

MEMORANDUM

Date: October 27, 2020

To: Robin Lechter Frank, President of the Board of Control

Members of the Board of Control of The Art Students League of New York

From: Josh Nathan

*CC: Charlotte Bialek, VP of the Board of Control, Constitution Reform Committee Chair
Members of the Constitution Reform Committee*

Re: Amending the Constitution and By-Laws to Allow Virtual Meetings.

Introduction:

The Constitution Reform Committee (“CRC”) recommends amending the League Constitution and By-Laws to expressly permit electronic participation in meetings to the extent permitted by law as well as certain clarifying edits concerning meetings. The objectives of the draft proposed amendments set forth below are to:

- Expressly permit electronic participation in meetings at the discretion of the BOC;
- Make minor clarifying edits to Article VII of the Constitution;
- Remove the 8pm time requirement from By-Law XI as that time hasn’t been used consistently or recently by the League;
- Clarify that any three members of the BOC may call a special meeting of the BOC, as the previous language said any three officers and all BOC members are officers, but in the future, officers may include non-BOC members; and
- Make minor clarifying edits to By-Law XI in favor of easier reading.

New York’s not-for-profit law distinguishes between member meetings and board meetings when it comes to allowing participation electronically. For member meetings, under normal circumstances, New York law does not permit electronic participation, the meetings must be in person. However, due to the COVID-19 Corona Virus Pandemic, the prohibition against electronic participation has been suspended through December 31, 2021. NPCL §603(b) and (c).

For nonprofit board and committee meetings, New York law does permit by electronic participation provided that none of the organizations governing documents (e.g., certificate of incorporation, charter, constitution, bylaws) prohibit electronic participation. NPCL §708(c).

The League's governing documents have no express prohibition against electronic participation in meetings. Accordingly, member meetings for 2020 and 2021, and all Board of Control meetings and BOC committee meetings may be conducted so as to allow electronic participation.

Part I below sets forth the CRC's proposed amendment to By-Law XI to expressly allow BOC to conduct meetings with electronic participation.

Part II below set forth guidelines for conducting meetings with electronic participation in compliance with New York Law. (These guidelines are not being recommended for inclusion in the League By-Laws.)

Part I – Amend Constitution Article VII and By-Law XI

ARTICLE VII

MEETINGS

There shall be an Annual Meeting of the League held in the month of December, for the election of Officers for the ensuing year; and such other meetings as may be provided for in the By-Laws. One hundred of the active members shall constitute a quorum at the Annual Meeting and at all ~~Special Meetings~~ other meetings of the League ~~membership~~. (As Amended ~~December 4, 1963~~ December 2, 2020)

BY-LAW XI

MEETINGS

The Annual Meeting of the League shall be held on the evening of the first Wednesday in December ~~at eight o'clock~~.

There shall be three business meetings of the League each year, which shall convene on the evening of the first Wednesday in October and the third Wednesday in January and April, unless otherwise ordered by the Board of Control.

All nominations of the three elective officers and the three elective members of the Board of Control shall be made at the October meeting. Nominations shall be closed at the termination of this meeting and no further nominations made.

The Board of Control may call Special Meetings of the Members of the League at any time.

A Special Meeting of the ~~members~~ Members of the League may be called at any time, provided that due notice of the meeting and the object for which it is called being is posted on the Bulletin Board of the League two weeks prior to the date of the meeting and signed by 100 ~~active members~~ Active Members. *[This provision has simply been moved from below so as to be grouped with other provisions concerning Member meetings, the yellow is new clarifying language, "Members" and "Active Members" have also been capitalized as they are defined terms in the By-Laws.]*

The Board of Control shall meet for the transaction of business at least once each month for 10 months out of the calendar year, which months shall be selected by the Board of Control.

Absence on the part of any member of the Board of Control from three consecutive meetings thereof, without satisfactory reasons being submitted to the Board, shall be considered a resignation therefrom.

The President or any three ~~officers~~ Board of Control members may call a Special Meeting of the Board of Control at any time.

At the discretion of the Board of Control, meetings may be conducted so as to allow participation by videoconference or teleconference or similar electronic communications media; provided that persons participating electronically who have the right to propose, object to, and vote upon any specific actions to be taken at the meeting, are able to do so and are also able to hear the meeting and see any materials being shown at the meeting substantially concurrently with the other persons in the meeting. Participation by such electronic means will constitute presence in person at a meeting to the extent permitted by applicable law.

~~A Special Meeting of the members of the League may be called at any time, due notice of the meeting and the object for which it is called being posted on the Bulletin Board of the League two weeks prior to the date of the meeting and signed by 100 active members. [This provision~~

has simply been moved up to be next to provisions regarding member meetings.]

(As amended ~~August 12, 2020~~ December 2, 2020)