

TO: Walter Bacak, CAE  
American Translators Association

FROM: Jefferson C. Glassie

DATE: September 30, 2003

RE: Proposed Bylaws Amendments

This responds to your email transmitting the text of two proposed ATA Bylaws amendments related to the ATA credentials.

Proposed Amendment # 1 regarding the name change of the ATA credential is a good and advisable amendment. Amendment # 1 resulted from a recommendation of an experienced and professional consultant, with which we agree, based on our extensive experience in the nonprofit community, specifically representing certification and membership organizations.

Proposed Amendment #2 which attempts to roll back changes and limit the flexibility of the credential program is a very poor, inadvisable, and damaging amendment, in our view. We strongly recommend against it, and recommend that the Board also take action to recommend against it, as well, for the reasons presented below.

Amendment #2 appears to us to be a proposal to adopt extreme measures to make it very difficult to change any certification criteria or standards, to the ultimate detriment of the association and the profession.

Specifically, Section 1 of the proposed Amendment #2 would require that the membership vote on any changes to credentials, and provides that the normal corporate meeting and voting mechanisms for members will not be sufficient. It is clearly preferable from a standpoint of making credentials psychometrically sound and legally defensible for a board or committee with fiduciary duties to the organization to be in charge of eligibility criteria, recertification requirements, testing and assessments, etc. to preserve the integrity of the credential. It is a very strong concern that a professional association and its members not be in charge of such matters because of the potential for bias, self-serving decisions, and potentially anticompetitive actions and decisions; this concern often leads to certification programs being split off into separate organizations to minimize the influence of such associations. The standards and requirements of the National Organization for Competency Assurance ("NOCA") mandate autonomy for accredited certification bodies with respect to essential certification decisions. Although NOCA also requires that members of a certification board be elected by certificants, the certification decisions are not for certificants to make because of the obvious conflicts of interest that could breach due process and antitrust laws.

Section 2 of Proposed Amendment #2 attempts to require a minimum of six months notice of proposals before votes are taken, which appears to be an effort to slow down any such proposals in a way that is arguably inconsistent with New York Not-for-Profit law (which governs ATA as a NY corporation), which provides in section 605 that notices of meetings of members be given not less than 10 days but not more than 60 prior to meetings (not more than 50 days if by first class mail).

Section 3 of Proposed Amendment #2 attempts to increase the quorum requirement for any vote on credentials way above the legal quorum requirement in the ATA bylaws (10% or 100, whichever is less) so that actions would be difficult or impossible to take for failure to obtain a quorum. While a quorum such as that proposed is not inconsistent with the law, it would not be practical for an organization like ATA and would hamstring decision making.

Section 4 takes several steps to try to roll back valid changes to the credential requirements. It is simply inadvisable to limit the potential for change and growth in credentials, which must occur over time to make sure the credentials keep up with current requirements and best practices, such as recertification. Grandfathering is looked at with particular disfavor by NOCA and must be specifically justified; grandfathering is also dubious from a legal perspective.

In sum, we strongly recommend against this proposed Amendment #2. We are confident that ATA's consultant would also strongly disagree with this approach.

Please let us know if you have any questions.