UNIFORM LAW COMMISSION

This brief manual has two purposes: (1) to inform you of the purpose, history, organizational structure, and procedures of the ULC; and (2) to explain your role as an American Bar Association (ABA) Advisor in the process of preparing ULC acts.

PURPOSE OF THE UNIFORM LAW COMMISSION (ULC)

The purpose of the Uniform Law Commission (also known as National Conference of Commissioners on Uniform State Laws) is to promote uniformity in state law when uniformity is desirable and practicable. The ULC seeks to improve the law by providing states with non-partisan, carefully considered, and well-drafted legislation that brings clarity and stability to critical areas of the law. To accomplish this, commissioners participate in drafting acts and endeavor to secure enactment of approved acts in the various states.

HISTORY OF THE ULC

The ULC, one of the oldest state organizations designed to encourage interstate cooperation, was organized in 1892 to promote uniformity in law through voluntary action of each state government. Since its organization, the ULC has drafted more than 300 uniform laws on numerous subjects and in various fields of law; many of these acts have been widely enacted. These include the Uniform Commercial Code, the Uniform Partnership and Limited Partnership Acts, acts on anatomical gifts, arbitration, controlled substances, declaratory judgments and enforcement of foreign judgments, interstate family support, real property and trust and estate law, and on a range of other subjects. Since 2007, the ULC has had an average of over 107 acts adopted in state legislatures in odd-numbered years (when every legislature meets) and an average of over 75 acts adopted in even-numbered years (when a number of legislatures do not meet, or hold only truncated sessions).

With the development of interstate transportation and electronic transactions, the states have become increasingly interdependent socially and economically. A single transaction may cross many state lines and involve residents in many states. Residents of one state constantly travel to other states or move their homes. Confusion or variation of laws among the several states may present, in some fields, a deterrent to the free flow of goods, credit, services, and persons among the states; restrain full economic and social development; disrupt personal planning; and generate pressures for federal intervention to compel uniformity.

By seeking to alleviate these problems in areas of law traditionally left to the states, the ULC helps to preserve the federal system. Uniformity by state rather than federal action has other benefits. Uniform state laws fit into the other jurisprudence of the states in ways that Congress cannot achieve. When Congress acts, it can be in a preemptive manner. Moreover, ULC acts are developed through a participatory process rather than in hearings that may, or may not, influence congressional staff and find reflection in the resulting laws. As one observer of the uniform laws process remarked: “It is better to be a participant than a supplicant.”
ORGANIZATIONAL STRUCTURE OF THE ULC

The ULC is composed of Commissioners on Uniform State Laws from each state, the District of Columbia, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands. In addition, the principal officer of the state agency charged with responsibility of drafting legislation for the state, such as the legislative reference bureau, is an associate member of the ULC.

All commissioners are members of the bar. The governors of the states and other appointing authorities have appointed lawyers in private or public practice, judges, legislators, and law school professors as commissioners. A term is typically three or four years. It is common practice for commissioners to be reappointed and without regard to their political affiliation. Commissioners who have served by official appointment for 20 or more years are eligible for life membership.

While commissioners are obligated to endeavor to procure enactment of uniform acts, they represent no special interest in their role as commissioner. A small staff is maintained at the Chicago office to provide support for all of the ULC’s efforts.

The ULC is a state governmental organization. The major portion of its financial support comes from state dues. Individual commissioners receive no salary or compensation. They are reimbursed for the reasonable expenses of attending committee meetings.

PROCEDURES OF THE ULC

The ULC meets annually to consider proposed uniform legislation. Proposals for uniform acts, received from many sources, are referred to the Committee on Scope and Program. The Scope and Program Committee may recommend that a proposal be further explored by a study committee, joint editorial board, or other ULC committee. The Scope and Program Committee ultimately reports to the Executive Committee its recommendation as to whether it is desirable and feasible to draft a uniform law on the subject it studied.

If the ULC decides to draft a uniform law, a drafting committee is appointed. The American Bar Association is invited to appoint an advisor to each drafting committee, and interested sections may also appoint section advisors. Drafts are not submitted to the ULC acting as a Committee of the Whole until they receive extensive committee consideration.

A draft act must be discussed and considered section-by-section by the entire ULC normally at no fewer than two annual meetings before the ULC may decide by a vote of states whether to promulgate the draft. Each state is entitled to one vote. An act is not promulgated unless a majority of the states represented at an annual meeting (and at least 20 states) have approved the draft.

In addition, each uniform act is usually submitted to the American Bar Association House of Delegates for approval. The House may only approve or refuse to approve the act; it may not amend a uniform act.
The ULC occasionally drafts model, rather than uniform, acts on subjects that do not
directly affect relationships among the states, but which involve problems common to many if
not all the states. On other occasions, it drafts uniform state legislation at the request of the U.S.
State Department on subjects for which state legislation could help implement international
treaties of the United States. On a variety of occasions, Congress or federal agencies even have
picked up and used ULC products in federal laws or regulations. On more than one occasion,
Congress has explicitly requested that the ULC develop state legislation.

The text of each approved uniform or model act, with notes and comments, is published
by the ULC on the ULC website and in Uniform Laws Annotated. Major U.S. legal publishers
distribute ULC acts in print and electronic form. Working drafts and final versions of ULC acts
are available at www.uniformlaws.org.

The ULC publishes the Handbook of the National Conference of Commissioners on
Uniform State Laws ("Handbook") containing ULC annual meeting proceedings and basic
statistical data about the uniform and model Acts, including a list of the acts adopted and the
states that have adopted them. The "Handbook" is available through William S. Hein &
Company, Inc., 1-800-828-7571.

OBSERVERS AND THE ULC DRAFTING COMMITTEE PROCESS

Drafting committee chairs or ULC staff will contact organizations and other groups
believed to have an interest in a proposed act and ask them to send an observer to meetings of the
drafting committee. Observers, usually representing an affected interest or providing special
expertise and knowledge, or both, automatically receive notices of committee meetings so that
they may attend committee meetings. In addition, any interested individual may sign up on the
ULC website, www.uniformlaws.org, to be an observer to any drafting committee.

While the term "observer" may suggest a limited role, observers are encouraged and
expected to make substantive contributions to the committee discourse. Observers are at the
drafting table with the drafting committee in most meetings and discuss the provisions.
Observers are encouraged to provide written comments and suggestions to the chair or chair
and reporter both during and in-between drafting committee meetings. Through these observer
contributions, the drafting committee receives realistic advice as to problems and possible
solutions, as well as ways in which the proposed act would affect interested parties.

Drafting committee meetings are generally open meetings. Every drafting committee
meeting is under the control of the committee chair. It is the chair who sets the agenda for the
meeting and who controls discussion and debate. Most chairs conduct committee business
informally, so that the meetings are excellent sessions of give-and-take. Everybody may
contribute ideas and drafting suggestions.

Drafting committees will typically comprise a range of views on the legal subject matter
under consideration. Long experience tells us that an open and respectful dialogue among all
participants generally results in meaningful legislation that serves all interests best. Ultimately,
the drafting committee will make decisions based upon its assessment of the policy issues. It will
select the best policy possible.
Following this open and iterative drafting process, it is hoped that organizations that participated in the drafting process will provide active support as ULC submits an act for adoption by state legislatures. In the end, support for an act by observers and their organizations should be based upon a balanced judgment of the whole act, considering its overall impact. The ULC’s objective is promulgation of a uniform act that will result in a substantial overall improvement of the law. Uniformity, clarity, and certainty benefit all interests and should encourage consensus.

**THE ROLE OF ABA ADVISORS**

In some ways, ABA advisors participate in drafting committees in the same manner as observers—e.g., they are encouraged to contribute actively to the discussions and provide drafting suggestions to help the committee develop the best possible draft. However, although it is important that observers generally report back to their organizations concerning the major decisions made at each drafting committee meeting, the role played by ABA advisors and Section Advisors in this regard is particularly crucial. The ULC relies on ABA advisors to obtain views from all interested entities within the ABA concerning the drafting committee’s work and to report any concerns or suggestions back to the chair and reporter at each step of the committee’s work. Thus, the ABA advisor is meant to play a liaison role—not merely contributing one individual’s views to the drafting committee, but providing a conduit through which multiple ABA entities contribute their views on the work being done, and ensuring that relevant ABA entities are consistently updated on the ongoing work of the drafting committee so they can comment on each revised version of the draft text. Even if different ABA entities provide conflicting views, communicating those views to the drafting committee is critically important.

If the work of a ULC drafting committee seems relevant to a particular ABA entity that is not providing thorough or consistent input to the ABA advisor, it is the ABA advisor’s responsibility to raise awareness of the project within that ABA entity and to continue actively seeking input. If multiple years are spent on a drafting process without all relevant ABA entities playing an active role in giving feedback to the ABA advisor, the drafting committee may end up developing a text that meets with unexpected opposition when it is presented for final approval by the House of Delegates. Thus, to the extent that relevant ABA entities are not engaging actively, the ABA advisor should alert the drafting committee chair to the situation. ABA advisors and drafting committee chairs are encouraged to consult regularly about the level of feedback that ABA advisors are receiving from others in the ABA.

We sincerely appreciate your time and commitment and that of your colleagues throughout the ABA. If you have questions, feel free to ask the ULC president, the executive director, the chair of the Executive Committee, or the relevant division chair.