

**TO:** APSA Council  
**FROM:** Council Committee on Siting  
Anna Sampaio, Chair  
Susan Burgess  
Dennis Thompson  
**DATE:** June 24, 2008  
**SUBJECT:** Report to the APSA Council

## I. Background

### A. Introduction

The APSA Council Committee on Siting is submitting this report in response to action taken by the APSA Council at its April 5, 2008 meeting. At that meeting the Council discussed siting policies for APSA Annual Meetings and other conferences, including the existing 2012 Annual Meeting conference sited in hotels in New Orleans, LA, with a focus on issues posed by state laws that disavow marriage rights for existing same sex unions and the implication for APSA members and conference attendees.

In April, the Council resolved that:

. . . two drafts, the APSA Draft Policy and the proposal from Council members Wendy Brown and Harry Hirsch be put forward for comment to the APSA Status committees, Organized Sections, and general membership, for a pre-determined time period; after which a committee that has not been constituted yet, will serve to gather, review, and summarize all of these comments and include them in a revised draft to be submitted to the Council for deliberation and final vote before the August Council meeting.<sup>1</sup>

Following this meeting, President Dianne Pinderhughes proposed to the Council that APSA's Administrative Committee be authorized to oversee the process of gathering designated feedback, and that the ad hoc Council Siting Committee that had been formed earlier continue to serve in the role identified in the Council resolution. The Council approved this approach in an email vote during the week of April 23, 2008. The authorizing memorandum is attached to this report as Appendix I.

The Council Siting Committee is chaired by Anna Sampaio, and includes Susan Burgess and Dennis Thompson. Valerie Martinez-Ebers was designated by President Pinderhughes, as liaison from the Administrative Committee to this group. The following document is the report of this committee.

### B. How this Report is Organized

This report offers a history of how the issue developed. It also summarizes the feedback APSA received and distills key arguments put forward in support of the status quo and various alternatives.

After analyzing key themes in each of the main areas, the report then outlines the variety of issues that are before the Council and recommends a 3-phase structure for Council discussion, beginning with a discussion period without motions and including time at the end to follow-up.

The committee then also offers a course of action for the Association with respect to APSA meeting siting policy and New Orleans.

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<sup>1</sup> From the Draft Council Minutes, Spring 2008

Finally, the committee recommends a period of discussion about how the Council in particular and the Association follows-up the decisions it makes to explain the reasons and facilitate our moving forward together.

### **C. History of the Issue**

APSA has for many years focused on conditions within the cities where our meetings are held that may abridge civil rights of our members and impede members' ability to attend meetings safely. APSA attention to issues faced by lesbian and gay members attending association meetings has a long history, for instance in responding to the implications of anti-sodomy laws in localities where the association may meet.

For this and other reasons, APSA has, since 1990, routinely included language in its hotel contracts stating:

"APSA has selected [name of city] as a site of its annual meeting in light of the city's anti-discrimination record. APSA reserves the right of termination of this agreement, without penalty or liability, if the government of the city in which the hotel is located establishes or enforces laws that, in the estimation of APSA, abridges the civil rights of any APS member on the basis of gender, race, color, national origin, sexual orientation, marital status, physical handicap, disability, or religion."

A memorandum describing APSA's practice for Annual Meeting Sites recounting some of the history of these issues is attached to this report. (see Appendix II)

More recently APSA's Committee on the Status of Lesbians, Gays, Bisexuals, and the Transgendered (LGBT) asked the Association not to locate meetings in States that have constitutional bans on same-sex marriage. In response to this request, in 2005, the APSA Council named an Annual Meeting Review Committee, chaired by Joan C. Tronto, to explore this issue, among others. The Review Committee reported to the Council in August 2007, recommending that "APSA should continue its current practice which permits us to terminate an agreement that abridges the civil rights of APSA members" based on policies at the city, not state, level.

At the August 2007 meeting, the LGBT Committee reiterated its siting request, forwarding a resolution asking for APSA not to meet in states that prohibit same-sex marriage, and asked the Council to establish "clearer operational guidelines for APSA in siting its meeting in a manner consistent with the principles of its resolution, including balancing the climate of host cities against that of the state." In light of the recommendation of the Annual Meeting Review Committee not to make changes in APSA policy, the Council deferred adopting new policy, and asked the LGBT Committee to "fine-tune the language in their proposal and provide further clarification of its impact."

The issue currently before Council, however, is a new one, emerging in fall 2007 following the September Council meeting. Before the LGBT Committee could respond to the Council request, a new issue emerged in the form of a petition circulated privately among the APSA membership calling for members to boycott the 2012 Meeting in New Orleans because of language in a relatively new state constitutional amendment that limits same-sex marriage and benefits.<sup>2</sup> Because civil unions or marriages that were authorized in other states would not be recognized in Louisiana (and in 19 other states with similar

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<sup>2</sup> Article 7 Section 15 of the Louisiana State Constitution: Defense of Marriage: Marriage in the state of Louisiana shall consist only of the union of one man and one woman. No official or court of the state of Louisiana shall construe this constitution or any state law to require that marriage or the legal incidents thereof be conferred upon any member of a union other than the union of one man and one woman. A legal status identical or substantially similar to that of marriage for unmarried individuals shall not be valid or recognized. No official or court of the state of Louisiana shall recognize any marriage contracted in any other jurisdiction which is not the union of one man and one woman. Added by Acts 2004, No. 926, §1, approved September 18, 2004, eff. October 19, 2004.

language), boycott advocates asserted that this in turn would impede same-sex partners in recognized civil unions to attend the annual meeting safely as couples.

This topic quickly became the focal point for discussion by APSA's LGBT Status Committee in shaping its response to the Council's request that it revisit its proposal; and the New Orleans issue attracted the attention of the Council itself. The APSA office, in response, at this time posted the background memorandum noted above, summarizing our current siting decisions, and noting, among other things, that our decision to contract in New Orleans had occurred before the Louisiana Constitutional amendment had passed.

In mid-December 2007, President Pinderhughes, with the authorization of the Administrative Committee, formed an ad hoc Council Committee on Siting to coordinate the Council's attention to this issue, with an eye to deliberations at the April Council meeting. Anna Sampaio, Susan Burgess, Harry Hirsch, and Dennis Thompson were named to this subcommittee, with Sampaio as chair. The ad hoc Committee was asked to review the Louisiana situation in light of existing policy and extant contracts, and to consider whether APSA should revise its siting policy in light of the same-sex marriage amendments in state law, and to bring a report and options to the next Council meeting. Hirsch resigned from the committee in January indicating he would contribute to the policy discussion on the Council as an individual member.

As discussion about this issue developed over the fall and winter, Michael Brintnall and APSA staff prepared a memorandum, a portion of which is the source of Proposal 1, to help focus discussion about the issue. The memorandum compiled the key elements of APSA siting policy in general, and added a proposed course of action that suggested APSA take into account state policies with respect to recognition of same-sex partnership rights, as a basis for expressing our concerns with the difficulties these policies create for our members, and as a trigger for assessment of the presence of mitigating positive local practices. The proposal sought to balance views heard from a variety of APSA members with varied views on the issue – including the concerns expressed in the boycott petition, observations that New Orleans is thought by many to be a gay-friendly city and has enacted affirmative policies, and a desire to be responsive to the post-Katrina city and its development. At this time, APSA also indicated it would defer from making any new annual meeting contracting decisions until the siting policy is resolved.<sup>3</sup>

During the winter and early spring, an intensive period of inquiries and conversation took place – particularly between APSA and the LGBT, and some other, Status Committees, with experts in LGBT legal rights, and with advocates for LGBT organizations in New Orleans. However, at this time little information was provided to the APSA membership as a whole and no formal mechanisms had been created to receive responses from them.

Prior to the April 5<sup>th</sup> Council meeting, two APSA Council members articulated an alternative policy for Council consideration calling for APSA not to hold any conferences in states that severely restrict recognition of domestic relationships legally recognized in other jurisdictions. This proposal, described figuratively as a "bright line" became Proposal 2 in the Council resolution.

The April 5<sup>th</sup> Council meeting included consideration of these two approaches – imaginatively dubbed Proposal 1 and Proposal 2, plus hearing from two APSA Status Committees, and considering several alternative ideas. The upshot of this discussion was a resolution recounted above to seek feedback from members, all status committees, and the organized sections, and to call on a committee to summarize that information and to organize the topic for council action early in the summer.

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<sup>3</sup> Decisions about the Teaching and Learning Conference siting are needed on an annual basis, and APSA would handle this on a case-by-case basis with wide consultation until the policy is resolved.

## II. Overview of this Report

### A. *Method & Data Collection Process*

Following the April Council meeting, the APSA Administrative Committee, working with staff, developed an approach for obtaining the feedback called for in the Council resolution. The protocol, included here in Appendix I, was circulated to the Council on April 24<sup>th</sup>, following some discussion with the authors of Proposal 2 to refine its wording and make clear that the proposals are being articulated for the membership by the council as a whole, regardless of original authorship. The protocol also identified a number of supporting documents to make available to the membership – generally making available to members those documents that were available to the Council at the time of its April discussions. A report from the Committee on the Status of Blacks in the Profession was subsequently added to this list since they had made an oral report at the Council meeting.

APSA posted these materials on a website accessible to members who login through myAPSA. Members were notified on May 1 in a broadcast email message from Dianne Pinderhughes that the Council was addressing the siting issue and sought their feedback. They were asked to login to myAPSA to view the materials, and to submit their responses from there. APSA gathered these responses - monitoring them at that time only to identify any extraneous questions or requests that called for a response unrelated to the siting requests.<sup>4</sup>

The purpose of this process was to gather information about the varying opinions held by APSA members on the siting policy and specifically the siting of the 2012 APSA convention in New Orleans. This process was not intended to facilitate or coordinate discussion between groups or members, but rather to promote reflection and solicit feedback (while protecting members who might be vulnerable in the profession). In part because of this, Council chose to keep confidential all member comments, by making each response anonymous. Consequently, after the feedback period closed, APSA staff systematically removed any information that identified the respondent, and forwarded the resulting compilation of messages to the Council Siting Committee.

APSA also contacted all Status Committees and Organized Section officers inviting their feedback, with follow-up at the end of the 30 day period. With the concurrence of the Administrative Committee, the Committees and Sections were informed that their comments would go to the Council directly and openly, as would any routine committee or section report.

While some members requested that APSA actually facilitate an Association-wide conversation across multiple constituencies, the Administrative Committee felt this was beyond the scope of both the assignment to the Council Siting committee specifically and the Council generally. However, many of the Organized Sections did initiate such discussions among their membership using established listservs and networks, producing many instances of quite engaged dialogue.

APSA received about 850 comments from members. All of the responses received were reviewed and coded (first by APSA staff and then again by the Council Siting committee) into five sections based on their feedback.

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<sup>4</sup> While members were contacted for feedback, and the responses were coded and analyzed in the sections that follow, it is important that these responses not be viewed as referendum insomuch as the process was not an election or formal voting process with all the attendant measures to ensure maximum participation and the security of individual responses. For example, in the process outlined here, members were asked for feedback and had to login with their account numbers, but members were free to submit as many responses as they desired, unlike a formal vote where members would be blocked from submitting more than one response. Moreover, some members acknowledged in their responses that they were submitting feedback on behalf of others in the profession, so that each account could be used for more than one individual member to submit more than one response. Finally, members were able to submit a response as a reply to the request they received directly from APSA and/or through the URL link established for this review process. As a consequence there were several individual who submitted duplicate responses through both vehicles.

- The first section, dubbed “No Change” includes responses that advocated no change in the existing APSA siting policy (in whatever way that was understood by the respondent), called for Council to reject both proposals, indicated serious disfavor with both proposals and no preference for either, and/or favored changes other than those in the two proposals.
- Section two, dubbed “Proposal 1,” includes responses favorable to Proposal 1, often with arguments supporting the preference.
- The third section, “Proposal 2,” includes responses favoring Proposal 2, again often with arguments supporting the preference.
- The fourth section, “Other,” include responses that indicated no clear preference for either proposal, or indicated favorability with a proposal but only with a series of stipulations and conditions that would fundamentally change the existing proposal into something new. In brief, this last section includes responses that propose some other resolution even when these are connected to the existing proposals.
- A fifth section, “Siting in New Orleans” includes a cross-section of views on the issue of siting in New Orleans.
- And a final section dubbed “Not Codable,” includes approximately 17 responses which did not conform to the codes described above. These responses are not analyzed here in large part because they included material that the committee believed was either covered in previous responses or was extraneous to the deliberations at hand.

A second round of coding was conducted with respect to the question of the 2012 Annual Meeting in New Orleans. Responses were divided between those that favored keeping the Annual Meeting in New Orleans, and those that favored canceling the contract in New Orleans. The analysis of these responses is also included below.

In sum, APSA received about 850 responses from members during the call for responses, as well as reports from the Committee on the Status of Blacks in the Profession, the Committee on the Status of Women in the Profession, the Committee on the Status of Lesbians, Gays, Bisexuals, and Transgendered in the Profession, the Committee on the Status of Asian Pacific Americans in the Profession, and reports from the Organized Sections on Urban Politics, Comparative Politics, Political Science Education, Federalism and Intergovernmental Relations, Human Rights, Information Technology and Politics, Politics, Literature, and Film, Race, Ethnicity, and Politics, Science, Technology, and Environmental Politics, Women and Politics, New Political Science, Sexuality and Politics, Foreign Policy, Foundations of Political Theory, and Political Psychology. Responses were also received from 15 past APSA presidents.<sup>5</sup> (These do not include additional letters and emails directed to the Executive Director, the President, and/or members of Council prior to the official period of deliberation). All of these responses were read, reviewed, and processed by the Council Siting Committee.

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<sup>5</sup> At least one response on these issues was also received from an organization not affiliated with APSA. That response is not included in this report.

### III. Observations

#### A. *Summary of Key Themes and Arguments about Siting Policy*

We are encouraged by the number of colleagues who responded with thoughtful opinions and insights. Although the period for comment was relatively short, as was indicated above a remarkably large number of members and groups responded. Most of the responses were thoughtful. Most individuals and groups did not simply assert their conclusions; they gave reasons and often quite nuanced arguments. Many respondents indicated that they found the issues difficult. Many made a point of acknowledging that there are competing values at stake, and that the competing positions were at least partly valid.

The comments also reflected a broad spectrum of ideas, and while there is no consensus, there are themes that resonate in each of the sections below. As was described above, the responses were coded into four main sections<sup>6</sup>:

1. No Change;
2. Adopt Proposal 1;
3. Adopt Proposal 2;
4. "Other" approach;
5. Responses about Siting in New Orleans

The following discussion summarizes the main themes recounted by advocates of each approach:

#### **1. Themes expressed by those who said: No Change**

Comments in this section generally advised that Council not deviate from its existing policy with respect to the focus on the city, or advised rejection of both Proposals 1 and 2, and/or indicated serious disfavor with both proposals or no preference for either.<sup>7</sup> Among the reasons provided for advocating "no change" the following were most prevalent:

- Concerns about politicization: APSA should avoid becoming politicized and/or should not be adopting political positions via siting policy. This was by far the most recurrent comment in this section and reasons given included the following: because APSA is a professional and not political organization, because APSA is a research organization and becoming politicized would jeopardize the legitimacy of members' research, because it would generally compromise the standing of APSA among other professional organizations, because it violates its express policy, because it would threaten to polarize the membership, because there are a number of competing issues that would arise if APSA did begin to advocate against any one form of discrimination.
- Technical and practical concerns: Both proposals would overly constrain the siting locations. The conference would be limited to too few cities. The only acceptable cities would be too costly and limit the abilities of members to attend. The acceptable cities would unduly privilege members on the coasts and constrain members who could not easily access these cities. The proposal would limit the number of acceptable cities and do away with regional diversity in the siting of the conferences.
- Making use of the conference to address discrimination against members: The organization would be better served by traveling to New Orleans and using the vehicles of panels, special

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<sup>6</sup> This list omits the "Not Codeable" responses.

<sup>7</sup> Actual interpretation of the existing policy varied. Some believed the existing policy made no mention of protections against discrimination in siting arrangements, while other believed that the existing policy was simply to take into account local laws and policies when deciding siting arrangements.

sessions, organized events (e.g. press conferences, media events, lobbying trips, demonstrations) to “direct attention to the discriminatory practices at question” as one respondent put it.

- Focus of proposals too narrow: Both proposals are centered around protections based on same sex unions and/or sexual orientation when several other forms of discrimination deserve equal consideration. Some respondents suggested that if APSA choose to move the meeting from New Orleans, we should be prepared to refuse to hold meetings in any state that has ANY discriminatory statutes or amendments. Creates a “hierarchy of injustices” and other forms of discrimination that encumber APSA members are not given equal consideration by either proposal. APSA hasn’t taken similar stances in the case of state laws and amendments that created racial or sexual discrimination; to do so now primarily on the basis of sexual orientation would signal that those concerns are more important than other forms of discrimination. There are so many additional variables that APSA must consider in siting, that these variables make the focus too narrow and confining. APSA has a diverse membership, drawn from all 50 states, and to properly represent the membership the organization should not impose blanket bans on entire states. The proposals aim to include state laws as a factor in determining conference siting but completely overlook federal restrictions that already encumber individual states and as such the proposals’ focus is misplaced.
- Need to distinguish state and city laws: The climate of a city can be very different from the state and because of this APSA should only be focused on the city level laws and practices (most of those who made this comment used NOLA as an example of this difference). The language of both proposals is not properly attentive to the nuances in experience and practice that exist in cities, even those located in hostile state environments. If APSA is going to adopt a policy excluding specific cities from siting then the process must be transparent, employ universal criteria (i.e. rational basis test) and be rigorously justified.
- No reasonable basis to provide protections to GLBT persons through APSA<sup>8</sup>: Responses asserted there is no city in America that presents any legal barriers whatsoever to LGBT APSA members acting in their professional capacity as scholars. The respondents said the rhetoric around the issues was described as alarmist or overblown and might reflect an anti-Southern bias.

## 2. Themes Expressed by those who supported: *Proposal 1*

Proposal 1: In locating its meetings, APSA would presume that states with Constitutional restrictions on rights afforded recognized same-sex unions and partnerships may create an unwelcoming environment for our members in cities where we might meet. We would notify authorities at all levels that these conditions make it difficult for us to site our meeting in these states. APSA would closely examine practices on a case by case basis in cities within these states to assess whether demonstrated positive local practices or other Association goals warrant holding our conferences there.

Responses in this category frequently expressed the following themes:

- Proposal 1 provides a measured approach. Avoids a blanket prohibition that would be overly constrictive in making siting decisions and/or unproductive to choosing locations that protect members from fundamental forms of discrimination. This proposal gives APSA a nuanced tool to address other forms of discrimination that may affect members and are not specified in the existing proposals. There are no perfect cities and this proposal allows for more complexity in the weighing of individual siting locations and their appropriateness. Allows APSA to adopt a principled position without being rigid in its application. In the absence of actual demonstration of harm to groups potentially affected by state level policies, this proposal strikes a reasonable balance in assessing the risk to individual members.

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<sup>8</sup> This paralleled the argument that there was no actual demonstration of harm to GLBT persons in New Orleans and was also frequently invoked as a rationale for rejecting the boycott in of NOLA.

- Allows APSA flexibility in determining the appropriateness of individual cities: APSA has a responsibility to its members, but it should also consider the conditions of people in the existing cities and the way an annual meeting (or the canceling of a contract) can affect their lives. This proposal provides for consideration of these different factors.
- Prevents cities that “do the right thing” and have a history of protecting civil rights from being unduly punished for the actions of the state. Allows for determination on a case-by-case basis. Does more than simply rely on the law and allows for a consideration of the context and lived experiences within the siting location.
- Allows for compromise in cases where there are competing interests: This proposal prevents any one group’s interests from dominating discussion of discrimination.
- Permits a certain degree of bargaining power and/or leverage between APSA and the individual siting locations.
- Proposal 1 allows the APSA to take positive action to protect its members without engaging in overt political advocacy, and it would permit the siting of the 2012 conference in New Orleans.

### 3. Themes Expressed by those who supported: *Proposal 2*

Proposal 2: APSA will not hold conferences in any state that, by law, severely restricts the recognition of domestic relationships legally recognized in other jurisdictions.

- **Protecting Equal Rights:** Proposal 2 assures that members in same sex unions, and their families, are not subject to discriminatory treatment and second class standing in the profession. Proposal 2 assures that all members of the profession are able to attend APSA meetings without threatening the basic rights and interests of APSA members or their families. Without the protections provided by Proposal 2, a significant burden will be imposed on members in same-sex partnerships to seek out additional legal protections (e.g. power of attorney) without assurances that these will be upheld, particularly in cases of emergency hospitalization. Recognizes that discrimination occurs at multiple levels of government and cannot be sufficiently addressed with a siting policy that relies exclusively on review of city-level policies and practices. Places premium on addressing inequality and discrimination, along with safety and comfort of all members, over practical considerations such as regional diversity. This is a civil rights issue and a moral issue.
- **Sends a Strong Message Opposing Inequality and Promoting Inclusiveness:** Proposal 2 sends the clearest message that APSA will not support a location that allows for discrimination which restricts its members. Without such protections as set out in this proposal APSA will send a message that it does not care about discrimination faced by GLBT persons and that they are not welcome members of the association. State laws (such as the constitutional amendment passed in LA) denigrate individuals in same-sex partnerships. Such laws were said to renders their familial relationships outside the boundary of state recognition and acknowledgement and to center the heterosexual marital relationship as a core state principle. Proposal 2 signals that APSA will not support such fundamental inequality. Allows APSA the ability to take a principled moral stand and a significant legal stand against inequality affecting its members without unduly politicizing the organization. Proposal 1 has no teeth.
- **Efficiency and Clarity:** Proposal 2 provides the clearest and most efficient guidelines for a siting policy, while ensuring the protection of all its members.
- **Prior Precedent:** The precedent for such actions was set with the ERA and with the move from SF a few years back. This proposal merely extends the same protections to same-sex couples.
- **Double Standard:** APSA would not tolerate state level discrimination on the basis of race or gender and should be consistent in its treatment of discrimination that encumbers its members by

adopting these protections for GLBT persons. Without the protections set out in Proposal 2, GLBT members will be forced to spend additional time and resources, and incur a significant burden, to secure legal protections that other members already benefit from.

- Supporting the rebuilding of New Orleans is a laudable goal, but this should not be done at the expense of civil rights of the membership.
- New Developments in State Policy. This policy would clarify and update APSA's non-discrimination policy in a manner consistent with the recent shift to state-level anti-gay amendments. Recent developments in other states such as Michigan suggest that such constitutional amendments will be interpreted by courts in a sweeping manner.

#### **4. Themes Expressed by those who supported some other approach**

Proposals in this category did not express a clear position in favor of either proposal, or opposed to any change regarding APSA siting policy. Instead they generally took one of the following actions:

- Openly debated the merits of both proposals without adopting a clear preference for either.
- Provided support for both proposals, typically with caveats or conditions they felt needed to be met to assure any proposal's success.
- Expressed a preference for Proposal 1 or 2 but with so many additional stipulations as to fashion it into a new proposal.
- Expressed concern with other forms of discrimination that were overlooked by the existing proposals.
- Argued for engaging the issues further at the conference itself.

### ***B. Responses about Siting in New Orleans***

Cross-cutting responses about APSA siting policy and its future directions in general, are views expressed about meeting in New Orleans, somewhat independent from general opinions about siting policy. Strongly reflected in these comments is a preference for keeping the 2012 APSA conference in New Orleans.

The following are some of the major views expressed in support of New Orleans as a specific site.

- New Orleans (and other urban centers) are GLBT friendly and should be examined separately from state policy.
- The city has a history of passing non-discrimination ordinances, executive orders, charter agreements, and policies protecting (and removing barriers) against discrimination on the basis of sexual orientation.
- Boycotting the city at the same time as the annual Southern Decadence celebration sends a message that APSA is not gay-friendly.
- Doesn't make sense to punish New Orleans for an action of the state.
- A boycott will most likely be an ineffective instrument to challenge or change Louisiana state law. This function could be served better by attending the conference and addressing the discrimination through information (e.g. special sessions, panels, joint events with the city of NOLA), and activism among members themselves.
- The city shouldn't be punished at a time when it relies on tourism and conference travel in its economic recovery post-Katrina

- The city is a symbol of race and racism in America in the wake of Hurricane Katrina and a boycott would send a negative message about APSA's willingness to take racial inequality and racial discrimination seriously.
- There is no actual demonstration of harm to justify eliminating New Orleans.
- Existing state Supreme Court opinion in LA already address the question of basic contract rights including emergency hospitalization.<sup>9</sup>
- The potential for harm to gay and lesbian couples in cases such as emergency hospitalization can be addressed via pre-existing legal arrangements (e.g. durable power of attorney, living wills).
- The likelihood of costs associated with breaking the contract doesn't warrant boycotting New Orleans.
- The potential for long term negative consequences (i.e. more limited contract arrangements, confinement to costly hotels, high prices for members to attend), doesn't warrant breaking the existing contract in New Orleans.
- Other conferences and allied organizations have not boycotted New Orleans, and there is no evidence of other conference attendees encountering discrimination.
- Even where support for Proposal 2 existed in these comments, several argued for a special case for New Orleans based on its unique position in American racial history and the circumstances surrounding Hurricane Katrina.

The major views expressed in opposition to New Orleans are summarized above in the comments expressed in support of Proposal 2. Some of the major themes expressed there and additional points expressed about the city itself are the following:

- The constitutional amendment adopted in Louisiana creates an unacceptable risk specifically targeted against same sex couples and offsets any gestures of good will or experiences at the local level in the city of New Orleans.
- The risk to LGBT persons exceeds the potential benefits of supporting economic development in the city of New Orleans. Most of the economic benefits will be accrued by corporations and not by the residents of New Orleans directly. Any contributions to economic benefits should be happening now and not wait for an additional seven years where they will be far less significant.
- It is not clear, even with existing court opinions, that LGBT members will not lose foundational relational rights in the face of the constitutional amendment. The language of the amendment has yet to be fully enforced and no one knows exactly what that will mean. In addition, the LA Supreme Court's opinion still requires the need for additional contractual arrangements to be made by same sex couples that are not required of heterosexual couples. This places both a significant burden and risk on same sex couples and specifically LGBT members who want to engage the profession while maintaining their rights.
- Maintaining the conference in New Orleans would effectively signal that the APSA has traded away the rights of LGBT members in favor of other minority groups as opposed to creating an inclusive conference in which all members rights are equally respected.

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<sup>9</sup> Footnote 31 of *Forum of Equality v. McKeithen* (2005): "As noted by the State in its brief to this court, this constitutional amendment would not impair any property rights, which are not identical or substantially similar to the package of unique property right necessary to marriage. For example, the amendment would not prohibit an unmarried couple (either a same-sex couple or opposite-sex couple) from contracting to be co-owners of certain specific property they purchase together or from contracting with each other to designate each other his/her agent for making critical life or medical decisions for him/her in case of medical emergencies where he/she might not be conscious or contracting as to one's power of attorney; nor does this amendment prohibit an unmarried couple from making living wills leaving their estates to one another" (31).

- APSA has existing precedent for pulling out of an annual meeting contract when rights are being violated and the siting in New Orleans should follow that precedent.
- Hotels and services in New Orleans may not have recovered adequately to support holding a major convention there.

### **C. General Observations about Feedback from Members and Groups**

Overall, as mentioned, we were struck by the shared recognition that there are shared values involved in the siting discussions. Those who favored proposal #2 or urged a boycott usually expressed sympathy for the plight of the city and for the concerns of African Americans. Some even recognized that the conditions in New Orleans are not exclusive to African Americans but that the city is also home to a long-standing Asian American community and represents a significant population of Latinas/os – all adding to a complex racial and ethnic dimension in this location. Those who opposed a boycott or favored no change in the city-based policy usually expressed support for gay rights of GLBT persons, and more specifically for the protections of same-sex unions, and opposition to the state amendment of Louisiana and other locations where such discrimination occurs. Ultimately, many noted the significant intersection of interests, rights, and freedoms at work making the development of policy at this stage both difficult and important. As such, we appreciate the level of professionalism, compassion, and thoughtfulness with which most of the respondents approached the questions at hand.

#### **1. Addressing Misconceptions and Misunderstandings**

Despite the thoughtfulness of most of the responses, we found that misunderstandings or misinterpretations of several important points were common. Among the most important ones:

- Many respondents made reference to prior actions of the Council as support for one or another proposal and/or as justification for canceling the contract in New Orleans. In particular, many referenced a prior decision to cancel a contract in Chicago in opposition to the state's failure to ratify the ERA. Others asserted that the APSA Council had previously made siting decisions predicated on state's willingness to accept the MLK holiday. To be clear, neither of these cases represent decisions made by APSA council and neither are germane to the siting decisions in question in these proposals.
  - The vote on the ERA was not made by APSA Council (in fact the Council voted against a proposal to cancel the contract in Chicago), but rather the decision came from a member motion voted on by the general membership in an APSA business meeting.
  - In addition, APSA Council has never made a siting decision based on a preference for states that have MLK holidays.
- Many respondents did not distinguish their view about the proposals from their view about a move from New Orleans. We understand that these issues are difficult to keep separate, and in fact overlap in many ways. But proposal #1 explicitly leaves open the possibility of the move.
- Similarly, many did not distinguish their view about the proposals from their objection to the association's taking a political position on controversial issues. Although some may believe that the real purpose of the proponents of one or the other of the proposals is to make a political statement, neither proposal in itself does so.
- Some evidently believed that the basis for a move or policy change would be the legality of gay marriage. Neither proposal rests on that basis.
- Many did not see any significant difference between proposals #1 and #2. They believe that both would make siting decisions on the basis of state policy. But proposal #1 explicitly makes city policy decisive, though the proposal also would require some actions directed against the state

policy. Proposal #2 is based decisively on state law, though it assumes that the law will affect the city policy.

- Very little empirical evidence was presented for either proposal. This is understandable as some of the key questions involve predictions about events in circumstances that are relatively new, and risks that are hard to quantify. Proposal #1 explicitly calls for further investigation, and thus would allow the possibility of gathering more evidence. Proponents of proposal #2 assumed that the existence of the state law would almost certainly create a risk of discrimination in the city's health system. The evidence provided came largely but not exclusively from other jurisdictions.
- Very little attention was paid by members to the financial implications of cancelling our contracts with hotels in New Orleans, the risks of needing to seek an alternative site so quickly, or the long-term implications for future contracting with hotels. Little information was available to members on these topics, and it is understandable they would not be able to gauge these implications. It is nevertheless unclear whether to interpret member comments that ignored these topics as indifference about them, or lack of information.

## 2. Overall Directions in Member Feedback

According to our coding of the individual responses, the largest number of member responses favored retaining the current policy that bases the decision on the city not the state — twice as many people as favored either proposal 1 or 2. There was less difference in the numbers of favoring either of the specific proposals for change, but #2 received slightly more support than # 1 as an alternative to the status quo. Although these results may be a rough indication of the distribution of support in the association for various proposals on the table, we believe that the Council should also carefully consider the reasons and evidence provided in the responses, rather than solely the number of people who provide them.

## IV. Putting Siting Issues in Broader Context

The specific siting issues reflected in Proposals 1 and 2 relating state laws regarding same-sex unions raise a variety of broader questions. Our committee believes it is important that this larger context be laid out clearly for the Council as a part of its decision-making.

These broader issues take two forms. (1) Some encompass the full set of principles and practices that guide APSA siting policy generally. Such policy, past practice, and suggested new directions have been expressed in the APSA document APSA Draft Meeting Siting Policy Document that has been provided to the Council and to the membership, and from which Proposal 1 language is drawn. (2) Additionally the feedback process itself has raised some added topics that we want to be sure are on the table for attention.

### A. *APSA Meeting Siting Policy*

We understand that many Council members will want to approach any new policy addressing our anti-discrimination and civil rights in the context of our overall policy framework. We thus want to put this material forward here – with three important caveats:

- APSA has recently been through an annual meeting review that has touched on many of these issues, and many have already been discussed.
- Our policies are living documents – the Council should regularly review this document, and provide guidance to relevant APSA committees and staff to review and recommend updated language.
- Many parties – within APSA and within the larger political community, such as groups that partner with us, publishers, political science departments, etc. – rely on the APSA annual meeting, and any broad change process for our meeting policy should allow room for their views as well.

The following is a skeletal outline of the elements in the policy document, which itself is attached to this report. We are not making any proposals for change in this policy document in our recommendations outside of those related to the proposals on which the Council sought member feedback. However, should Council members themselves wish to propose such changes, either directly at this meeting or in guidance to APSA committees and staff for later attention, we wanted to have this material at hand.

Basic elements in the Siting Policy document are the following – grouped in terms of those that are established and those that are new or proposed.

#### II. General Objectives and Principles

- A. Rotation of Sites – APSA rotates its meeting within North America to afford regional access in every part of the country (and now Canada.)
- B. Urban Settings – APSA APSA holds its annual meeting in major urban settings with national airport access.
- C. Contiguous Properties – APSA selects locations with adequate hotel space within walking distance of meeting rooms.
- D. Low costs- It is a goal in siting and timing of the meetings to keep costs as low as possible.
- E. Partnership with the convention and hospitality industry – APSA recognizes it is in a partnership with the convention and hospitality industry and its workers, and seeks long-term positive and cooperative relationships with local Convention Visitors Bureaus (CVB's), hotel chains, and other vendors.

F. High standards of professional conduct and non-discriminatory siting. APSA is committed to high standards of professional conduct and ethics in siting, planning, and conducting its meetings, including protection of academic freedom, equitable access to opportunity, and a commitment to non-discrimination

G. All members should have a basis for feeling welcome. In making siting and venue selections, APSA is mindful of adopting sites in which every member has a reasonable basis to feel welcome to attend the meeting.

H. Non-partisan and policy neutral positions. In making siting and venue selections, APSA is also mindful of its Constitutional policy to be non-partisan and not to “commit its members on questions of public policy nor take positions not immediately concerned with its direct purpose...”

### III. Special Situations and Policies

A. Domestic partner relationships. this is Proposal 1

B. Organized Labor - APSA “shall make every effort to give preference to a suitable unionized hotel and/or service provider, cost considerations being otherwise equal.”

C. Accessibility - APSA works closely with our hotel partners to assure accessibility to facilities at our meeting, including ADA compliance. We provide other reasonable accommodation to members notifying us of these needs.

D. Carbon Neutrality and Green Meetings. APSA is cognizant of the environmental consequences of holding large meetings,

E. Economic Development for High Racial/Ethnic Concentration Cities. The APSA also recognizes that its meetings raise the visibility of communities in which it meets and provides positive economic benefit for them. The Association values the contribution that our presence can provide for urban centers with high concentrations of racial and ethnic groups or with high levels of economic need, and will seek to work with minority contractors in its meeting sites wherever circumstances allow.

F. Addressing Public Issues at APSA Meetings. APSA has multiple ways in which it may address important public issues within the community where it is meeting, when it holds the Annual Meeting or other conferences

## **B. *Additional Issues from the Feedback Process***

In addition to the feedback on major proposals before the Council, as summarized above, a variety of additional issues have been raised – either in the immediate feedback or from earlier discussions that warrant Council attention. Many of these issues are contingent on more broad brush decisions about policy, but they warrant note here in any event, and require a plan for their consideration during the Council meeting.

Most of these come from suggestions by individuals or groups. They probably should be voted on separately, and after the main motions have been considered. Most would be consistent with any of the main motions, though some are unnecessary if certain motions are adopted. A number raise issues indicated in the policy above as well. These issues include the following

1. Implementation Clause for Current Policy. This would be especially relevant if the city-based policy remains. The current policy provides a right of termination (10.02) but specifies no means for the association to initiate such a termination.

One approach would be to add this to the current policy: If subsequent to the signing of the agreement circumstances arise that call into question the ability of the city to respect the civil rights of members, the APSA Council shall initiate an investigation of those circumstances and determine whether they provide sufficient reason to terminate the agreement.

2. Economic Development. The proposed draft of the siting policy includes this separate section, which has not yet been approved:

E. Economic Development for High Racial/Ethnic Concentration Cities The APSA also recognizes that its meetings raise the visibility of communities in which it meets and provides positive economic benefit for them. The Association values the contribution that our presence can provide for urban centers with high concentrations of racial and ethnic groups or with high levels of economic need, and will seek to work with minority contractors in its meeting sites wherever circumstances allow.

3. Welcoming Principle. This too comes from a separate section of the siting policy.

G. All members should have a basis for feeling welcome. In making siting and venue selections, APSA is mindful of adopting sites in which every member has a reasonable basis to feel welcome to attend the meeting.

This "welcoming" principle underlies our policy to rotate our meetings around the country to venues that are easily accessible to members in all regions and to meet in major urban venues rather than secluded sites, and also underlies our commitment to nondiscrimination. APSA seeks to assure that the meeting facilities, venue, and immediate community do not unduly discomfit any member or groups of members attending the meeting.

Feeling welcome extends to personal relationships as well as to professional ones. APSA endorses "family friendly" policy in professional life. We have taken many steps in the past at our meetings in recognition of these values, including deeply subsidized child care at the annual meeting.

4. Sessions at the annual meeting. Because APSA exists to promote deeper understanding and engagement of political issues through research and education, schedule sessions at the 2012 meetings on the question of discrimination against members of the LGBT community: a plenary session; a panel including state officials; and a panel open to members of the community. In addition, APSA should encourage scholarly attention to the topics related to the siting issue, and invite scholars to submit relevant work to *PS*, *Perspectives on Politics* and other appropriate journals.

5. Publicity. Provide opportunities for members to write and sign an open letter to the local and state newspapers protesting the constitutional amendment; and provide forums and resources for the LGBT caucus to publicize their views on the amendment. Schedule meetings with state and local officials where APSA officers, council members could have a dialogue about the state constitutional amendment, and the difficulties it poses for APSA in siting meetings.

6. Information for Members. Provide information that would identify hospitals and health-care facilities in the New Orleans that are known to be friendly to gays, and attorneys and insurance agents knowledgeable about gay rights especially with regard to health care. (This would not be necessary if proposal #2 is adopted.)

7. Communication among members. Provide forums for members to discuss the human rights implications of Louisiana's policies on same sex relationships, as well as similar policies in other states.

8. Discussion of Siting Policies. Provide opportunities at each annual meeting at least through 2012 for discussing the siting policies of the association and the decision regarding New Orleans.

9. Protection of Sexuality and Politics Section. (a) Guarantee that the section's panel allocation for the 2012 meeting will not be based on attendance at the section's panels in 2012 [but will be based on previous years]. (This would be unnecessary if proposal #2 is adopted.) (b) Extend the period for assessing the number of members of the section by at least one year.

## V. Recommendations from the Committee about Moving Forward

So how do we go forward? The Committee proposes attention to three dimensions to our task. The first is to be very attentive to how we organize our time at the June 26, 2008 Council meeting, to allow ample opportunity for free discussion and a structure for decision making that is fair, effective, and efficient. The second is to work from clearly defined and balanced motions – designed to assure that our decisions are made from balanced and inclusive motions, yet also allowing all viewpoints to be expressed and voted upon as appropriate. And the third is to allow ample time to discuss follow-up to whatever decision we make, to carry out our responsibilities to explain to the membership the basis for our action and to move the Association forward.

### A. *Framework for Process in the Council Meeting*

We suggest that the Council discussion proceed in three phases. We believe that each is important to the deliberative process on these issues, and each deserves a substantial amount of time. The time limits, as with the other procedural suggestions we make, are of course subject to revision by the Council and may in any case need to be modified in light of the ongoing discussion.

Introduction. President's Remarks (5 minutes)

Committee Report. (10 minutes)

Phase 1. Discussion (1 ½ hours)

We propose that first there be unanimous consent to hold a discussion period in which no motions will be introduced, for an agreed period of time. We propose at least an hour and a half for this period.

The purpose of the discussion period is threefold. It is an opportunity to share views about the new material presented to the council; to state one's own views about the issues again especially if they have changed; and most importantly to try to understand better the views of other members, especially those with whom one disagrees. We are confident that the members will engage in this discussion in a mutually respectful manner with the aim of appreciating opposing views as much as persuading others to adopt their own view. A guiding principle is that each Council member who wishes to speak has an opportunity, and this will of course require judicious attention to brevity.

Phase 2. Decision (2 hours)

The Council is expected to reach a final decision before the end of the day. It is important that the voting process allows for all prominent proposals that Council members wish to consider have the opportunity to come forward, either as initial motions or significant amendments.<sup>10</sup>

We understand that as a key proposal comes to a vote, Council members may wish to amend action by substituting another. In all cases, there should be opportunities for amendments, which could include substantial additions from other proposals or parts of proposals. If at any time it seems that it would be

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<sup>10</sup> We considered other voting methods (cumulative or preferential systems, for example) but concluded that the time that would be required to explain, modify and operate these methods would not be worth the theoretical benefits they might offer. If any cycles or Arrow problems or any apparent unfairness arises in the course of voting, we are small enough group that we should be able find ways to revise the procedure at that time.

preferable to avoid a vote on a motion that is likely to be defeated, a member may move to postpone indefinitely, which, unlike the motion to table, permits debate to continue.

We have proposed an approach that we believe puts forward a middle ground among the proposals and member feedback before us. We understand as well that the order in which the proposals are voted on will have an effect on the deliberations and possibly on the outcome. By offering a middle ground proposal, we anticipate that in the process of offering amendments, that our proposal approach can be shifted, as the Council wishes, in one direction or another.

Because our recommendation, if adopted, would preclude action on proposal #2, which is the major alternative proposal to proposal #1 incorporated into the Council resolution seeking member feedback, we suggest as a matter of fairness, that before our motion is formally acted upon, the chair ask if any member wishes to move the adoption of proposal #2. If so proposed, our committee will yield to this motion. Any Council member wishes to move consideration of Proposal #2 should not have to do so in the guise of a substitute amendment, which is not discussable strictly on its on terms.

The Council may wish to modify the committee's recommendation on procedure, though we hope that members will realize that any time spent on this question takes away from the substantive discussion.

Time limits should be set for the discussion of, and amendments to, each motion, but this can be done only after the chair sees how the voting goes. Members should keep in mind that it is possible to move reconsideration of a proposal that has been rejected earlier if it comes to seem comparatively more attractive later (though the motion to do so must be made by someone who voted in the original majority).

Phase 3. Follow-up and Education. (1 ½ hour)

Although we may be exhausted by this time, the significance of the decisions we must make also require we must use considerable care in following through to explain the outcome and our reasoning to the members and in actively working to follow-up. Suggestions for this discussion are provided below.

## **B. Recommendation for Council Action**

Based on the feedback and discussions received both during the period of open deliberation as well as in conversations among committee members, APSA staff and several of the status committees, caucuses, related organizations, and general membership, we advise the following to the Council.

*First*, we recommend that the approach in Proposal 1 be accepted as the basic policy framework for siting future conferences. The discussions have shown that existing siting policy to focus only on city-level conditions, while well-intended, is insufficient. The goal of focusing on actual conditions in cities affecting meeting attendees remains the same; but salient issues affecting LGBT people and other populations are now reflected in decisions made at the state level as well as local.

APSA's obligation to advance academic freedom, the well-being of scholars, and meetings that are fully open and accessible to all members of the scholarly community underpins our commitment to civil rights and non-discrimination. For APSA policy even to "stay the same" in protecting civil rights of our members, we find we need to broaden our lens to include how state level policies may shape the city's ability to guarantee the health, safety, and freedom of expression that attendees must have in order to participate fully in the scholarly exchange of ideas.

State laws have often been applied less stringently to visitors than to citizens of that same state, particularly as regards issues of marriage and related concerns. It is incumbent upon the association to strenuously protect the ability of all its members to attend the annual meeting and to engage in scholarly discussions in other appropriate venues. The changes to current policy that we are recommending are

designed to continue to provide such protection, which we take to be one of the most fundamental purposes of the association.

We note also that existing siting policy does not provide enough practical guidance for us to judge whether a city has and will continue to provide the kind of environment suitable for holding a meeting. The approach articulated in Proposal 1 provides guidance on making such city level judgments – including whether the city enforces state laws in a manner that creates a clear pattern of discrimination that substantially impedes members from freely participating in the annual meeting.

*Second*, with the information at hand, we conclude that New Orleans has a positive history of acting against barriers to discrimination on the basis of sexual orientation that has persisted following the State action. In our discussions we have sought to avoid a discussion of the issue in a manner that suggests a hierarchy of injustices, and to recognize the intersecting questions of race, ethnicity, sex, gender and class at work in these deliberations. We respectfully suggest that the Council adopt this approach as well. This approach has led us to suggest altering current policy to protect gay and lesbian members as noted above, while also recognizing that New Orleans has special significance for many of our members interested in observing and supporting its redevelopment in the wake of Hurricane Katrina in 2005. We acknowledge the Association has important interests in a settled and stable decision about the site of meetings, respectful of our institutional partners. We recommend that APSA remain in New Orleans for its 2012 meeting. However any decisions about siting a future meeting in New Orleans should be subject to fresh scrutiny.

*Third*, since a primary aim of APSA is to promote deeper understand and engagement of political issues, we believe that APSA should engage more vigorously with all cities to which it invites our members and holds our meetings, including having active dialogue with local and state officials; and should speak out on the difficulties that legal restrictions on rights for same-sex partners creates for us in siting our meeting. In this spirit of engagement, we support articulating in APSA siting policy the proposed amendment with respect to economic development and distressed cities.

*Fourth*, APSA should engage scholarly resources on the topics related to the siting issue and inequality related to siting, including holding scholarly sessions at the 2012 meetings, within the conference and with the community, on the question of discrimination against members of the LGBT community. In addition, APSA should encourage scholars to submit relevant work to *PS*, *Perspectives on Politics* and other appropriate journals.

### **C. Committee Motion**

Our committee moves:

- *that APSA adopt the siting policy reflected in Proposal 1, as expressed in Council documents;*
- *that APSA continue with its 2012 meeting in New Orleans as contracted;*
- *that APSA siting policy further be modified to call for enhanced engagement with host cities on state and local issues of importance to APSA, including restrictions on rights for same-sex unions and the economic development of meeting cities; and*
- *that APSA policy call for the Association to promote the advancement of scholarship and enhancement of intellectual engagement among members at the annual meeting on questions of inequality that may arise in relation to the siting of the annual meeting, including restrictions on same-sex unions and the economic development of meeting cities.*

In the implementation of this amendment, we recommend the Council adopt the following understanding:

- That APSA should approach the meeting in New Orleans, as in all sites, with sensitivity to needs of all members, and respect for those members who may opt not to attend.
- That APSA should promote enhanced intellectual engagement among APSA members and the broader community in host cities and states on questions of inequality related to the siting, including but not restricted to special sessions, additional panels, and journal articles.
- That items IV B 6 – 8 listed above with respect to engagement and outreach be considered in the development of the plan to implement a program for enhanced engagement.
- That item IV B 1 be added to APSA siting policy with respect to implementation of Proposal 1.
- That Item IV B 3, regarding the “welcome” principle be revisited to emphasize the importance of members civil rights in all parts of the draft where it is relevant.
- That the multi-stage procedures for “responding to restrictive states” be reviewed to ensure that they are consistent with professional standards, effectively targeted and flexible enough for timely application.
- That APSA Siting Policy be updated based on Council actions and discussion, and brought back to the Council in August for review and comment, with subsequent periodic review on a schedule recommended by the Council.

### **D. Agenda for Follow-up and Education by the Council**

Following Council action on siting policy and the New Orleans meeting, whatever direction the Council opts to take, there is important follow-through to have in mind.

APSA staff will work promptly with President Pinderhughes to prepare a statement to the membership about the Council decision and its reasons. This will also include an immediate press release to the higher education media who have been monitoring our consideration of this issue. All APSA staff members will be provided this information as well so that they are prepared to answer questions that may arise from the membership.

Discussion and planning by the Council would be valuable on the following topics:

**Informing Members.** How should the association inform and educate members about the rationale and implications of the Council's decision?

- Should the comments from members gathered as part of the request for feedback be made publicly available (without identifying information) to the membership?
- Since some APSA members have indicated they will resign if this decision goes either way, might Council members be available to make personal contact with such members as they identify themselves to encourage their continued membership.
- What materials should be made available to members – such as the packet of feedback responses from individuals.

**Continuing Discussion and Engagement.** How can the association encourage further discussion and research on the policy on siting and the place of gender issues, inequality and discrimination in future meetings?

- Are there ways to promote cooperation between groups who are divided on the siting issue but share a common ground on other important issues?
- What issues relevant to this decision should the Council itself take up in future meetings?
- How can APSA move the dialogue forward by encouraging a more intersectional analysis?

**Implementation Decisions.** Any changes to siting policy will result in a series of implementation decisions – whether about venues, assessment of local practices, or a program for engagement, and Council leadership on how what groups have responsibility for oversight of these decisions will be needed.

**Addressing Issues in the Future.** How should the association reply if more issues come forward calling APSA to move or adjust its meetings?

- As a possible response, it might first be emphasized that all issues will be treated with respect and full attention.
- It also can be noted that APSA has many alternative means to engage issues, such as forums, research agendas, task forces, and public letters, other than relocating meeting facilities.
- As well, we need to recognize that frequent changes to meeting siting or venues can have a cumulative effect that increases costs and undercuts relationships with hotels and other vendors and consequently to the members.

**APPENDIX I**

**Council Authorization for Council Siting Committee and Protocol for Feedback Process**

TO: APSA Council  
FROM: Dianne Pinderhughes, President

I am writing to follow up on the Council actions in Chicago to forward proposals to various groups in the Association and the membership to explain how I propose to proceed. Please indicate your "advice and consent" to this approach by end of the day on Thursday April 24th. If all remains in order we can have this posted on a website and circulated by the first of next week.

This message has three parts! Please do look at them all.

(I) The first is the protocol I propose we follow and some discussion of events since the Council met. This material is just for the Council as background and to explain how I intend to proceed.

(II) The second is the statement we will send to APSA Status Committees, Organized Sections, and the membership, requesting their feedback.

(III) And the third is a list of documents that will posted on the APSA web site along with the statement representing the materials the Council had available at the time it considered the motion.

PS: Please be sure to reply to [apsa-council@apsanet.org](mailto:apsa-council@apsanet.org), and not to [apsa-council@apsa.mail.com](mailto:apsa-council@apsa.mail.com), which often pops up when you hit Reply. APSA staff are working on an improved email system for us.

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**PART I: BACKGROUND AND PROTOCOL FOR IMPLEMENTING THE COUNCIL RESOLUTION**

**\*\*\* FOR COUNCIL MEMBERS ONLY \*\*\***

I. As you know, at its recent meeting, the Council took the following action.

*Anna Sampaio moved that: Two drafts, the APSA Draft Siting Policy and the proposal from the memo by Council members Wendy Brown and Harry Hirsch put forward for comment to the APSA Status committees, Organized Sections, and general membership, for a pre-determined time period; after which a committee that has not been constituted yet, will serve to gather, review, and summarize all of these comments and include them in a revised draft to be submitted to the Council for deliberation and final vote before the August Council meeting.*

Following the Council meeting, there has been one change in circumstances. Harry Hirsch and Wendy Brown asked for clarification, indicating that they themselves had not asked that their memorandum be circulated. In consultation with Harry Hirsch, Michael Brintnall and I have noted that the motion was to get feedback on two proposed policy options articulated by the Council itself (albeit drawn from two different memoranda.) I have asked the Administrative Committee to prepare language for circulation to members and groups that points to the principles underlying each proposal and that encourages comments on these and other approaches. We will also make relevant memoranda and messages available to the membership and as I write this Professors Hirsch and Brown are considering whether they wish to have an updated version of their memorandum included in this.

I, thus, propose that the process itself proceed in the following way:

a) Managing the discussion process: I have asked the APSA Administrative Committee to coordinate the process of circulating these materials and for making determinations of how the information should go forward, and to assure other information is made available as appropriate.

b) What Documents go Forward. The positions represented in the two proposals identified by the Council are summarized in a transmittal prepared by the Administrative Committee, and this will be circulated to committees and sections, and posted for the members, inviting their comments. This message is in part II. Additional information will be posted online, as described in Part III.

All materials should be completed and ready to post by April 28. Materials will be circulated to committees and sections, announced to the membership by email+, and posted on-line within a week after this deadline, and comments sought by May 30. I will call a meeting of the Council for June or early summer to consider the information. Decisions about any additional information to post as it may become available will also rest with the Administrative Committee.

c) Staffing the Process: I will ask APSA staff to manage the process of circulating the materials to status committees and organized sections, and posting the information to members and online on a web site that permits members to submit comments. APSA staff will be instructed to refer any questions of interpretation of what to circulate or post to the Administrative Committee,

The APSA web site will be placed behind the member wall and will allow room for reviewing the documents and for submitting comments. This inhibits spam and assures that the feedback is from APSA members. Messages received will not be posted publicly and we will promise anonymity to all those posting messages, though they will not be secret since members will have logged in to submit them.

d) Receiving and Compiling Comments: I am asking the existing 3-person committee of the Council - Anna Sampaio, Susan Burgess, and Dennis Thompson- to compile the comments and to write a summary of the views received, and to prepare recommendations about how APSA should proceed with respect to the siting policy, and for APSA staff to provide support for the committee's work. I would like one person on the Administrative Committee to serve as liaison to the 3-person committee, and to receive their report; and to plan, on behalf of the Administrative Committee in their agenda-setting role, for how it goes forward to the Council. I have asked Valerie Martinez-Ebers, a Vice-President and member of the Administrative Committee, to serve in this role, and she has agreed.

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## PART II: DRAFT STATEMENT TO MEMBERS AND GROUPS

TO: APSA Members, Status Committees, and Organized Sections  
FROM: The Administrative Committee of the APSA Council

At the direction of the Council, we are writing for your comments and advice on a policy matter of importance to the Association with respect to selecting sites for our Annual Meeting, Teaching and Learning Conference, and other meetings. These matters relate to state laws about rights afforded recognized same-sex unions and partnerships.

The APSA Council has begun deliberations on this issue with respect to new policy for APSA in siting its meetings. The Council has considered a variety of information, which is available online, and wishes to get feedback as well from the APSA membership and key groups. In order to help focus this response, the Council has identified two proposals for consideration, though its views and options are not limited to these.

Proposal 1: In locating its meetings, APSA would presume that states with Constitutional restrictions on rights afforded recognized same-sex unions and partnerships may create an unwelcoming environment for our members in cities where we might meet. We would notify authorities at all levels that

these conditions make it difficult for us to site our meeting in these states. APSA would closely examine practices on a case by case basis in cities within these states to assess whether demonstrated positive local practices or other Association goals warrant holding our conferences there.

Proposal 2: APSA will not hold conferences in any state that, by law, severely restricts the recognition of domestic relationships legally recognized in other jurisdictions.

In addition, the Council is considering the situation of the 2012 Annual Meeting already contracted in hotels in New Orleans, Louisiana, one of the sites that would be disqualified by Proposal 2 and warrants review under the terms of Proposal 1 above. There are of course other possible approaches as well that would warrant your views. We would welcome hearing member comments on this issue; you may post them at [www.apsanet.org/xxxxx](http://www.apsanet.org/xxxxx)

The issues and circumstances surrounding these issues are extremely complex and multi-dimensional, and the Council is turning to many additional sources of information in gauging the right direction for APSA, including understanding our contractual situation, financial risks, and responsibilities to members.

There are relatively limited number of cities to which APSA can take its Annual Meeting because of our requirements for contiguous hotels and large numbers of meeting rooms. It is expected that decisions about siting will pertain to locations for APSA's Teaching and Learning Conference as well as to the Annual Meeting.

As partial background to the situation and to evaluating these proposals, we quote here from an APSA Draft Siting Policy memorandum (available online at [www.apsanet.org/xxxxx](http://www.apsanet.org/xxxxx)) that the Association has developed to place this siting issue in the context of other APSA siting policies and considerations, and that provides background to this issue.

*There are widespread differences in localities regarding rights afforded to same-sex couples for care for each other and for their dependents. This situation is compounded by confusion over whether rights afforded same-sex couples in one locality carry over to be recognized in others. This is a nationwide problem, compounded by federal legislation. The combination of federal, state and local laws and policies interacting with each other is so complex that even lesbian, gay, bisexual and transgendered (LGBT) advocacy groups such as Lambda Legal Defense and Education Fund has ceased tracking site-by-site conditions for all cities.*

*In support of the principle that all members have a reasonable basis for feeling welcome at APSA meetings, it is of relevance whether individuals in same-sex partnerships or civil unions attending APSA meetings feel they will be in a community where basic principles of care for health and safety for each other, and for their families, are respected.*

Constitutional amendments that explicitly restrict or limit rights extending domestic partnerships or civil unions recognized in another state appear, presently, in about 19 states. These are: Alabama, Arkansas, Georgia, Idaho, Kansas, Kentucky, Louisiana, Michigan, Nebraska, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, and Wisconsin. Historically, APSA has generally focused on city level conditions for assessing eligibility for meeting sites. These state laws are generally untested in courts regarding their application at the city level.

We are asking for comment on general principles for siting our meetings. APSA holds contracts with hotels to meet in New Orleans, Louisiana for an Annual Meeting in 2012, a siting decision made before Louisiana adopted its constitutional amendment. (There is further information on this siting decision online at [http://www.apsanet.org/content\\_47473.cfm](http://www.apsanet.org/content_47473.cfm).) The Council will assess these contracts in light of broader decisions made about siting, and welcomes your view on this as well.

Further information about Proposal 1 is included in the APSA Draft Siting Policy document organized by APSA staff and including a more fully developed articulation of this proposal. This draft policy places this issue in the context of other elements of APSA siting policy, and identifies several other siting issues that

have been suggested for consideration by the Association, including attentiveness to economic development for high racial/ethnic concentration cities; and ways APSA can speak out on public issues in cities where it meets.

Proposal 2 is intended also to work in conjunction with the Draft Meeting Siting Policy document and has been articulated as a simple decision rule that might be thought as drawing a "bright line" around the states that have provisions limiting recognition of same-sex civil unions and marriages from other jurisdictions.

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PART III. ADDITIONAL MATERIALS POSTED ON THE WEBSITE FOR MEMBERS AND GROUPS. -  
The Administrative Committee will have the following documents posted on the website for members and groups, representing the background available to the Council at the time of its discussion.

- APSA Draft Siting Policy
- Statement from Hirsch and Brown, if they wish to post it
- APSA costs memorandum
- APSA list of cities in and outside of the affected states
- Proposal from Dan Reiter
- Dan Pinello's original petition
- October 2007 APSA memorandum on background of siting selection
- Julie Novkov's Section memorandum
- Letters from Tulane University and colleagues
- Lambda Legal Safety Scale
- (Report of Committee on the Status of Blacks made at the Council meeting was also added)

## APPENDIX II

### *Memorandum*

TO: APSA Council and Members

FROM: Michael Brintnall, Executive Director

DATE: October 22, 2007

RE: APSA Practice for Annual Meeting Sites and the 2012 Annual Meeting

In response to questions about how APSA selects annual meeting sites, and about the decision to site the meeting in New Orleans in 2012, President Pinderhughes asked if I would prepare the following information and make it available to the Council and membership.

Some of the key background points are this:

- APSA has a signed contract with the Marriott and Sheraton Hotels to hold our meeting in New Orleans in 2012. New Orleans was selected as part of a Council-approved rotation to go to all regions of the country. This contract was signed in 2003, one year *before* Louisiana adopted a constitutional amendment against gay marriage.
- The contract includes language asserting long-standing APSA policy that if the *city* establishes or enforces laws that violate civil rights of APSA members we may terminate the contract, including with respect to sexual orientation and marital status. This language was adopted many years ago at the request of the Gay and Lesbian Caucus.
- The Committee on the Status of Lesbians, Gays, Bisexuals and the Transgendered in the Profession has asked this year that this principle be extended to state policy – specifically to states with Constitutional amendments banning gay marriage. Twenty-six states have such Constitutional provisions. The Committee’s documentation noted that 19 other states have statutory restrictions limiting marriage to one man and one woman, including many states in which APSA regular holds its meetings. (Only Massachusetts issues marriage licenses to same-sex couples and the remaining states allow different kinds of civil unions.) The LGBT committee themselves did not extend their petition to the states with statutory restrictions.
- The Annual Meeting Review Committee, considering the implications of a 26-state, and possibly a 45 to 49-state, limitation on meeting siting and other issues, recommended that the current city-level policy provision remain the policy.
- The Council accepted the Annual Meeting Review Committee position for the time being, while asking the Committee on the Status of Lesbians, Gays, Bisexuals and the Transgendered in the Profession for further clarification of its recommendation and for continued discussion with the Annual Meeting Committee.

- APSA has deferred making any new annual meeting contracting decisions until the siting policy is resolved. Decisions about the Teaching and Learning Conference site are needed on an annual basis, and we will handle this on a case-by-case basis with wide consultation.

- With respect to the existing contract in New Orleans, if we terminated the contract, our understanding of the worst case is that we could face financial damages to the hotel that could be extreme (e.g. in the realm of the value of the sleeping room revenue the hotel would have expected had the meeting occurred).

#### Key Questions and Issues:

1) *What is APSA policy about picking a meeting site?* APSA chooses sites five or more years in advance, with an emphasis on circulating through the regions of the US, going to first-tier cities, and offering affordable hotels near to each other or linked to a convention center with adequate capacity. [1](#)

2) *What are provisions about anti-discrimination and civil rights matters?* In response to a request from, and in conversation with, the Gay and Lesbian Caucus during Judith Shklar's presidency in 1990, the Council voted that APSA should only meet in cities where all members are welcome. The contract language agreed upon focused on the behavior of the city, not the state, with particular focus on discrimination in employment, housing, and access to public accommodations. The language reads:

*10.02 APSA has selected [name of city] as a site of its annual meeting in light of the city's anti-discrimination record. APSA reserves the right of termination of this agreement, without penalty or liability, if the government of the city in which the hotel is located establishes or enforces laws that, in the estimation of APSA, abridge the civil rights of any APSA member on the basis of gender, race, color, national origin, sexual orientation, marital status, physical handicap, disability, or religion.*

3) *What did the recent Annual Meeting Review Committee say about this policy?* APSA undertook a review of all annual meeting policies this year, and the siting policy was included in this review at the request of the Committee on the Status of Lesbians, Gays, Bisexuals, and the Transgendered. The Annual Meeting Review Committee, chaired by Joan Tronto, recommended the existing, city-based, policy continue. Their report said:

*1. Non-discriminatory siting. APSA should continue its current practice which permits us to terminate an agreement that abridges the civil rights of APSA members.*

*Rationale: The current language in the termination section of our standard contract reads: 10.02 APSA has selected [name of city] as a site of its annual meeting in light of the city's anti-discrimination record. APSA reserves the right of termination of this agreement, without penalty or liability, if the government of the city in which the hotel is located establishes or enforces laws that, in the estimation of APSA, abridge the civil rights of any APSA member on the basis of gender, race, color, national origin, sexual orientation, marital status, physical handicap, disability, or religion.*

While some members and groups within APSA have asked us to go further in affirming particular policies, this language gives us sufficient latitude to protect the Association's interests and to safeguard the rights and dignity of members. Moreover, we felt any larger change in this policy was a matter for the Council, not for us.

4) *What did the APSA Committee on the Status of Lesbians, Gays, Bisexuals and the Transgendered in the Profession (LGBT Committee) propose?* In a July 12, 2007 memorandum to the Council, the LGBT Committee proposed a new siting resolution that reads:

*Whereas the American Political Science Association would never hold its annual meeting in a state that allocated marriage rights on the basis of race, religion or ethnicity, the APSA shall not hold its national meeting in any state that, in its constitution, allocated marriage rights on the basis of gender or sexual orientation.*

The resolution included information indicating that this provision would prevent holding the APSA meeting in 26 states: Alabama, Alaska, Arkansas, Colorado, Georgia, Kansas, Kentucky, Idaho, Louisiana, Michigan, Mississippi, Missouri, Montana, Nebraska, Nevada, North Dakota, Ohio, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, and Wisconsin.

The documentation included with the resolution showed also that at least another 19 states have similar statutory restrictions limiting marriage to one man and one woman, including many states in which APSA regular holds its meetings. (Only Massachusetts issues marriage licenses to same-sex couples – the remaining states do not allow marriage but do allow different kinds of civil unions.) The LGBT Committee did not extend its petition to the states with statutory restrictions – explaining separately that they felt these states had greater potential to change policy since the provision was not constitutionally grounded.

The Committee memo also indicated they wished the principle in the petition to apply to siting of other APSA meetings such as the Teaching and Learning Conference as well as the Annual Meeting.

5) *What action did the APSA Council take at its Chicago meeting in Fall of 2007?* The APSA Council discussed the report from the Annual Meeting Review Committee and the proposal from the LGBT Committee, and accepted its recommendation that there not be a “larger change” in the policy at this time. The Council asked the LGBT Committee to fine-tune their proposed language for changing this policy. Matters for further consideration include the timing of the impact of this policy, its implications for APSA’s smaller meetings as well as larger ones, further interpretation of its application to states with constitutional bans but not to those with statutory bans, and other issues.

6) *When did APSA select New Orleans as a conference city for 2012?* APSA signed its contract in 2003 to hold its annual meeting in New Orleans. The Louisiana constitutional prohibition on same sex marriage was not adopted by the voters until September 14, 2004 – a year after we had contracted to site the Annual Meeting in the State.

7) *Why did APSA select New Orleans as a conference city for 2012?* Few cities in the South have the characteristics and configuration of space appropriate for the APSA meeting – mainly just Atlanta and New Orleans. We had not selected a southern site in a long time and previous meetings in Atlanta had seen a 14% decline in attendance. In 2003 the only other option in the South that met our configuration and space requirements was New Orleans, a location that had been acceptable previously to the Lesbian and Gay Caucus.

8) *What would happen if APSA sought to terminate its contract and to move the meeting?* In terms of our contracting with meeting hotels, we would face three kinds of consequences. First is the risk of financial loss from breaking the New Orleans contract. Our anti-discrimination clause is untested and framed to refer to city actions not state actions. Most likely we would be sued and our claims would be tested in court. APSA will require legal counsel to advise us about the legal grounds for terminating the contract, and what our likely liability would be.

In the worst case, we could face extreme financial damages compensating the hotel for the sleeping room revenue the hotel would have expected had the meeting occurred. The legal claim that we could terminate the contract in a state with a constitutional ban on same-sex marriage because civil rights of our members are violated is untested. A further question is whether our legal position is weakened if we terminated a contract in a state with a constitutional ban and then moved to a state with a state statutory ban. APSA will continue to explore these issues.

Second, we would need to find another location. It would be difficult to move the meeting until the legal interpretation of our policy was settled, which could be some time. With a short lead time, it is likely we would face higher costs. And we'd have not had a meeting in the South for many years.

Third, our ability to sign good contracts in the future would be harmed, given a record of having moved two meetings in recent years. This would result in higher costs for members and less options for sites for many years.

9) *What are the implications for APSA to adopt a provision about marriage rights?* The APSA Constitution says the Association “*will not commit its members on questions of public policy nor take positions not immediately concerned with its direct purpose [to encourage the study of Political Science...]*”<sup>2</sup>

As a rule, this prevents the Association from taking a position on most policy matters. However, if a public policy prevents a member from attending a conference safely, conveniently, and equally, the policy issue may become a legitimate Association concern. For instance, discriminatory lodging policies would certainly impede participation at the meeting, and would be a legitimate policy concern of the Association. A general reason that APSA has based its anti-discrimination policy for annual meeting sites at the level of policies in the city is that such policies can be expected to have an immediate, proximate influence on participation.

In evaluating the proposal that APSA consider state constitutional provisions about marriage rights, one set of questions then arises as to whether this reaches beyond the level of committing members on questions of public policy. One claim has been that gay partners, particularly with

children, might find themselves at risk in a state that did not recognize their legal relationship, if it were necessary to make, for example, emergency medical decisions.

Louisiana jurists did attempt to speak to this, when the state constitutional amendment was reviewed and found constitutional by the state supreme court. The Chief Justice of the Court, Pascal F. Calogero, Jr. wrote:

“I wish to reiterate the majority’s observations, at note 31, concerning the impact of this decision on property and contract rights of unmarried couples. Nothing in the majority opinion would prohibit an unmarried couple from contracting to be co-owners of property, from designating each other agents authorized to make critical end of life decisions, or from leaving property to each other through wills. The majority opinion does not disturb or impair the fundamental contract and property rights possessed by all individuals, be they homosexual or heterosexual, married or unmarried.”<sup>3</sup>

APSA then may wish to inquire as to the actual civil rights record of the city of New Orleans on LGBT issues, particularly since the amendment was passed.

The APSA constitution tempers the prohibition against our taking positions on matters of public policy by adding: *But the Association nonetheless actively encourages in its membership and its journals, research in and concern for significant contemporary political and social problems and policies, however controversial and subject to partisan discourse in the community at large these may be.*

10) *What is the history of APSA’s moving its Annual Meeting?* Site selection for the Annual Meeting has always been constrained, and freedom of choice more imagined than real. Following APSA’s cancellation of its Chicago meeting in protest over the ERA vote, the settlement between APSA and the Hilton Corporation contractually bound APSA for 10 years to meeting only in cities having a Hilton Hotel. For many members, the Annual Meeting has come to mean the Washington, New York, San Francisco, Atlanta, and New Orleans Hiltons.

As the size of the meeting grew, APSA stayed within the contractual commitment to Hilton Hotels in major cities by adding non-Hilton hotels that supplied meeting as well as sleeping rooms. In San Francisco, Washington, Atlanta, New Orleans, and New York, the Annual Meeting functionally became a co-headquarters meeting.

Once the Hilton contract expired, the Association was free to solicit bids and contract with other hotel chains. In the face of competitive bidding, the Marriott and Sheraton chains more often than not have offered more favorable terms than the Hilton chain. The opening up to other hotels expanded the number of cities that could be considered for conventions, though other forces worked to limit choice. Boston and Philadelphia were added to the list of potential sites because, though lacking in Hilton facilities, adequate space could be found at a Marriott or Sheraton or both.

In 2005, APSA exercised a provision in its contract relating to labor actions that might prevent the meeting from proceeding effectively, and moved from San Francisco to Philadelphia. This

move did not incur legal or financial consequences because of the performance clause in the APSA contract designed to handle unexpected events that might jeopardize the meeting. The clause reads:

*10.01 Performance*

*Neither party shall be responsible for any failure of performance due to acts of god, war, government regulation, disaster, labor disputes and strikes, civil disorder, curtailment of transportation facilities, shortage of commodities or supplies to be furnished by the {hotel name}, or other emergencies making it inadvisable, illegal or impossible to provide the facilities or to hold the meeting in the hotel or city as originally planned. It is provided that this agreement may be terminated for any one or more of such reasons by written notice from one party to the other.*

*[a] The Hotel shall provide APSA written notification of pending labor contract terminations or changes.*

*[b] The Hotel shall advise APSA of city-wide conditions that would affect the meeting, especially strikes of public transportation and safety workers and renovation of transportation services and routes.*

The San Francisco hotel could very well have challenged the clause. It is impossible to document, but there was a built-up trust between the hotel and APSA due to reliability of the Association's past performance that certainly worked in APSA's favor.

11) *What other steps is APSA taking now?* APSA has deferred making any future annual meeting siting decisions while these issues raised are addressed. Decisions about the Teaching and Learning Conference are needed on an annual basis. We will make these decisions on a case-by-case basis with wide consultation .

The Council, at its August meeting, asked for further study and recommendations from the Committee on the Status of Lesbians, Gays, Bisexuals and the Transgendered in the Profession and from the Annual Meeting Committee, and is itself framing a number of questions regarding whether lesbian and gay partners can have their civil rights to make emergency decisions respected the specific legal vulnerabilities in various cities where we meet.

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1 a. Contracts for meetings are signed 4-5 years out, sometimes longer, to secure a particular site; and multiple-year contracts are sought to secure concessions and lower rates.

b. Selecting Region. There is a longstanding practice that the meeting should rotate through regions as well as return to Washington, D.C. every five years unless the cost of doing so are unreasonable. There is not a fixed rotation to the regional representation so that possible sites in different regions can compete for the meeting. The selection of the region also allows for movement between cities within a region if possible.

c. First-Tier Cities. The Council has affirmed that the meeting should be held in first-tier cities, i.e. major metropolitan areas such as Washington, Chicago, San Francisco, Boston, etc. The cities also are also major air hubs to facilitate travel to and from the meeting. The cities offer variety of cultural experiences and broad range of restaurants.

(1). Cities we've customarily used are Washington, DC, Boston, Chicago, New Orleans, San Francisco, New York.

(2). Cities also used: Atlanta, Philadelphia, Denver (no longer big enough), Toronto.

(3). Capacity. A city must provide sufficient meeting rooms (75+) and exhibit halls, and sufficient sleeping rooms (in 2007 the room block on peak night committed for 3375 attendees for a total meeting attendance of 6925). The city must also be able to provide an all-space hold on space from Wednesday through Sunday unless the Association agrees to release the space. Hotel groups within a city are encouraged to compete with each other.

e. Cost. The hotels competing for the meeting must offer low rates. The meeting has remarkably low rates aided by its meeting history and the timing of the meeting.

2 The full language is:

*1. It shall be the purpose of this association to encourage the study of Political Science, including Political Theory, Political Institutions, Politics, Public Law, Public Administration, and International Relations.*

*2. The Association as such is nonpartisan. It will not support political parties or candidates. It will not commit its members on questions of public policy nor take positions not immediately concerned with its direct purpose as stated above. But the Association nonetheless actively encourages in its membership and its journals, research in and concern for significant contemporary political and social problems and policies, however controversial and subject to partisan discourse in the community at large these may be. The Association shall not be barred from adopting resolutions or taking such other action as it deems appropriate in support of academic freedom and of freedom of expression by and within the Association, the political science profession, and the university, when in its judgment such freedom has been clearly and seriously violated or is clearly and seriously threatened.*

3The source is available at <http://www.lasc.org/opinions/2005/04ca2477.opn.pdf>