so.

4. Among circumstances that the Executive Committee shall consider in investing and managing fund assets are such of the following as are relevant to the fund or the members of the College:

   a) General economic conditions;
   b) The possible effect of inflation or deflation;
   c) The expected tax consequences of investment decisions or strategies, with due regard to the tax-exempt status of the College;
   d) The role that each investment or course of action plays within the overall fund portfolio, which may include financial assets, interests in closely held enterprises, tangible and intangible personal property, and real property;
   e) The expected total return from income and the appreciation of capital;
   f) Other resources of the College;
   g) Needs for liquidity, regularity of income, and preservation or appreciation of capital; and
   h) An asset’s special relationship or special value, if any, to the purposes of the fund or to the College.

5. The Executive Committee shall make a reasonable effort to verify facts relevant to the investment and management of the Fund.

6. The Executive Committee may invest in any kind of property or participate in any type of investment consistent with the standards of this section.

7. In addition, the Executive Committee must:
   a) Conform to fundamental fiduciary duties of loyalty and impartiality; and
   b) Incur only costs that are reasonable in amount an appropriate to the investment responsibilities of the committee.
   c) The Executive Committee may delegate investment and management functions that a prudent trustee of comparable skills could properly delegate under the circumstances. The Executive Committee shall exercise reasonable care, skill, and caution in:
      1. Selecting an agent
      2. Establishing the scope and terms of the delegation, consistent with the purposes and terms of the fund; and
      3. Periodically reviewing the agent's actions in order to monitor the agent's performance and compliance with the terms of the delegation.

In performing a delegated function, an agent owes a duty to the fund to exercise reasonable care to comply with the terms of the delegation. No Executive Committee or Endowment Committee members shall receive compensation for his or her services on either committee.

A Legacy Society Fund is established. This fund shall be comprised of gifts, devises and bequests specifically designated to the Legacy Society of the College. The grantor shall have the right to designate the purposes for the use of the funds consistent with the tax exemption authorized by Section 501(c)(3) of the Internal Revenue Code of 1986, as it is now in effect or subsequently modified.

ARTICLE XI
ANNUAL AWARD COMMITTEES

A. TREAT AWARD COMMITTEE

1. The Treat Award Committee is responsible for selecting a candidate who has made significant achievements in the field of Probate law from nominees to receive the Treat Award each year. Nominations shall be solicited from the College’s membership, the Conference of State Court Administrators, the Conference of Chief Justices, the American College of Trust and Estate Counsel, law schools selected each year by the Committee and other knowledgeable sources.

2. The Treat Award Committee shall be the current President, The Immediate Past President and President-Elect of the College, the President of the American College of Trust and Estate Counsel if available to participate, the Chairman of the American Bar Association Section on Real Property, Probate and Trust Law if available to participate and a non-Executive Committee member of the College who shall be appointed by the President for a one-year term. The College non-Executive Committee member may be re-appointed for a second one-year term but shall not serve as a (continued on page 15)
member of the Treat Award Committee for more than four years.

3. Presentation of the Treat Award shall be made at the annual Fall Conference banquet.

4. No member of the Executive Committee or Treat Award Committee shall be eligible for consideration for the award.

A. ISABELLA HORTON GRANT AWARD COMMITTEE

1. The Isabella Horton Grant Award Committee is responsible for selecting a candidate who has made significant achievements in guardianship law (Innovative programs leading to improvements in guardianship law; Articles, treatises, books or other publications of unusual quality and impact on guardianship issues; Leadership roles or other activities in organizations that have led to significant improvements in the laws, administration, or practices in the guardianship field) from nominees to receive the Isabella Horton Grant Award each year. Nominations shall be solicited from the membership of the College, the Conference of State Court Administrators, the Conference of Chief Justices, the American College of Trust and Estate Counsel, the National Guardianship Association, the National Guardianship Network, the National Academy of Elder Law Attorneys, law schools selected each year by the Committee and other knowledgeable sources.

2. The Isabella Horton Grant Award Committee shall be the President, and Immediate Past President of the College, the President of the National Guardianship Association if available to participate, the Chair of the National Guardianship Network if available to participate, a representative appointed by the American Bar Association Commission on Law and Aging if available to participate, and two non-Executive Committee members of the College who shall each be appointed by the President to a one-year term. The non-Executive Committee members may be re-appointed for a second one-year term but shall not serve as a member of the Isabella Horton Grant Award Committee for more than four years.

3. The Isabella Horton Grant Award shall be presented at the annual Spring Conference banquet.

4. No member of the Executive Committee or Isabella Horton Grant Award Committee shall be eligible for consideration for the award.

ARTICLE XII

NOMINATIONS COMMITTEE

1. The Nominations Committee shall be responsible for presenting nominations for Officers and Executive Committee members of the College to the membership at the annual business meeting. The Nominations Committee shall aspire to select candidates for the Executive Committee that reflect the general membership of the College.

2. In selecting candidates for Officers and Executive Committee members of the College, consideration should be given to all eligible regular voting members, except members of the Nominations Committee. A candidate’s past involvement with, interests of the College, qualifications and ability to attend conferences, willingness to serve as a committee member, chair of a committee, as well as willingness to serve as an Officer (if nominated) are factors to be considered in the selection process.

3. In order to insure an orderly transition, the following provisions shall apply:

4. There shall be five members of the Nominations Committee – the Immediate Past President, who shall serve as chair, the President-Elect, and three regular members of the College appointed by the Executive Committee to serve for a period of three years. Members who serve on the Nominations Committee shall not be eligible for nomination while serving as a member of the Nominations Committee. Any vacancy of the Immediate Past President and the President-Elect on the Nominations Committee shall be filled in the same manner as those positions are filled as provided herein. Any other vacancy on the Nominations Committee shall be appointed by the Executive Committee to fill the unexpired term created by the vacancy.

5. No member of the committee shall serve more than three consecutive years, but may be reappointed to the Nominations Committee after that member has ceased to be a committee member for at least one year.

6. Voting members of the College may submit the names of candidates for Officers and the Executive Committee through its secretariat or members of its Nominations Committee. All nominations shall be in writing, shall be signed by a voting member of the College and shall be delivered to the secretariat or to a member of the Nominations Committee no later than the close of the spring conference. The Nominations Committee shall give notice of its recommendation(s) to the Executive Committee and to the regular members at least 30 days prior to the annual business meeting of the College.

7. The Chair of the Nominations Committee, or the chair’s
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designee, shall formally present the slate of nominees at the annual business meeting. However, there is no prohibition to nominees being submitted from the membership at the annual business meeting.

ARTICLE XIII
MEMBERSHIP COMMITTEE

1. The Membership Committee shall be responsible for promoting and facilitating the recruitment and continuity of College members by collaborating with the Executive Committee to provide insight on membership recruitment, engagement and retention. The Membership Committee shall consist of the two most senior members of the Executive Committee and two other members of the College each appointed for one year terms by the Executive Committee.

ARTICLE XIV
SITE SELECTION COMMITTEE

1. The Site Selection Committee shall be responsible to propose to the Executive Committee sites where the College will hold future conferences. The locations recommended should be chosen after due consideration of expense, proximity to members of the College, proximity and estimated expense and ease of long distance travel and amenities that will promote interest in the conference.

2. Service on this Committee may require no more than a single member of the Executive Committee to travel to prospective locations and engage in investigations and negotiations on behalf of the College with hotels and others providing conference services. This Committee shall consist of the current Officers, three other regular members of the College appointed for three-year terms by the Executive Committee and one or more Presidents Emeritus who are willing to serve on said Committee for a three-year term. The Committee members shall negotiate the most favorable terms possible from hotels and others so as to provide attractive and affordable conference participation by members of the College. The Committee shall report at least annually to the Executive Committee, providing a selection of at least three potential sites for a future conference for the Executive Committee to consider. Vacancies and appointments shall be filled and made by the Executive Committee as needed.

ARTICLE XV
COMMUNICATIONS - JOURNAL COMMITTEE

1. The Communications Committee shall be responsible for overseeing and making reports and recommendations to the Executive Committee regarding the content and preparations of the College’s key vehicles of communication with members of the College: (1) College newsletters and (2) the College's Journal. All proposed communications by the Communications Committee to the members of the College must be approved by the Executive Committee in advance. The Communications Committee shall consist of two members of the Executive Committee and two members of the College appointed by the Executive Committee. All terms shall be for one year and vacancies and appointments shall be filled and made by the Executive Committee as needed.

ARTICLE XVI
WEBSITE AND ELECTRONIC MEDIA COMMITTEE

1. The Website and Electronic Media Committee shall be responsible for maintaining and updating as appropriate the College’s Internet website to communicate information about the College and the College’s objectives to members, potential members and the general public. The Website and Electronic Media Committee shall consist of at least three members of the Executive Committee and two members of the College selected by majority vote of the Executive Committee. All terms shall be for one year and vacancies and appointments shall be filled and made by the Executive Committee as needed.

ARTICLE XVII
SPONSORS AND EXHIBITORS COMMITTEE

1. The Sponsors and Exhibitors Committee shall be responsible for identifying and recruiting sponsors and exhibitors at the College’s conferences. The Sponsors and Exhibitors Committee shall consist of three members of the Executive Committee and two members of the College selected by majority vote of the Executive Committee and shall serve at the pleasure of the Executive Committee so long as they remain members of the College.

ARTICLE XVIII
BYLAWS COMMITTEE

1. The Bylaws Committee shall be responsible for making recommendations to the Executive Committee regarding potential revisions to the Bylaws. The Bylaws Committee shall also be responsible for reviewing any proposed amendments to the Bylaws submitted by members of the College and making recommendations to the Executive Committee concerning the same. The Bylaws Committee shall present any proposed changes to the Bylaws in sufficient time to meet the guidelines contained in the Bylaws relating to amendments to the Bylaws. The Bylaws Committee shall consist of at least
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three members of the Executive Committee and two other members of the College appointed by the Executive Committee. The Bylaws Committee shall not engage in revision work without the approval of the Executive Committee.

2. From time to time the Bylaws Committee may recommend the creation of other committees to be considered by the Executive Committee and these shall be established as part of these Bylaws if favorably voted on by voting members of the College at the annual meeting of the College.

ARTICLE XIX

AD HOC COMMITTEES AND LIAISON APPOINTMENTS

A. Ad Hoc Committees

1. The President, with approval of the Executive Committee, may establish one or more ad hoc committees to advise and assist the Executive Committee in the management of the College. The members of such committees need not, but may, be members of the Executive Committee. However, the members of such committee must be members of the College. The term of an ad hoc committee will end on the date specified by the Executive Committee or upon accomplishment of the assigned task.

2. Subject to the Executive Committee’s approval, the President may appoint members of the College to serve as liaisons with organizations the College has or desires to have a collaborative relationship, including, but not limited to the National Guardianship Association, the National Guardianship Network, the American Judges Association, the Conference of State Court Administrators, the Conference of Chief Justices, the American College of Trust and Estate Counsel, the National Academy of Elder Law Attorneys, the American Bar Association Section On Real Property, Probate and Trust Law, the American Bar Association Commission On Law And Aging, the National Association Of State Judicial Educators, and the National Association For Court Management. A liaison appointee shall be appointed for a one year term and be eligible for reappointment.

ARTICLE XX

INDEMNIFICATION

1. The College shall indemnify any member of the Executive Committee against any and all costs and expenses (including, but not limited to, attorney’s fees and court costs) actually and necessarily incurred by a member of the Executive Committee in connection with any civil or criminal claim, action, suit or proceeding threatened, asserted or filed against the member of the Executive Committee; provided, however, that in any case the right of indemnification herein provided shall not extend to: (1) any costs or expenses incurred by or damages awarded against any member of the Executive Committee in relation to any matter as to which the member of the Executive Committee shall be adjudged to have been grossly negligent or to have engaged in willful or intentional misconduct in the performance of the member’s duties as such Executive Committee member, or (2) any sum paid by a member of the Executive Committee in settlement of any claim, action, suit or proceeding based on the member of the Executive Committee’s alleged gross negligence and/or willful or intentional misconduct by such member of the Executive Committee are well-founded. The right of indemnification herein provided shall inure to each Executive Committee member, whether or not such person is acting in such capacity at the time costs or expenses are incurred, damages are awarded, or settlement is made.

2. In the event any person who is or becomes entitled to indemnification under this Article shall die or become incapacitated, such right of indemnification shall extend to and inure to the benefit of the member’s legal representatives.

3. The Executive Committee is authorized to obtain and maintain directors and officers liability insurance coverage pertaining to the indemnification obligations contained in this Article.

ARTICLE XXI

MISCELLANEOUS

Dividends Prohibited, Compensation, Reimbursement

1. None of the College’s income shall inure to the benefit of a private individual and the College shall not pay a dividend, nor otherwise distribute any part of its income, to any member of the Executive Committee. Notwithstanding the same, the College may reimburse members of the Executive Committee and other committees of the College for out of pocket expenses incurred during the conduct of the College’s business.

2. Loans To Executive Committee Members Prohibited

3. No loans shall be made by the College to any person or entity. Any member of the Executive Committee who may participate in making such a loan shall be jointly and severally liable to the College for the amount of such

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loan and any and all expenses incurred by the College, including but not limited to attorney’s fees, litigation expenses and court costs.

Signature Of Legal Instruments

1. The President and Secretary/Treasurer are authorized to execute all legal instruments on behalf of the College.

Fiscal Year

2. The fiscal year of the College shall be the period as contained in resolutions of the Executive Committee from time to time.

ARTICLE XXII

AMENDMENTS

1. Except with respect to Article, X, these bylaws may be amended at any annual meeting of the College by a vote of two-thirds of those present and voting at such meeting. To be considered, an amendment must be proposed in one of two ways:

a) An amendment approved by a majority of the Executive Committee and submitted to the membership at least 30 days in advance of that annual meeting.

b) An amendment proposed in writing by at least 25 voting members of the College representing at least three states (with no more than half of the proposers being from any one state) and filed with the secretary of the College at least 60 days prior to the annual meeting and submitted to the membership at least 30 days prior to the annual meeting.

2. Article X of these bylaws may be amended only at an annual meeting of the College, and only with the consent of all members of the Executive Committee then present and 90 per cent of the members of the College voting on such an amendment.

ARTICLE XXIII

USE OF PROXY VOTES AND ELECTRONIC VOTING

1. Proxy votes shall not be permitted. If the College conducts a business meeting utilizing electronic video conference means, members of the College eligible to vote shall be permitted to do so electronically.
There are related provisions for estates; however, they will not be discussed at length in this article.

Unif. Trust Code § 301(b).

Unif. Trust Code § 301(c).

If an individual knows that he or she has a son but cannot locate him (but knows he is alive), the proper section for representation is § 304.

E.g., S.C. Code § 304.

In the example given above, this would likely focus on what discretion the trustee had. For example, trustee of a unitrust may not be sufficient to make interests not substantially identical, but trustee of a trust lacking an ascertainable standard, may be enough to make the interests not substantially identical.