



Governance & Bylaws Committee Meeting  
March 31, 2009; 2:00 p.m.  
Conference Call

**Committee Attendees:** Alan Eckstein, Esq. (attended via conference call); Dabney G. Park, Ph.D.; David Williams, Jr. (attended via conference call); Ramiro Moreno (attended via conference call); Walter Harvey (Board Attorney) (attended via conference call)

**Committee Absentees:** David Lawrence, Jr.

**Staff Attendees:** Evelio Torres (President/CEO) (attended via conference call); Leana Pena, Alina Soto

**General Attendees:** Linda Carmona-Sanchez, AECE (attended via conference call)

<b>I. Welcome and Introductions</b>	<b>Alan Eckstein, Esq., Chair</b>
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- A. Eckstein called the meeting to order and attendees introduced themselves.
- A quorum was established with three (3) voting members.

<b>II. Approval of May 2, 2008 Minutes</b>	<b>Alan Eckstein, Esq., Chair</b>
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- A. Eckstein called for the approval of the meeting minutes from 05/02/08.
  - D. Williams moved to approve the minutes of 05/02/08.
  - Motion was seconded by D. Park.
  - Motion was unanimously passed.

<b>III. Approval of July 29, 2008 Minutes</b>	<b>Alan Eckstein, Esq., Chair</b>
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- A. Eckstein called for the approval of the meeting minutes from 07/29/08.
  - D. Williams moved to approve the minutes of 07/29/08.
  - Motion was seconded by D. Park.
  - Motion was unanimously passed.

<b>IV. Approval of August 29, 2008 Minutes</b>	<b>Alan Eckstein, Esq., Chair</b>
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- A. Eckstein called for the approval of the meeting minutes from 08/29/08.
  - D. Williams moved to approve the minutes of 08/29/08.
  - Motion was seconded by D. Park.
  - Motion was unanimously passed.



## V. Provider Rights to Vote on Committees

Alan Eckstein, Esq., Chair

- E. Torres stated that in a past Board meeting, provider Linda Carmona-Sanchez and other members of the AECE requested that providers be allowed to vote on committee meetings. A letter was sent to AWI requesting a legal opinion on whether or not providers could vote on committees. The AWI attorney responded that they could vote on committees however it was up to the ELC to decide whether or not they wanted to grant that ability to providers. The other part to that letter was that the chairman of the ELC Board could appoint fact-finding committees or task forces made up of members of the community; including providers and that they could vote on these fact finding committees or task forces. This issue was taken to the Board but there were concerns about fiduciary responsibilities and they did not want to delegate that authority to anyone who was not a member of the Board. The chairman of the Board, O. Verdeja, suggested that the Board revisit the subject with other ideas including creating these fact-finding committees or task forces under the Provider Services or Program & Strategy committees. Members of the community could vote on the fact-finding committees or task forces so long as it would then go through one of the standing committees.
- A. Eckstein stated that he does support putting non-members of the Board on fact-finding committees or task forces but not necessarily voting members on the committees themselves. He stated that he would support having the task force under for example, the Provider Services committee. This would give valuable input to that particular committee to make a decision to then bring to the Board. His point of view is that this is the best way to utilize the abilities and opinions of the providers and thinks it would be a good asset.
- L. Carmona-Sanchez stated that Florida statute excludes providers from voting on the decisions of the ELC Board and nobody is intending to change that. By virtue of its establishment, a committee does not necessarily have authority to make decisions on behalf of the Board unless the Board designates the committee with some authority to make final decisions. She stated that it seems a bit convoluted to create a sub-committee of a committee, etc. Her recommendation would be to have the committee and put in the stipulations that the chairman or the Board limits the authority of non-members of the Board. Providers wouldn't have any fiduciary responsibility or authority. That would be left to the decision of the voting members of the Board.
- R. Moreno stated that he agrees with L. Carmona-Sanchez's position. He stated that creating subcommittees was unproductive. He used the example of the Governance & Bylaws committee minutes. He stated that there were three meeting minutes as of May 2008 that had been waiting to be approved because of quorum. In his opinion, having another committee of a committee wouldn't allow things to happen in a timely fashion. He agreed with L. Carmona-Sanchez that as long as the Board has the final decision, providers should be able to participate in regular committees.
- A. Eckstein stated that the task force or sub-committees should be made up of providers, non-members and members, and their job would be to bring to the



Committee specific information that they have developed and to give the committee an opinion on how to proceed.

- E. Torres stated that he feels ELC is working with a wonderful group of providers and has a great Board and everything seems to be going well. However, long term it is important to establish rules and procedures that would be able to serve the community well. He gave the example that in the last Program & Strategy committee meeting, the chair was not able to attend. He stated that the vice-president of the Program & Strategy committee is Elizabeth Bezos who is a provider and did a fine job of running the committee. Recommendations came out of that meeting and will be presented to the Board but there were no Board members present in that committee meeting. He stated that should the Board choose to allow non-members to vote in committees, something would have to be put in the process so that it would be clear to the Board that the recommendation coming to them is not by any Board members.
- A. Eckstein stated that an issue is letting the Board know how the decision process came about and who was present. He stated that generally, any board will accept the committee's recommendation because they figure the committee has done the work. Therefore it would be extremely important to know who comprised the committee at the time the recommendation was made.
- L. Carmona-Sanchez stated that this issue could be easily solved by looking at the meeting minutes. Meeting minutes specifies who was present, and who is a voting or non-voting member. Her concern is that by going to committee after committee, decisions are postponed because enough voting members do not attend the committees to meet quorum. She stated that meeting minutes could specify how many voting members and how many community members voted on the recommendation. With that being clear, Board members could make whatever decision they find appropriate. She stated that a recommendation is a recommendation, not a commitment. She stated that nobody that directly benefits from the income can be a voting member of the Coalition.
- D. Park stated that there are several voting members that do exactly that. He listed the United Way, Miami-Dade County Public Schools, Miami-Dade Child Development Services as examples.
- L. Carmona-Sanchez agreed and asked why being a child care provider made them any less ethical than anyone else. If there is a conflict of interest providers can recuse themselves just like anyone else would.
- E. Torres confirmed that any member that has a conflict of interest is supposed to recuse him or herself from voting. He stated that at the moment he was holding a Senate Bill that eliminates the central agency from ELC boards as well as county commissioners from ELC boards.
- D. Park stated that the structure in place is the same structure that was originally set up.



- L. Carmona-Sanchez stated that the structure was well intended and created to avoid conflict of interests. However, that we are mature enough to know that a conflict of interest can apply across the board to all members of ELC at one point or another and we should be held accountable to recuse ourselves in that case. However, at this time the issue was not the Board but rather committees. Committees do not have authority to obligate the coalition in any way.
- D. Park agreed but stated that the case is that committees already have people who are providers and receive income.
- R. Moreno stated that the majority of committee issues tackled are things that improve early childhood education and looking at it from a provider side is a lot more work and expense. Therefore, usually it is not a benefit in dollars but a support of getting the funding necessary to provide the quality or issue at hand. The decisions made on committees are for the benefit of the children served, not for the income of providers.
- A. Eckstein stated that is why he likes the idea of a fact-finding committee or task force because in that case you don't have to check who the committee members were when they voted. The fact-finding committee, consisting of providers as well as any member of the community, do the work then pass it on to the committee. Once it comes to the ELC Board room, we don't have to question if the committee consisted of voting members, non-voting members, providers, etc. A recommendation comes from a committee and the Board would automatically know that came from voting members of the Board. He said to try to pick apart the advice of the committee based upon who voted at that particular meeting becomes convoluted.
- D. Williams asked if a regular Board member has to recuse him or herself from voting on an issue that affects their agency.
- W. Harvey confirmed.
- D. Williams stated that he has had to recuse himself. He stated that everything ELC does affects providers. So providers voting would have to recuse themselves from everything.
- W. Harvey stated that there are no childcare providers on the ELC Board that are actually voting.
- L. Carmona-Sanchez stated that the ELC Board has a county commissioner that is vice-president of the Y and is a voting member.
- D. Williams stated the president of the United Way also has a childcare center.
- W. Harvey stated that in Harve Mogul's case, he is not an actual childcare provider. He represents the United Way as a nonprofit entity. One of their subsidiaries is the Center for Excellence but the United Way itself is not a childcare provider.



- L. Carmona-Sanchez asked which hand they vote with then. If you vote with your right hand you are representing the United Way, you vote with your left and it's the Center of Excellence.
- D. Williams stated that his point is that if Board members have to recuse themselves on voting on issues that deal with their agency or families or relatives, giving providers the right to vote wouldn't allow them to vote on anything. They would have to recuse themselves from everything.
- L. Carmona-Sanchez stated that they would have to recuse themselves from anything having to do with income.
- R. Moreno stated that providers are not asking to vote as members of the Board. They are just asking to vote on a committee level.
- A. Eckstein stated that what he is saying from a Board member's point of view, is when a recommendation comes from a committee to the Board, you feel as a member you are relying on the committee's expertise because they can say that this committee is made up of voting members and come to the Board with an issue they are recommending and they give reliance to that. If you have providers or any community members voting at the committee level, that reliance now has to be dissected. For this reason, he stated he was opposed to the idea. He stated that it is very important to hear from the providers but going back to what E. Torres said, everything that is established is not for our setup as it exists today. Everything is structured for the future. What happens if E. Torres is one day no longer with the Coalition, or the Board changes, or the providers' attitudes change? For all we know that might be destructive somewhere down the pipe. He worries today what we are establishing for the future. He doesn't want to have to question if a decision coming from a committee is skewed in any way.
- L. Carmona-Sanchez stated that if A. Eckstein questions that, then providers are not equal partners. She stated that if we're talking about the use of public money to which she contributes both as an employer and an employee, she accepts what is much less than a fair market rate for her service, then she is doing a public good. In this case, why should her vote not count? She stated that you can create the structure of a committee at the discretion of the chair and the Board, define the powers of any committee, also define what members you want, how many voting and non-voting members, etc. She stated that if you had a committee with a recommendation for vision and hearing screenings, would you not include a pediatrician just because a pediatrician is not on the Board?
- A. Eckstein explained that providers are not excluded; their voices are heard and it is an official position on a sub-committee. On the contrary, providers are being included.
- D. Park stated that is A. Eckstein's opinion, but it's the providers' opinion that counts. He explained there was already a mix of interests on the Board itself, and he wants to know what people have to say. Although, at the same time he doesn't feel we should have non-members on the Finance committee or the Governance & Bylaws committee.



- R. Moreno excused himself from the meeting.
- A. Eckstein clarified that a Board member should not rely totally on a committee's recommendation; however it has a significant amount of weight.
- L. Carmona-Sanchez stated that although A. Eckstein was correct, most of the time ELC Board members make decisions not knowing what the consequences are because they are not childcare providers.
- D. Williams stated that he thinks provider input is important. However, that just because he is not a provider does not mean he does not understand the situation. That's like saying he could never be an obstetrician because he is not female.
- A. Eckstein asked how the committee would like to proceed on this issue.
- D. Williams suggested that the committee not make a recommendation and take the issue directly to the Board. He stated that regardless of what decision was made by the committee, it would result in a discussion by the Board.
- A. Eckstein stated he had no objection in doing that.
- D. Park asked if there were clear guidelines on who was allowed on a committee.
- A. Eckstein stated the bylaws include what formulates all the standing committees.
- L. Carmona-Sanchez stated that the provider request was to be allowed to vote only on three committees: Program & Strategy, Provider Services, and Legislative. She stated providers did not want to vote on Governance & Bylaws, or Finance, etc. to avoid conflict of interest.
- A. Eckstein stated it would avoid the financial issues but not conflict of interest.
- D. Williams moved on a motion to allow providers to vote on any committee.
- D. Park stated that the specific request from the providers was to allow votes on Program & Strategy, Provider Services, and Legislative, therefore that is what should be taken to the Board.
- A. Eckstein stated that although that was the request, the Governance & Bylaws committee can decide what issue to take to the Board; to vote on all committees or only the ones requested by providers.
- D. Williams argued that there is no difference on selecting just three committees because there is a conflict of interest on all committees.
- D. Park stated that conflict of interest happens regardless on the Board, using United Way as an example.
- W. Harvey stated that for the record, the United Way is a separate corporate entity that was presented to the State which they reviewed and approved.



- D. Park stated that there was no difference, the State set up this structure to begin with. He stated that it may be the way the State set it up but he doesn't think it was right.
- D. Williams stated that was a separate issue.
- D. Williams moved to bring forward to the Board the request from providers to have the right for any non-member to serve on the Program & Strategy, Provider Services, and Legislative committees as voting members.
  - Motion was seconded by D. Park.
  - Motion was unanimously passed.
- D. Williams stated that he would discuss with the Board the issue of conflict of interest.

<b>VI. Public Comments</b>
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<b>Alan Eckstein, Esq., Chair</b>
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- L. Carmona-Sanchez thanked the committee.

<b>VII. Adjourn</b>
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<b>Alan Eckstein, Esq., Chair</b>
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