



Navigator

Winter 2015

STATE NAUIAP MEMBERSHIP

It is a great deal!

Dorothy Johnson, Deputy General Counsel, Florida

It is time again to start planning for your participation in the upcoming NAUIAP Conference *and* your state's participation in NAUIAP for the upcoming year! Even if you are unable to attend the conference this year, membership in NAUIAP is a worthwhile expenditure.

The use of a state membership allows a state to register all of its appeals staff and other pertinent employees (for example, the UI Director). Membership gives those individuals access to the valuable materials in the NAUIAP newsletter and web page, and a connection to appeals staff throughout the United States, even if the state is only able to send a few people to the conference.

Membership dues cover the cost of publishing the valuable information you find in the newsletter and the information contained on the member portion of the NAUIAP web page, while conference registration fees covers specific conference expenses. Although the articles you see and the information on the web page are assembled by your peers on a volunteer basis, the layout and production of the newsletter and the maintenance of the web page must be purchased from vendors.

State membership fees are due by June 1 of each year and cover a one-year membership expiring on May 31 of the following year. The membership fee is based on the number of employees to be covered. For example, a membership fee of \$500 allows a state to enroll up to twenty-five members. Membership for twenty-six to seventy-five members costs \$1000, and for seventy-six or more members, the cost is only \$1,500. State membership is a great, inexpensive way to put conference materials, federal and state information, and a database for national legal research at the fingertips of each of your hearing officers and administrative staff.

To sign-up for a state membership, please contact the membership director through the link provided on the membership page and complete the membership form found at the bottom of the membership page. These resources can be found at <http://nauiap.org/membership-info.html>. Get your state registered as soon as possible so all your appeals professionals will have access to the materials from the 2015 NAUIAP Conference in Washington, D.C.!



Join us in Washington, D.C. on **June 23–26, 2015**, for NAUIAP's 35th annual training conference! This is a perfect opportunity to meet other appeal professionals who are within your region and throughout the country.

GET CONNECTED IN 2015!



You will have an opportunity to exchange ideas at the Regional Breakout session, hobnob with everyone during breaks and after-hour activities, and pick the brains of our wonderful speakers!



PRESIDENT’S COLUMN by Karl Jahnke, President, Oklahoma

Thank you for being a member of NAUIAP and taking time to read this winter issue of the *Navigator*! I want to first thank your Board of Governors, Committee Chairs and Committee volunteers for the work they have done and are still doing to make this year’s conference successful. Our agenda is looking great! Responses to our invitations to people throughout the divisions of the USDOL are very positive with confirmations from many of our partners in the Francis Perkins Building and a strong response from DOL Regions throughout the country.

In October, the Board of Governors met in Providence, Rhode Island, and began the work of planning the June Training Conference. There were substantive conversations and reports to the Board from Corey Pitts, Division of UI Operations, and Suzanne Simonetta, Chief, Division of Legislation for OUI. We also received a report from Brian Langely, UI Staff Director for NASWA. At our fall meeting, we also welcomed new Board Members Dan Doherty(MD), Treasurer, and Tim Dangerfield(SC), Cheri Ruch(ID), Chris Tyler(OK) and Jayson Myers(NY), all At-Large members.

One exciting development from the meeting was a report by Chris Tyler about a project to redesign a new website for NAUIAP. The new site will be up very soon and will include a simplified registration and membership process, as well as a NAUIAP store to purchase products. An announcement will come out as soon as the new site goes live. I hope members will take advantage of the NAUIAP site to share job openings around the country and news of policies and cases that might affect our work across the country.

The timing of this year’s conference coincides with many anticipated changes in the performance review process of UI, including Lower Authority Appeals quality. Change often comes from and always calls for discussion and this is a discussion all of you who work in UI appeals are uniquely knowledgeable and qualified to participate in. An old friend recently gave me a Buddhist magazine for a birthday gift. Though I am not Buddhist, it was an interesting read. One article that caught my eye was about developing meaningful conversations about important things. Folks who work in UI Appeals know how to create a fair conversation-it’s what we do, but two tips from this article seemed appropriate. The first was to look behind your own no-trespassing signs. What is behind your/our own restrictions making some things seem off limits for discussion? Second, the article suggested, don’t talk bull\$^!t. Say something real. If we are afraid to speak of matters that we claim are important to us, we need to examine what we are afraid of. Whatever we do, let’s all get in the discussion. NAUIAP is the perfect place to do just that.

USDOL will soon announce ways they will be contributing to this conference beyond their already enthusiastic response to our invitations to presenters and workshop moderators.

Please do not miss this opportunity to attend and participate in this national discussion and training focused on UI Appeals.

Thanks for reading and listening too I hope. I look forward to seeing someone from every State in Washington D.C. this June.



A GOOD LISTEN TOO

Karl Jahnke



First, *Let’s Work* with Mick Jagger is a call to all Board of Governors, Committee Chairs and Volunteers to put in the work it takes to make the 2015 USDOL-NAUIAP Training Conference in Washington D.C. June 22-26 a success. <https://www.youtube.com/watch?v=NoGofVhKTo>

Second, you had to know Woody Guthrie was gonna’ get in here some-time, so here it is. *This Land...* by Sharon Jones and the Dap Kings as a reminder to all NAUIAP Members this is a national organization and this year is an opportunity to have representatives from very jurisdiction at the Training Conference. https://www.youtube.com/watch?v=XQ78uDio_a0

NAUIAP Model Code of Judicial Conduct for State Unemployment Insurance Appeals Officers: Still Relevant

by Cheri Ruch, Idaho Industrial Commission

Professional codes of conduct or responsibility come in a variety of forms. Attorneys are all bound by the codes imposed by the state bars that issue their licenses. Judges are held to codes imposed by statute or the state's body that supervises the judiciary. However, a close examination of these kinds codes yields some gaps when applied to the individuals who adjudicate unemployment insurance appeals. Many adjudicators are not attorneys and therefore not held to a code of conduct imposed by a state bar. Moreover, an attorney's code of conduct does not address some issues unique to an adjudicator, such as disclosing a conflict of interest or addressing *ex parte* communication. Hence, the need for a code of conduct to address the specific needs of unemployment insurance appeals professionals

History of the NAUIAP Model Code

Beginning in 1982, the NAUIAP began discussing the organization's need for a Code of Conduct for the organization. However, it was not until 2000 that Board of Governors ("BOG") tasked the Special Projects Committee with the assignment. Chaired by Bob Lorenzo, Legal Counsel for New York's Higher Authority, the Committee used the ABA's Model Code of Judicial Conduct of State Administrative Law Judges as well as other codes as guides to develop a Code that would work for all NAUIAP members, regardless of level of authority or other characteristics unique to a particular state program.

The Committee developed a series of five Canons that appeared workable for any member of the organization. The Committee presented the finished draft to the membership at the 2001 conference in Ashville, North Carolina. After the Ashville Conference, members forwarded to the Committee comments for revisions.

From August 2001 until spring of 2002, the Committee worked on revisions to the Canons suggested by the membership and began drafting the Commentary. The Committee presented the final product to the Board of Governors at its spring meeting in February 2002. The Board unanimously decided to put it before the membership for ratification at the 2002 Conference in Portland, Maine. It was published on the organization's web site for preview before the Conference. After some discussion at the business meeting, the NAUIAP membership voted to ratify the Model Code of Judicial Conduct for State Unemployment Insurance Appeals Officers on June 27, 2002.

Many hours over the past two years went into the development of the Model Code. The participants included Brooke Pearson, VT; Tim McArdle, CA; Bruce Cleveland, VT; Jerry Garvy, TX; Jim Hilly, ME; Dave Kubli, OH; Camila McClain, NC; M.

Coleman Walsh, VA; George Matish, MI; Alan Toubman, ME; Alice Mitchell, (OK, now GA); Jim Guardino, NJ; John Ballavia, NE; and Cheri Ruch (ID).

After its introduction and ratification, some states, such as Oklahoma, adopted NAUIAP's Code of Professional Conduct as its own Code. But, for the most part, the Code has seen little attention over the years.

Fast-forward to the 2014 Conference in Charleston. The BOG and the Agenda planners asked that the Model Code be dusted off and presented in a workshop. That workshop fostered some spirited discussions about the Code itself and whether something adopted before the era of social media was still applicable. The most surprising revelation to come out of those discussions, however, was the number of attendees who did not know that our Code existed. Therefore, Board President Karl

Jahnke tasked the Planning & Projects Committee with taking a critical look at the Code to ensure that it is still relevant and applicable.



Deliberations and Conclusions of the Planning & Projects Committee

Committee

As with all of the committees that work behind the scenes for NAUIAP, the Planning & Projects Committee depends on the participants of its volunteers. This year's Committee counts among its members Chris Fierro (RI), Christopher Venezia (GA), Deb Cheatham (WY), Derrick McFarland (SC), Devon Lewis (IA), Eileen Rehrrmann (MD), Leah Kanne (OK), Renee Williams (GA), and Stephanie Parker (DE).

The Committee compared the NAUIAP Code to other codes of professional responsibility. After deliberation, the Committee concluded that the NAUIAP Code offered the flexibility to make it applicable to all of its members, regardless of title or specific job duties. The Model Code uses the term "Appeals Officer" to describe anyone responsible for adjudicating a unemployment insurance appeal, whether or not an attorney, and whether officially referred to as a hearing officer, appeals examiner, administrative law judge, referee, adjudicator, or any other title. Other codes do not offer that flexibility.

The Model Code consists of five Canons to address the issue of Appeals Officer independence and conduct. These Canons are intended to ensure that Appeals Officers provide fair and impartial hearings and impart decisions based on the evidence without delay. In addition to behavior during the hearing, the Code discusses activities outside of "work" that can affect the Appeals Officer's ability to fairly adjudicate unemployment insurance appeals.



NAUIAP Model Code of Judicial Conduct for State Unemployment Insurance Appeals Officers: Still Relevant

Because some states allow individuals responsible for unemployment adjudication to engage in the private practice of law, the Model Code recognizes and provides for that activity so long as it does not impair the Appeals Officer's independent professional judgment. The same is true for Appeals Officers who also serve as arbitrators or mediators. Participation in political activities is encouraged to the extent allowable by applicable statutes.

The Committee also reviewed the Model Code's lack of provisions to specifically address "social media." Social media encompasses forms of communication users employ to engage in conversations and express opinions. Most potential ethical issues arising from the use of social media are covered in the provisions prohibiting *ex parte* communication (Canon 3A6) and making public or nonpublic comment that would interfere with a fair hearing. (Canon 3A8). In other words, if it would be unethical to discuss a case in person or over the phone with an individual or a group, the same holds true if the comments are disbursed through Twitter. If talking to a party over the phone or through email would constitute *ex parte* communication, it is also *ex parte* communication if it takes place over Facebook or through text messaging. Because "social media" is changing, the danger of amending the Code to address specific forms would mean that future updates would be necessary to keep up with the changes in technology. Therefore, the Committee concluded that no amendments are necessary at this time.



Closing Thoughts

The last decade has ushered in some amazing technological advances in both our personal and professional lives. We now take for granted forms of electronic communication that did not exist ten years ago. However, these changes in technology and administrative procedure have not changed the fundamental objective in all appeals – providing the parties with a fair hearing before an impartial tribunal. For that purpose, the **NAUIAP Model Code of Judicial Conduct for State Unemployment Insurance Appeals Officers** is as relevant today as it was in 2002.

The work of the Planning and Special Projects Committee continues. Our next task is reviewing the NAUIAP hearing record handbook and merging the handbook for telephone hearings into that document. If you would be interested in playing a role in this important project, please contact Cheri.Ruch@iic.idaho.gov. We welcome and need ideas from all perspectives of the unemployment appeals community.



A GOOD READ

Cynthia Thornton,
California

God's Debris: A Thought Experiment by Scott Adams (the Dilbert Cartoonist!) Remember in college

when you participated in all those late night discussions about what if there is an entire universe in each atom? If you were amused even slightly by those discussions, this is the book for you. The plot is a delivery man who ends up at a customer's home and gets drawn into a long philosophical conversation with him. It's a fun read and Adams challenges the reader at the beginning saying some of what he says in the book is fact and other things are made up. I was surprised at one or two ideas that were not made up!

The Alchemist by Paulo Coelho. This is a book on all the intellectual reading lists, but I liked it because it is in a simple parable format so it can be read on a number of different levels. A few years ago, this book became famous because of all the famous people caught reading it.

Crossing to Safety by Wallace Stegner. This book is proof that with great literary ability, you don't need conflict or suspense in your plot. Stegner's prose is so much fun to read, that even though I am a plot junkie, I was enthralled with his writing.

Perfidia: A Novel by James Ellroy. This is part of a five part series that includes *The Black Dahlia*, *The Big Nowhere*, *L.A. Confidential* and *White Jazz* and is set just before World War II breaks out. The characters spill over from one book to another. The books are set in Los Angeles and are basically murder mysteries. Character development is where Ellroy really shines, but his books are all fast moving and dark. Think film noir, Mickey Spillane and tough talking detectives in seedy motels.

Unbroken: A World War II Story of Survival, Resilience and Redemption by Laura Hillenbrand. This is a remarkable story (the basis of the movie which was released at Christmas) which actually includes useful information such as how to catch a shark from a life raft and how to land a World War II era plane that has no breaks. The story is remarkable and well told. (The film **Unbroken**, directed by Angelina Jolie, was based on this book.)

NAUIAP TRAINING CONFERENCES: A Spouse's Perspective

By Emory Johnson, Florida

"I do not want to go." "Why should I waste our money to go?" "What part about 'No' do you not understand?" No, these are not the discussions with our children, or more specifically now in our case with grandchildren, instead these were the replies when it was first suggested that I attend my first meeting of the National Association of Unemployment Insurance Appeals Professionals (NAUIAP) Training Conference as a spouse.

I happen to be the husband of a member of NAUIAP from Florida. At the same time I was one who argued against attending a meeting with persons with whom I most likely share nothing in common. Furthermore, why would I want to have one of their chosen destinations as our family vacation destination? I do not announce errors of my opinions or decisions easily. I certainly do not have the reputation of being an easy person to convince to follow down paths of others, much less to take their opinions as fact without a few arguments along the way.

Now, if you are weary from the request of "please make the trip to Washington with me" I have a suggestion – give up and give in! Make reservations for the trip. I am a total convert as to the reasons and merits for traveling together to experience firsthand the sharing of knowledge of leaders within our country's unemployment process, as well as the opportunity to visit the center of America's government.



I was first convinced (or pressured) to attend a national meeting of NAUIAP in Boise, Idaho – stayed a few days after the meeting, great scenery, wonderful lodges and excellent food. All a very good reward for my cooperation and sufficient enticement to attend another national meeting. The arguments on my part were not as strong for a trip to Rhode Island. I returned home with stories of other folks who "tagged along" and stories of their occupations, families, plus again great scenery, food and lodging. Then came Nashville and Charleston – no argument on my part. Instead I had questions of items to be on the agenda that might possibly interest me as a small business owner and about the names of other spouses or partners attending. We needed to make dinner reservations and plan our tours while our partners were in meetings.

Hopefully without offending anyone – in the rural South in the early 20th Century many farmers enjoyed the privilege of "free range" for their cattle. This practice allowed the farmers livestock to graze freely on nearby graze lands and the herd was only brought together a couple of times a year through the use of a "bellcow." This quaint phrase became part of the southern vernacular for referencing the member of a group who takes the leadership role because they are trusted by the group to know the terrain, understand the laws of property and persons, and have an interest in safeguarding families and leadership to ensure better management of human resources. The term of "bellcow" may have disappeared from our vocabulary, however its definition addresses each of the leaders attending the annual meeting from large or small jurisdictions, metropolitan east coast and west coast states, or vast states from across the Midwest. As a partner to a person involved with the organization, you can appreciate firsthand the respect these individuals have for one another and the working relationships you only hear in passing after a stressful day they spend at their office.



The opportunity to meet the leaders from across the nation and to be that proverbial "fly on the wall" as they discuss the needs for improving the delivery of unemployment services only strengthens the resolve that, as spouses, we must offer them support in their daily work environment.

Then comes the enjoyment of experiencing, in this year's case, Washington DC and the wonderful places to go and things to see, almost all free of charge. Take time to meet a few of the other partners or spouses for walking and touring companions. Or, strike out on your own! The sites are too many to mention, however any area of pleasure can be found there, from Nationals baseball games to a symphony concert. There are zoos holding all types of wild animals to shopping at price levels from a mere dollar purchase to that equal to a mortgage.

I will be there for dinners, meeting with friends developed because I am the spouse of a member, enjoying tours and the sights of Washington, and enjoying the company of my wife's national partners in the area of unemployment appeals.

VISIT www.nauiap.org

Check out our sponsors from the 2014 Charleston Training Conference!



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