

STATEMENT OPPOSING THE RESOLUTION TO REVERSE CONSTITUTIONAL AMENDMENTS

The undersigned write to oppose the resolution to reverse constitutional amendments as National Lawyers Guild (NLG) members and prisoners' rights advocates. At the outset, the undersigned are confident that the proponents of the resolution propound its substance in good faith, care for the organization and its membership, including prisoners. Within a similar vein, this statement is submitted in good faith and principled disagreement with the substance of the resolution and how it would function.

Accordingly, for the reasons stated herein, the undersigned respectfully recommends a vote **AGAINST** the resolution as currently proposed on the grounds that it is overbroad, impracticable, and may be inconsistent with applicable New York State law governing not-for-profit corporations. National Executive Committee (NEC)/Executive Committee (EC) members represent their constituents and may from time to time consult their committees and regions, which include chapters, for guidance.

Most importantly, as set forth more fully below, the Resolution also fails to ensure that the most vulnerable of the National Lawyers Guild (NLG) membership, such as jailhouse lawyers, persons of color, and students, are protected from abuse, that as a practical matter, only the NEC/EC is most poised to swiftly and adeptly address. Addressing abuse and strengthening protections therefrom by NLG member(s) and/or chapter(s) is an indispensable imperative, and the NLG due process components should reflect this fact.

Process should not displace accountability. A process which unduly delays relief is indeed justice denied. The bypassing of harm, including processes that enable harm, must come to an end in the NLG. Arguably, democratic principles are not always static and begs the question of just whom and whose rights are included and respected in the body politic. All too often it is in consideration of people and entities who need no further process other than a principled and swift separation and removal of their ability to cause continued harm.

For the reasons stated below, the undersigned oppose this Resolution for the following reasons:

I. Background: The Stakes Demand Preservation of Prompt Executive Authority — Not Its Elimination

The undersigned note that this resolution does not arise in a vacuum. The circumstances giving rise to this debate include allegations of legal negligence and potential malpractice by an NLG chapter and its leadership in connection with prospective legal action involving the sexual abuse — including the public humiliation — of a class of prisoners, specifically jailhouse lawyers who are members of the NLG. The NLG was informed that the chapter leadership continued to accept media inquiries despite knowing they did not file litigation at all due to the expiration of the statute of limitations. Months later, when litigation had not been filed, seven of those men — including some who are political prisoners and members of this organization — were then placed in solitary confinement with inadequate clothing, food, and water. Prison Abolition Committee (PAC) Co-Chairs, Audrey Bomse and Jenipher Jones, negotiated their release in about ten days since the department of corrections refused to permit legal calls. Upon release, the men were severely dehydrated and had lost weight. Had

the litigation been filed as promised and in a timely manner, it might have deterred the department of corrections from placing our jailhouse lawyers in solitary confinement. Had the EC/NEC not been empowered per the bylaws to intervene pursuant to their authority under the NLG Bylaws and Constitution to protect the organization's best interests, there would have been several public disasters, and most importantly, ongoing harm to our most vulnerable members. Physical abuse, including sexual abuse and the prolonged use of solitary confinement, are deliberate tactics used by prisons to disorient politically conscious prisoners to stop fighting back. No NLG chapter should be complicit in these outcomes directly, indirectly, nor by omission.

The NLG EC should have, and did, remove this chapter. These are not abstract concerns. It is precisely in circumstances such as these — where an affiliated chapter's conduct may have caused serious harm to the most vulnerable members of our organization — that the NEC's ability to act swiftly and decisively is most essential. Jailhouse lawyers, by virtue of their incarceration, face compounded barriers to self-advocacy: they lack reliable access to mail, funds, and writing supplies, and cannot easily participate in membership processes that the resolution would make a prerequisite to protective action. The NEC/EC is uniquely positioned to act as a check against further harm to this class of members, and to do so with the speed that their circumstances demand.

As discussed below, stripping the NEC of its statutory suspension authority by requiring full membership ratification before any officer action takes effect would leave the Guild's most vulnerable members without the institutional protection they are owed, at precisely the moment that protection is most urgently needed. The undersigned cannot recommend adoption of a resolution that would produce that result.

II. The Resolution Presents a Slippery Slope and Must Not Operate as a Vehicle for Retroactive Reinstatement

The undersigned are further compelled to raise a concern that the resolution's proponents have not addressed and that the membership deserves to consider plainly: the resolution, as drafted, contains no statement that its effect will not be retroactive. This omission is not a technicality — it is a substantive defect with immediate and concrete consequences.

The resolution arises directly from, and cannot be meaningfully separated from, the removal of a specific NLG chapter — a removal that the EC/NEC was authorized and obligated to make in response to serious allegations of negligence, malpractice, and harm to jailhouse lawyer members. If the pre-2022 governance framework is restored without an express carve-out making clear that the resolution operates prospectively only, it creates a pathway — and a precedent — by which that removal could be challenged, unwound, or treated as procedurally invalid under the restored framework.

This is precisely the kind of slippery slope that governance documents must be designed to prevent. A rule change that restores process protections for future disciplinary matters is a legitimate subject for membership deliberation. A rule change that, by its silence on retroactivity, opens the door to reinstating a removed chapter whose conduct placed the organization's most vulnerable members at risk of serious harm is an entirely different matter — and one that the membership should not be asked to approve without full and explicit notice of that potential effect.

The undersigned urge that, at minimum, no vote on this resolution proceed until and unless the proponents amend it to include an express statement that its provisions shall apply prospectively only and shall not be construed to affect, reverse, or call into question any disciplinary action already taken by the NEC or EC prior to the resolution's adoption.

III. Overbreadth

The resolution proposes to restore the pre-2022 constitutional and bylaws framework governing chapter censure, charter revocation, member censure, suspension, expulsion, and chapter dissolution — sweeping across no fewer than five constitutional articles and one bylaws provision in a single omnibus measure. By collapsing these distinct governance mechanisms into one up-or-down vote, the resolution denies the membership the ability to evaluate each proposed change on its own merits. Provisions that may enjoy broad support could be defeated alongside more controversial ones, and vice versa. The resolution would have been better presented as discrete proposals for each article, allowing for targeted deliberation and amendment.

IV. Impracticability

The proponents themselves acknowledge that it is impracticable to consult with all Jailhouse Lawyers because the drafters do not have their addresses, do not have sufficient funds to mail letters to them all, and cannot know whether Jailhouse Lawyers have sufficient postage or writing supplies to reply. They similarly acknowledge it is impracticable to consult with all members of all chapters and all student chapters because they do not have access to the membership list. These admissions, made by the proponents themselves, raise serious questions about whether the full membership whose interests the resolution purports to champion has had — or can meaningfully have — a genuine opportunity to weigh in. A resolution premised on restoring democratic input to the membership should not advance where adequate membership consultation has been acknowledged as impossible.

V. Potential Inconsistency with New York State Law

Critically, several provisions of the resolution may be inconsistent with applicable New York State law. The NLG is incorporated under New York's Not-for-Profit Corporation Law ("NPCL"). Proposed Article 7.5 provides that the National Executive Committee may recommend censure, suspension, or expulsion of any member-at-large, with such action becoming final only upon ratification by a two-thirds vote of the Convention or, in an emergency, a vote of the membership — in either case preceded by written charges and a reasonable opportunity to be heard.

While due process protections of this kind are laudable, the resolution's framework may impermissibly constrain the Board's authority under state law. New York NPCL § 714(a) expressly provides that, while an officer elected by the members or a class of members may be removed only by a vote of those members, the board retains the independent authority **to suspend** an officer's authority to act for cause—not simply, as suggested by the resolution, render a recommendation. By requiring full membership ratification before any suspension becomes effective — even on an emergency basis — the resolution as drafted may strip the National Executive Committee of a suspension authority that New York law affirmatively vests in the board, and which cannot be waived or transferred by internal governance documents to the extent it conflicts with the statute.

To the extent the resolution is read to require a membership vote before any officer suspension takes effect; it conflicts with NPCL § 714(a) and could expose the organization to legal uncertainty or challenge. The undersigned urge the proponents to revise the resolution to carve out and preserve the board's statutory authority to suspend an officer pending a membership vote, consistent with New York law, before this resolution is put to a convention vote.

Conclusion

For the foregoing reasons — overbreadth, acknowledged impracticability of member consultation, potential conflict with New York NPCL § 714(a), the urgent need to preserve executive authority to protect jailhouse lawyers in the face of serious allegations of negligence, malpractice, and abuse, and the resolution's failure to foreclose retroactive application that could endanger already-completed and necessary disciplinary action — the undersigned recommend a vote against the resolution as currently proposed.

In Solidarity,

/s/ Jenipher R. Jones, Esq.
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/s/ Audrey J. Bomse
Audrey Bomse

Prison Abolition Committee Co-Chairs