

PROPOSED AMENDMENT TO NLG BY-LAWS TO REPLACE IN ITS ENTIRETY THE CURRENT SECTION 4 ON PROJECT, COMMITTEE AND TASK FORCE ANNUAL ASSESSMENTS WITH THE WORD-FOR WORD TEXT OF THE PREDECESSOR (PRE-2000) SECTION 4

Submitted by:

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Purpose: NLG Projects, Committees and Task Forces have not paid assessments to the National Organization as required under Section 4 of the NLG By-Laws for many years, perhaps for up to a decade or more. (See budget reports by National Office to National Executive Committee since 2014). This amendment proposes to replace the current Section 4 By-Law with the word-for-word text of the predecessor Section 4 to restore a framework where National Project, Committee and Task Force assessments are a determinate percentage of their “adjusted incomes”, and restore a lost structural income stream to National Organization revenue. Two changes are made in the word-for-word text of former By-Law Section 4: (1) the amount not subject to assessment is raised from \$5,000 to \$10,000 to account for inflation; (2) dues of project, committee and task force members who are not members of the National Lawyers Guild would be included in the “adjusted income” on which assessments are calculated. Reference the current Section 4 By-Law at: <https://www.nlg.org/about/bylaws-and-resolutions/>

BE IT RESOLVED that Section 4 of the National Lawyers Guild By-Laws be amended as follows, replacing the current Section 4 with the predecessor Section 4 (published by the National Lawyers Guild updated to June 1989), with two changes noted in bold in the text:

SECTION 4. PROJECT, COMMITTEE AND TASK FORCE ASSESSMENTS

“All National Projects, Committees and Task Forces (hereafter referred to as “groups”) shall be assessed and shall pay to the national organization an annual assessment on income at a standard rate. The purpose of this assessment is to defray the expenses of the national organization, expenses of national meetings, national publications and publicity, special services to all “groups” and other such direct and indirect costs. This assessment shall be governed by the following regulations:

“a) Reporting. Every NLG group with an income over **\$10,000** [increase from current \$5,000] per year shall be notified by the National Finance Committee that they must submit to the National Finance Committee a bi-annual report including income and expenses for the prior six months and a budget for the next twelve months. These reports will be due on or about December 1 and June 1 of each year. All groups with income of under **\$10,000** [increase from \$5,000 in original] per year will submit a report annually on or about December 1.

“b) Assessment rate: Each group with annual income over **\$10,000** [increase from \$5,000 in original] will remit to the National organization an annual assessment at the rate of eleven percent (11%) of the group’s total annual “adjusted income.” Such “adjusted income” shall include net income from manuals and skills seminars, grant or other income. Any “fiscal sponsor service charge” up to seven percent (7%) paid will be a deduction for purposes of determining net income. Membership dues **paid by current members of the National Lawyers Guild** are not included in net income. [Bold text added because certain committees, projects and task forces realize significant membership revenue from persons who are not members of the NLG]. Ten/elevenths of that assessment income shall be utilized for national budget purposes. One/eleventh of that assessment income shall be placed in the “Development Fund” Account, to be disbursed as seed money for various NLG groups according to the criteria and procedures set forth for that Fund by the National Finance Committee. The National Finance Committee shall notify said groups that their payments under this resolution are due quarterly based on a calendar-year schedule.

“c) National Income-Producing Events. Notwithstanding the above, net income or “profits” obtained by a group from fundraising events done in conjunction with the national organization, and for which the national organization has received or will receive a previously agreed upon portion of the proceeds, will not be included in the group’s annual adjusted income in determining the assessment to the national organization.

“d) Waivers. Assessments may be waived in whole or in part by the National Finance Committee for good cause, after a written waiver application is made by the group. Said applications shall be submitted to the National Finance Committee by May 1 or December 1 each year. Waivers may be granted either prospectively, for purposes of avoiding a cash flow problem, or retroactively, to avoid undue hardship. In arriving at such assessment waivers, the following factors shall be considered:

- (1) Compliance with reporting and consultation requirements;
- (2) Current and/or future plans, activities, etc;
- (3) Sources and amounts of current and anticipated income;
- (4) Current and anticipated income;
- (5) Size and activities of member of the group; and
- (6) Any other factor deemed relevant.”

Implementation Clause: As set forth in the “Process for Submitting Proposals” issued by the NLG National Office on or about April 14, 2017, the work of implementing this resolution will be carried out by the NLG National Office, the NLG Treasurer and the NLG National Finance Committee (a body set forth in Section 11.1 of the NLG By-Laws.)

Consultation Clause: Pursuant to By-Law Section 8.4(a-3), proponents contacted each member of the National Office staff, the officials designated in By-Law 11.1 (the NLG Treasurer, the NLG President, the NLG Executive Director, the National Lawyers Guild Foundation President), and the NLG Committees, Projects and Task Forces listed on page 2 of the Spring 2017 Guild Notes (Amicus Committee, Animal Rights Activism Committee, Anti-Racism Committee, Committee for Democratic Communications, Drug Policy Committee, Environmental Justice Committee, Housing Committee, International Committee, Labor & Employment Committee, Legal Worker Caucus, Mass Defense Committee, Mass Incarceration Committee, Military Law Task Force, Next Generation Committee, Political Prisoner Support Committee, Queer Caucus, The United People of Color Caucus, National Immigration Project and National Police Accountability Project), by sending a copy of this Proposal on May 19, 2017, and again on June 16, 2017 to the email address listed therein. A copy was also sent on May 19 and June 16 to the National Officers listed on page 2 of the Spring 2017 Guild Notes for whom email contact addresses are listed thereon. As of the evening of June 18, 2017, the National Immigration Project indicates it disapproves of the proposal. No responses have been received from the other entities or NLG officials.

Rationale: For many years, perhaps more than a decade, national NLG Projects, Committees and Task Forces have not paid Assessments required by Section 4 of the NLG By-Laws. (See budget reports by National Office to National Executive Committee since 2014). Nonpayment has created a persistent structural deficit in the NLG National Office. There is no question that the “high revenue” NLG Projects do fabulous work which all NLG members celebrate. Yet during the 1970’s, 1980’s and 1990’s, NLG Projects, Committees and Task Forces paid assessments based on gross revenues, while still carrying out strong NLG program.

The National NLG’s finances have two structural income streams. One is member dues assessments (50% of annual dues when the N.O. administers billing; 40% for unstaffed chapters that collect their own dues; and 30% for staffed chapters that collect their own dues). The other is an assessment paid by National Projects, Committees and Task Forces. (NLG By-Laws Sections 1.3. 1.4 and 4.1).

From the early 1980’s until 2000, the NLG By-Laws provided that National Projects, Committees and Task Forces paid 11% of gross revenue to the National Office. (Earlier in the 1970’s, the assessment rate ranged between 15% and 25%). When the By-Laws were changed at the 2000 Boston Convention to provide annual negotiation of an assessment on a project-by-project basis (current By-Law 4.1), Committees, Projects and Task Forces have not “negotiated” and have been unresponsive to requests from NLG officials to comply with By-Law Section 4. The revenue shortfall has resulted in the National Office making more frequent member appeals to address its budget, thus shifting the budget shortfall to individual members whose dues payments are already assessed at 30% to 50%. At least two national NLG projects have six and seven figure revenues respectively, and pay no assessment according to budget reports by the National Office to the National Executive Committee since at least 2014. Both have ample capacity to pay a reasonable assessment. A comparison of two NLG entities’ revenues from their most recently available Tax Returns illustrates the inequity this has created for the NLG National Office (source is the “990 Finder” at www.foundationcenter.org):

	<u>2015 Form 990 (1/1/15-12/31/15)</u>	<u>2014 Form 990</u>
NLG National Office	\$ 667,777.	\$ 579,488.
Nat'l Immig Proj of the NLG	971,105.	1,174,877
Nat'l Police Accountability Proj	192,716.	164,012

The Waiver process alleviates hardship which could result from paying a fair assessment. A By-Law Amendment similar to this one proposed by the Executive Committee of the NYC Chapter was tabled in 2014 at the request of the NEC, which asked for a year to address this issue. The NEC has not addressed the issue, and has not restored the tabled proposal to Convention agendas in 2015 or 2016. In this Age of Trump, the NLG National Office should not have to contend with a persistent structural revenue gap arising from nonpayment of project, committee and task force assessments.