

PUBLIC UTILITIES BOARD
MEMBERS' CODE OF PROFESSIONAL
AND ETHICAL RESPONSIBILITIES

1.0 Purpose of the Code

- 1-1 This Code sets out the standards of conduct governing the professional and ethical responsibilities of Members of the Public Utilities Board (Board). The standards cover the primary areas of Member responsibility - the conduct of hearings and decision-making - as well as the institutional responsibilities of members to their colleagues, the Chairman, and the overall public interest.
- 1-2 The Code recognizes the fundamental and overriding responsibility of members to maintain and enhance the integrity, competence and effectiveness of the Board. The Code is intended to assist members by establishing appropriate standards of conduct in typical administrative justice situations. However, the Code cannot anticipate all possible circumstances, and, thus, Members are responsible for considering the appropriate standards and conducting themselves in an ethical and professional manner.

2.0 Application of the Code

- 2.1 This Code applies to all members, full-time and part-time. For simplicity, the term Member is used to include all Members unless otherwise specifically differentiated. Where certain responsibilities of the Chairman and/or the Vice-Chair have been delegated to another member, the term "Tribunal Chair" should be taken to include any such designates.
- 2.2 The Code governs the conduct of Members from the commencement of their term of appointment and includes continuing responsibilities after completion of their original term and any renewals.
- 2.3 Acting in concert, the Board may amend the Code from time to time so as to reflect the developing experience of the Board.

3.0 General Guidelines

- 3.1 The Board's mandate is established by legislation and/or referral. The Board depends on its Members to ensure that Board decisions are impartial, fair and just.
- 3.2 Members shall conduct themselves so that public confidence in the integrity, objectivity and impartiality of the Board is maintained and enhanced.
- 3.3 Any conflict between the private interests of a Member and his or her official duties and responsibilities are to be resolved in favour of the public interest.

4.0 Definition of Conflict of Interest

- 4.1 A conflict of interest is any interest, relationship, association or activity that is or may be reasonably perceived to be incompatible with the Member's obligations to the Board. Conflict of interest includes pecuniary and non-pecuniary conflicts.
- 4.2 A pecuniary conflict of interest exists where a Member has a financial interest that may be affected by the resolution or treatment of a matter before the Board. The financial interest may be that of the Member, or of a family member or other person with whom the Member has a close personal or professional relationship.
- 4.3 A non-pecuniary conflict of interest arises where a Member has an association, relationship or non-financial interest or activity that is incompatible with the responsibilities of an impartial decision-maker. The relationships, interests or activities of a close family member or close associate may raise a potential conflict if they will be affected by the Board's determinations.
- 4.4 In assessing a potential conflict of interest or an allegation of bias, Members should consider:
 - whether they feel personally satisfied about their ability to act impartially, and if they do
 - whether the facts nevertheless give rise to a reasonable apprehension of bias in the mind of a reasonable and informed person?

5.0 Standards of Conduct

- 5.1 Members must adhere to the rules on pecuniary conflicts of interest established from time to time by either the Board or the Government.
- 5.2 To minimize the likelihood of conflict of interest situations arising, Members are required on appointment or re-appointment to complete an undertaking, attached as Appendix B.
- 5.3 Members shall not adjudicate in any proceeding, or participate in Board discussions, of any matter, in which they, or a close family member or associate, have a significant financial interest.
- 5.4 Members shall not adjudicate in any proceeding, or participate in Board discussions with respect to any matter, if they either have a personal interest in it or a close personal relationship with one of the parties or a representative of one of the parties.
- 5.5 Members shall not conduct a hearing involving a party or representative with whom they were formerly in a significant professional relationship until twelve months have elapsed since the termination of the relationship. (For example: employment, solicitor/client and partnership/association relationships.)
- 5.6 Members shall not participate or adjudicate in any proceeding in which they, or a close family member or associate have had any prior involvement within the preceding three years.
- 5.7 Members shall not adjudicate in any proceeding in which the outcome may have an impact on any other legal proceeding in which they have a significant personal interest.
- 5.8 Members shall not act as consultants, agents or representatives in cases before the Board or in connection with any matter relating to the Board's work. Members may not have any responsibility or role in the management, preparation or advocacy of any issue that is or may come before the Board, nor may they appear as expert witnesses.
- 5.9 Members shall not accept money, awards or gifts that could be perceived as being connected to their adjudicative responsibilities. Members may accept an honorarium as an expression of courtesy for a speaking or teaching engagement, and if this occurs, the Chairman should be advised. Any other gifts should either be returned or referred to the Chairman; the Chairman may require a gift to be held by the Board or given to charity,

or be subject to such other action as the Chairman may determine.

- 5.10 Members must not knowingly permit their names to be publicly associated with any point of view on any adjudicative issue, other than through publication of their reasons for decisions.
- 5.11 Members may provide information to the public about the Board's Rules of Practice and Procedures and the Board's released decisions; in the latter case, care must be given to not contravening the decision as written.
- 5.12 Members must not take advantage of confidential information obtained through official duties to obtain a personal benefit.
- 5.13 Members shall ensure that Board/government property is used only for officially approved activities.

6.0 Conduct of the Hearing

- 6.1 Members shall approach every hearing with an open mind with respect to every issue, and shall avoid doing or saying anything that could cause any person to think otherwise.
- 6.2 Members shall listen carefully to the views and submissions of the parties and their representatives.
- 6.3 Members shall show respect for the parties, representatives, witnesses, and the hearing process itself, through their demeanor, timeliness, dress and conduct.
- 6.4 Members must be sensitive to issues of gender, ability, race, sexual orientation, language, culture and religion that may affect the conduct of a hearing.
- 6.5 Members shall endeavor to conduct hearings expeditiously, preventing unnecessary delay while ensuring that all parties have a fair opportunity to present their case. For example, Members may limit repetitive or irrelevant questions. (Questions from Members may be necessary to clarify evidence or submissions or to ensure their relevance.)
- 6.6 Members shall attempt to ensure that any un-represented parties are not unduly disadvantaged at a hearing. For example: it is appropriate to explain the hearing procedure or what is relevant to the issue in dispute.

- 6.7 Members who are aware of information that may be relevant to a matter before the Board must share the information with his/her colleagues. Members on a Panel must first share such information with their colleagues so that a Panel decision may be made as to the relevancy of the information and the need to share it with the parties.
- 6.8 Members should not, in most circumstances, communicate directly with any party, witness or representative in respect of a proceeding, except in the presence of all parties and/or their representatives. Before a decision is released, telephone calls and correspondence should be referred to the Board's Executive Director or designate. Correspondence and telephone calls regarding released decisions should also be referred to the Board's Executive Director or designate.
- 6.9 Members shall not, in the course of a hearing, have meals or other significant social interaction with a party, representative or witness, except if all parties and/or their representatives are present and there is no discussion of the substantive subject matter of the hearing.
- 6.10 Members should apply current Board procedures and practice, unless the circumstances in a particular case justify a variation.

7.0 Procedural Protocol for Determining Conflict or Bias Issues

- 7.1 It is the responsibility of each Member to consider and inquire into any circumstance that might suggest a possible conflict of interest or perception of bias. The Member may at first be the only person in a position to recognize this. As soon as such a possibility is identified, the Member should take appropriate steps, as outlined below.
- 7.2 Where a Member becomes aware, before the hearing, of circumstances that suggest he/she has either a possible conflict of interest or perception of bias, the Chairman should be informed. The Chairman, in consultation with the Member, will decide whether it is necessary to appoint a replacement Member. If the Chairman determines that the circumstances are insignificant, the Member may continue with the hearing unless the Member decides that the issue should be placed before the parties for submissions before or at the commencement of the hearing. If the Member is on a Panel, the Panel will decide whether the issue should be raised ahead of or at the commencement of the hearing.

- 7.3 Once the adjudicative process has begun, the Members are responsible for determining issues of conflict of interest or reasonable apprehension of bias. However, given that allegations of conflict and bias affect the credibility and integrity of the Board as a whole, the Chairman should be informed of the nature of any allegation.
- 7.4 Circumstances that raise a potential conflict of interest, or the potential of a perception of bias, should be disclosed to parties and/or their representatives, unless the potential issue is insignificant. A Member or Panel should consult Board Counsel or the Chairman before making his/her determination.
- 7.5 Where an allegation of conflict of interest or bias is raised by a party or disclosed by a Member during a hearing, Members may:
- resign from the proceeding if this is considered appropriate in any event, given the nature and circumstances of the alleged conflict (for example, an actual pecuniary conflict); or
 - hear or arrange for submissions from the parties.
- 7.6 If Members decide that a conflict or reasonable apprehension of bias does not exist, the hearing is to continue in the ordinary course. If the matter arises in a Panel hearing, the concerned Member shall accept the Panel's decision on the issue, assuming the Panel is of the view the Member should continue, and continue to serve on the Panel unless, notwithstanding the Panel's decision, the Member remains personally satisfied that there is in fact a significant doubt as to his/her ability to be impartial in the case.
- 7.7 Where a party has made submissions on bias or conflict of interest, the written decision should deal with the allegation of bias or conflict of interest, especially if the submissions have been rejected.
- 7.8 Where a Member has a potential conflict of interest in respect of a matter before the Board, but that matter has not been assigned to the Member to address, the Member should not participate in any discussion of the matter until the Chairman has been advised of the circumstances. If the Member becomes aware of the potential conflict during a Board meeting, he/she should leave that portion of the meeting and request that a) his/her absence be noted in the minutes and, b) that any discussion of the issue be deleted from the Member's copy of the minutes.
- 7.9 Where a Member declares a direct conflict of interest in respect of a matter that is before the Board but not before the Member, the Chairman is required to record the declared

conflict in the Board minutes.

8.0 Conflict of Interest Affecting the Chairman

- 8.1 Where the Chairman becomes aware of a possible conflict of interest, or of facts that may give rise to a perception of bias with respect to a matter that he/she is adjudicating, the procedural protocol will be followed with appropriate adjustments.
- 8.2 Where the Chairman determines that he/she has a possible conflict of interest or a bias in respect of a matter before the Tribunal, which he/she is not adjudicating, the Chairman will instruct Board staff that all communications regarding the matter are to be directed to either the Vice-Chair or to the Acting Chair for that proceeding. The file is to be marked “No Access to Chairman”. All decisions regarding the choice of Member, the scheduling and conduct of the hearing, and the release of the decision is to be made without the participation of the Chairman.

9.0 Decision-Making Responsibilities

- 9.1 Members shall make each decision on the merits and justice of the case, based on the law and the evidence and all other relevant information before them.
- 9.2 Members shall apply the law to the evidence in good faith and to the best of their ability. The prospect of disapproval from any person, institution, or community must not deter Members from making the decision that they believe is correct based on the law and the evidence and all other relevant information. (Members must be prepared to go where the evidence and law fairly take them.)
- 9.3 Members are responsible for ensuring that decisions are rendered in a timely fashion.
- 9.4 Members should not ignore relevant Board decisions. Where previous decisions are relevant but are not followed, the decision should explain the reasons for the departure clearly and respectfully. When a preponderance of support for a particular view has become clear, in deciding whether or not to follow that view, due weight should be given to the previous Panel/Board decision and the system’s need for reasonably consistent treatment of similar or identical cases as to predictability of outcome.

- 9.5 Members are responsible for ensuring that decisions reasonably accord with Board guidelines as to the form of the written Order.
- 9.6 Members shall participate in good faith in the Board's procedures for enhancing decision quality and consistency.
- 9.7 Except in special circumstances, Members should not communicate with the media about Board decisions. All media inquiries regarding the Board should be referred to the Board's Executive Director or designate.

10.0 Collegial Responsibilities

10.1 To Other Members

- 10.1.1 Members shall, through their conduct, endeavor to promote Board and Panel collegiality.
- 10.1.2 Members will make themselves available on a timely basis for consultation or caucuses.
- 10.1.3 Members will conduct themselves in a manner that demonstrates respect for the views and opinions of colleagues.
- 10.1.4 Members will not comment publicly on a decision of a colleague, or on the manner in which other Members have conducted themselves during hearings.

10.2 When sitting as a Panel

- 10.2.1 When sitting as a Panel, Members should ensure a general understanding about matters such as dealing with objections, questions to witnesses, and caucusing.
- 10.2.2 When the Chairman, the Vice-Chair or an Acting Chair becomes aware of a difference of opinion on an issue affecting the conduct of a hearing, the Chairman/Vice-Chair or Acting Chair should call a recess to allow the Panel to discuss the issue and reach a decision on how to proceed.
- 10.2.3 Pre- or post-hearing searches for expert or other evidence shall not be conducted or requested by a Member without prior Panel approval. This does not prevent a Member from obtaining the technical background necessary for a reasonable

understanding of technical reports.

10.2.4 All Members of a Panel must make themselves available on a timely basis for discussions, and comments on draft decisions, as may be sought by the Chairman or the Acting Chair or designate. Comments on drafts should be provided at the earliest opportunity and, in any event, no later than one week from receipt of the draft.

10.2.5 A Member should carefully consider other Members' reasons when there is a difference in proposed determinations. However, a Member should not abandon strongly held views on an issue of substance, either for the sake of Panel unanimity or in exchange for agreement on any other point.

10.2.6 Where a Member is unable, after discussion and careful consideration, to agree with the proposed decision of a majority of the Panel, a reasoned dissent should be prepared in a timely fashion.

11.0 Responsibilities to the Chairman

11.1 Members are responsible to the Chairman for compliance with this Code. Aside from conflict and bias issues decided in the course of a hearing, the interpretation and enforcement of the Code are within the Chairman's authority.

11.2 Members will make themselves available to meet with the Chairman on a timely basis, when requested to do so.

11.3 A Member shall immediately inform the Chairman of any basis on which an allegation of bias or conflict might be raised with respect to any activity, interest or relationship of the Member.

11.4 When a Member becomes aware of conduct of a colleague that may threaten the integrity of the Tribunal or its processes, it is the duty of the Member to advise the Chairman of the circumstances as soon as practicable.

11.5 Where a Member has decided to accept an offer of employment that may have perceived or real implications for the Board and its processes, the Member shall inform the Chairman at the earliest opportunity.

12.0 Responsibilities to the Board

- 12.1 Members shall maintain a high level of expertise in adjudication and procedural issues, as well as be competent or make sufficient effort so as to be competent with respect to the relevant law.
- 12.2 Members will make every effort to comply with the Board's policies, procedures and standards. This includes rules regarding permissible expenditures, documentation of expenses, travel and accommodation, as well as applying procedural rules and practice directions unless particular circumstances warrant a variation.
- 12.3 Where a Member questions the appropriateness of any policy, procedure or standard, the Member should raise that issue with colleagues and the Chairman in the appropriate forum.
- 12.4 Members shall not publicly criticize the decisions, procedures or structures of the Board.
- 12.5 Members will make themselves reasonably available to participate in non-hearing related functions and activities, such as training new Members, participating in committees, and developing Board procedures and policies.
- 12.6 The Board may adjudicate issues that require Members to have access to personal and other confidential information the publication of which might be embarrassing or prejudicial to parties or their families or associates. Therefore, except as legally required (and in that case only after reasonable advance notice to the Chairman), Members shall not disclose any information or document that comes to their knowledge or into their possession by reason of their position with the Board, other than information or documents that are available to the public. Members should protect the confidentiality of information or documents in their possession, for the purposes of any case.
- 12.7 Members must not disclose confidential Board information.
- 12.8 Members shall not engage in conduct that exploits or risks the exploitation of their position as a Member.
- 12.9 A part-time Member engaged in another profession, occupation or business shall not allow those activities to undermine the discharge of adjudicative responsibilities and shall arrange his/her employment or business affairs so as to minimize the likelihood of a conflict.
- 12.10 As to the political activities of Members, Members with specific questions should consult statute, government and Board policy.

12.11 Members shall not belong to partisan advocacy organizations that specialize in Board issues.

13.0 Representative Members

13.1 In addition to the general obligation to ensure decisions are reached on the merits and justice under the legislation or the referral to the Board, Members will ensure that the issues and concerns of the community are understood and fairly considered by the Board, in specific cases and in the development of general policies and procedures.

13.2 Members are encouraged to avail themselves of opportunities to keep themselves aware of community views or concerns, and to communicate relevant views or concerns to the Board.

13.3 Subject to Sec 12.11 Members may acquire or retain membership in any organization and may attend the public functions of such organizations, as long as confidential Board business is not discussed.

13.4 Providing they do not disclose confidential information, members may informally share generic information or perspectives acquired in the course of their Board experience.

13.5 A Member that has an interest in a business regulated by the Board shall not participate in cases involving regulatory issues affecting the industry sector of that business, whether directly or indirectly.

14.0 Post-Term Responsibilities

14.1 A member is prohibited from appearing before the Board as a representative, expert witness or consultant until six months after ceasing to be a Member, or after the release of any outstanding decisions, whichever is later. If the Member is the Chairman or the Vice-Chair, the restriction shall apply for one year after the release of any outstanding decision.

14.2 A Member, having ceased to be a member of the Board, shall continue to be bound by the Code as it relates to proceedings he/she participated in.

- 14.3 Ahead of leaving the Board, whenever possible, a Member should complete all outstanding decisions in matters over which he/she has participated in with timeliness.
- 14.4 Where a Member is incapable of continuing in any matter not yet complete, either during or on the expiry of the term of appointment of the member, he/she is to immediately advise the Chairman.
- 14.5 A Member shall not take improper advantage of past office after ceasing to be a Member.
- 14.6 Members continue to be bound by their obligations of confidentiality regarding any matter arising while they were Members.

APPENDIX A

CONFLICT OF INTEREST

The provision of guidance regarding conflict of interest is a normal practice in both the public and the private sector. However, for the government and any organization associated with it, an understanding of conflict-of-interest rules is especially important.

PRINCIPLES

Three key principles need to be recognized:

- 1 A Member should not use information obtained as a result of his/her appointment for personal benefit.
- 2 A conflict-of-interest situation should be declared at the earliest opportunity.
- 3 No Member should divulge confidential information obtained as a result of his/her appointment or election unless legally required to do so.

DEFINING CONFLICT OF INTEREST

Conflict of interest normally relates to a direct interest of the appointed or elected member, either personally or through the Member's family.

Direct interest should be interpreted as an individual interest rather than one that is common to a class of persons. That is to say, it is not considered a conflict of interest if a large segment of the population, including the Member, will benefit from a decision to which the member is a party. However, there is conflict of interest if the Member or his or her immediate family could benefit personally from a decision while a larger group of people could not.

A pecuniary conflict of interest exists where a Member has a financial interest that may be affected by the resolution or treatment of a matter before the Board. The financial interest may be that of the Member, or of a family member of the Member, or other person with whom the Member has a close personal or professional relationship.

A non-pecuniary conflict of interest arises where a Member has an association, relationship or non-financial interest or activity that is incompatible with the responsibilities of an impartial decision-maker. The relationships, interests or activities of a close family member or close associate may raise a potential conflict if they will be affected by the Board's determinations.

Immediate family should be interpreted to include the spouse, parents or children of the appointed or elected Member.

PRACTICES

DECLARATION OF CONFLICT

Any Member who has a conflict of interest in a matter under consideration by the Board shall disclose the nature of that conflict to the Chairman at the first opportunity, and refrain from any further participation in the discussion.

The Chairman or designate shall record and minute any declared conflict of interest on the part of the Member.

QUORUM

When a declaration of conflict of interest has been made, the Chairman should ensure that a quorum - a majority of Members unless the constituting instrument makes any other specific provisions - remains to consider and make a recommendation on the matter.

If an insufficient number of Members is available for a quorum to be maintained, the Chairman shall reconstitute the Panel to provide for a quorum.

PENALTIES FOR NONCOMPLIANCE

If a Member fails to declare a conflict of interest - unless this failure is a result of a bona fide error in judgment –the Chairman, or the Vice-Chair in the case of the Chairman being in breach, shall advise the Minister Responsible, who may seek the approval of the Lieutenant-Governor-In-Council to revoke the appointment.

RESPONSIBILITIES

Conflict of interest is primarily a matter of personal responsibility and integrity.

However, the Chairman and/or the Vice-Chair are responsible for ensuring that all the appointed and elected Members of the Board are made aware of the need to declare any conflicts of interest.

The Chairman or, in his/her absence, the Vice-Chair is responsible for taking any necessary actions when there is an insufficient number of Members to form a quorum.

The Chairman is specifically responsible for recording any conflicts.

APPENDIX B
PUBLIC UTILITIES BOARD
OATH OF OFFICE AND UNDERTAKING TO THE BOARD

I, _____, do swear/ affirm that I will faithfully discharge my duties as an appointee
(Board Member's Name)

of the Lieutenant Governor in Council and will observe and comply with the laws of Canada and Manitoba, and, except for information either available to the public or as I may be legally required to disclose, I will neither disclose nor provide to any person, other than another member of the Public Utilities Board, or a member of the Public Utilities Board's staff or roster of advisors, any information or document that comes into my possession or knowledge by reason of my appointment.

I undertake to ensure the safety and confidentiality of all documents containing information relating to the work of the Public Utilities Board and to promptly return all such documents to the Board once I no longer need them to discharge my responsibilities.

I undertake to carry out and complete, in a timely manner, any duties or responsibilities pertaining to any appeal, hearing, proceeding, decision or matter in which I have participated.

I undertake to comply fully and to the best of my ability with the Members' Code of Professional and Ethical Responsibilities.

AFFIRMED/SWORN before me at)
The City of Winnipeg in the)
Province of Manitoba)

) _____
) (Name of Board Member)

Notary or Commissioner for Oaths)
this _____ day of)
_____ 2011)

APPENDIX C
PUBLIC UTILITIES BOARD
HALLMARKS OF DECISION QUALITY

- 1 The decision does not overlook relevant issues fairly raised by the facts.
- 2 The decision makes the evidence base clear; and, if the decision is based on a mediation or agreement, it records the mediation or agreement.
- 3 The decision conforms with applicable law and reflects the Board's commitment to the rule of law.
- 4 The decision uses clear language where possible, conforms reasonably with past Board Order formats, and uses technical and legal terminology, when employed, consistent with other decisions.
- 5 On issues of law, the decision does not conflict with previous Board decisions, unless reasons for the variance are given. While conflicts may occur during periods of development on contentious issues, conflicting approaches should not be a feature of the Board's body of decisions over the long term.
- 6 The decision is part of a body of decisions that, overall, is a reasonably coherent, accessible and helpful resource to past, present or future participants for understanding and preparing to deal with the issues in new cases and for invoking the important principle that like cases should receive like treatment.

APPENDIX D
PUBLIC UTILITIES BOARD
GUIDELINES FOR REVIEW OF DRAFT DECISIONS

a) General

- 1 The Board's decision draft review process is intended to enhance the general and specific quality, consistency and coherence of an Order.
- 2 In the Consolidated-Bathurst and Tremblay case, the Supreme Court of Canada confirmed that fostering the quality and reasonable consistency and coherence of decisions is a legitimate and important institutional role for tribunals. The Court approved internal consultation processes that are designed to influence, but not to constrain adjudicators on general legal and policy issues. The SCC decision also explicitly recognized the importance of adjudicative coherence as a relevant criterion in decision-making.³
- 3 Draft review is one of the Board's processes for fostering the quality, consistency and coherence of its decisions. The review process is the responsibility of the Chairman, or, in his/her absence or in the case of a delegation, the Acting Chair. Drafts are to be reviewed for correctness as to the reflection of the panel's decisions, quality of writing, adequacy of rationale, and general appropriate formatting.
- 4 Review of a draft decision may be particularly helpful where the draft:
 - (a) addresses a new development or issue of particular current Board-wide interest;
 - (b) raises issues expected to lead to either media attention or a judicial review;
 - (c) departs from the approach previously taken in past Board decisions;
 - (d) may affect Board policy or practice; or
 - (e) involves a dissent on a significant issue.
- 5 As an expert appeal body, the Board is concerned with providing training to its new Members.

b) Process

- 1 In accordance with the fundamental principle that the power to decide rests with Board Members, it is for the Chairman or any Panel Member assigned to a case to request review of a draft decision.

- 2 Where a Panel member requests review of a draft minority or majority decision, it may be helpful for the Chairman to ask other Members not on the Panel to review drafts. In deciding whether to refer a draft for review, Members should consider their responsibility to ensure that their decisions reasonably comply with the Board's Hallmarks of Decision Quality. In particular, decisions should be reasonably consistent with previous cases unless Members are satisfied that the prior decisions are distinguishable or wrong and reasons are given.
- 3 From time to time, the Chairman may identify issues that in his/her view are of particular, current Board-wide interest for the purpose of draft review.
- 4 If, in the course of the work, the Chairman encounters a draft that deals with an issue that he/she expects would be of special interest to all Members, the Chairman may involve other Members.
- 5 Members may discuss any legal question with other Members and/or Board Counsel, and are also able to provide research assistance, before or after a draft is written.
- 6 A Member is welcome to consult at any time with any other Member on any generic issue of law or policy.