

**"Legislative History" of the Bylaws Changes of 2008
Congregation Etz Chayim**

Non-Jewish Congregants on Committees and the Board; Voting Rights

Purpose of this Document:

To provide background and direction to future Boards and Nominating Committees of Etz Chayim regarding how to interpret the language of the Bylaws adopted in 2008. As the Board members of FY 2008 reviewed the Bylaws adopted in 1998, it was clear that several sections of the Bylaws grew to be ignored over time, and/or the intent of those sections may have been construed differently than they were originally intended.

The FY 2008 Board deliberated carefully concerning the concepts and wording of its proposed Bylaws changes. Its votes were near unanimous -- all but one absent Board member were able to support the final wording it proposed to the congregation. This required compromise language in several matters, which only underscores the need for providing this Legislative History to give guidance to future Boards and Nominating Committees.

This document is not an exhaustive list of the thinking behind each section of the Bylaws or even of each change to the Bylaws. Rather, it is focused on achieving the goal of the Board during FY 2008 to ensure that as future Board members and congregants think through whom to solicit to run for positions on the board, they take into account the concerns and intentions of the Board in drafting the language that was proposed to [and adopted by] the Congregation in Spring 2008. Further, it is intended to provide guidance to future Board members as they think through whether they will choose to vote or choose to abstain on matters brought to the Board.

Issue:

The Board proposed that we provide greater opportunities for non-Jewish members of our community in the management of congregational affairs and decision-making.

A large percentage (perhaps a third) of our congregation consists of interfaith households. Some of the non-Jewish spouses and partners are very active in congregational affairs, ranging from participating in parent activities at the Religious School to participation in volunteering positions that provide key support for our financial and building operations activities.

In fact, in recent memory there has been no effort to distinguish between Jewish and non-Jewish members of the congregation in the composition of congregational committees. This is contrary to the 1998 Bylaws, which restricted committee membership to Jewish congregants only.

The current Board believes such a limitation to be contrary to the values of Congregation Etz Chayim. In a recent High Holy Days sermon, Rabbi Cartun spoke of our love and appreciation of the "K'rovim" -- those non-Jews who are close to Israel. Non-Jews who love and are loved by their Jewish family members and friends are involved in the raising of Jewish children, have a

commitment to the congregation, and the future of the Jewish people. We believe that an expression of that love and trust is to allow them to participate in the management of the congregational community.

Further, the Board believes that it would be a shame for the congregation not to take advantage of the experience, talents, and enthusiasm of some of its non-Jewish members. In addition, we recognize that membership in our congregation is, in households with two adults, usually a mutual decision of both adults, even when one is not Jewish. Many of our interfaith households joined Etz Chayim because of they felt welcomed. The Board believes that retention of such members would be enhanced if the non-Jewish members were welcomed not only as members but as active participants in our congregational community, whose voices are heard clearly during discussions of important matters.

Appropriate Limits

That said, in its deliberations over the concepts and wording of the changes the Board proposed in 2008, Board members shared concerns over whether there are appropriate limits as to who should be deciding matters of religious practice or which relate strongly to religious practice. Etz Chayim is not an Orthodox synagogue in which the rabbi is given sole authority to interpret Halachah and dictate congregational practice. Moreover, Etz Chayim is not aligned with any movement in contemporary American Jewish religious life (e.g., Reform, Conservative, Renewal, Reconstruction, etc.), so the congregation does not get guidance from an external board of rabbis in religious matters.

Rather, as an independent congregation, Etz Chayim's religious practices are determined by its Religious Practices Committee, as advised by the Rabbi and approved by the Board.

In its Bylaws discussions, the Board therefore took the position that the Religious Practices and Bar/t Mitzvah Committees, and only these two committees, be comprised solely of Jews. Nonetheless, the Board expects that on matters of controversy or when significant changes in religious practice are considered, the committees will seek out congregational input on such matters, including input from the non-Jewish members. The Religious Practices Committee already has done such outreach in the past, and it and the Bar/t Mitzvah Committee can expect that the Board to require that such outreach continue in the future.

More difficult issues

While many board members were unconcerned about any negative effect coming from non-Jewish members who had enough enthusiasm for Etz Chayim to be willing to serve on its board, a minority of board members felt that non-Jews should not be allowed to vote on religious matters before the Board. The concern was raised both about issues that are clearly matters of Religious Practice (e.g., the food policy of the congregation) and those that are more tangential (e.g., the question of whether to restrict an additional line on leaf-plaques on the Memorial Trees to covenantal names).

Several ways of limiting votes by non-Jewish board members were rejected, including:

- Quotas on the number of non-Jews who could be on the Board at any given time, rejected due to the sense that quotas are inherently offensive.
- Requiring a super-majority of votes on religious matters, rejected due to complexity.
- Forbidding non-Jewish board members from voting on religious matters, rejected because (a) it created an inherently "second-class" nature to the service of those non-Jewish board members, (b) it seemed incongruous to provide a "bright red line" limit to the powers of non-Jewish board members when they may be more knowledgeable and/or more sympathetic to the religious practices than secular Jewish members of the Board, whose votes would be unconstrained even if they were hostile to specific religious practices.

Who is a Jew?

The issue was complicated by a proposal to change the language in the 1998 Bylaws which defined who is Jewish in a broad manner: in addition to recognizing either matrilineal or patrilineal descent AND recognizing conversion to Judaism without regard to the "nature" of the conversion (i.e., as opposed to requiring an Orthodox or Conservative conversion), the 1998 Bylaws also accepted as Jewish anyone who "self-identifies" as Jewish.

The 1998 definition was viewed as problematic for many reasons. First, because it defined Jewish differently "for purposes of [the] Bylaws" than for ritual/religious matters, it created confusion among some congregants (including some board members. For ritual matters (e.g., who can say the blessing over the Torah), the policy of the congregation has been to require matrilineal or patrilineal descent or conversion. However, for purposes of both Bylaws and ritual matters, the approach of the congregation has been "trust, and do not verify" -- if someone said they are Jewish, they are not required to provide any evidence of Jewish descent nor certification of conversion.

Second, "self-identification" cuts both ways. A self-described "Messianic Jew" who accepts Jesus as the Messiah would be considered non-Jewish by the Board, but would pass a "self-identification" test for Jewishness. On the other hand, Board members and the rabbi could point to specific examples of people who are "Jewish all but for Beit Din" but who do not "self-identify" for their own personal reasons: e.g., a feeling that they are not adequately prepared to be considered Jewish, or a concern about offending a non-Jewish parent by rejecting their upbringing while the parent is still alive.

As the discussion progressed, board members (including those who initially felt non-Jews should not be allowed to vote on religious matters before the Board) agreed that there are indeed many examples of non-Jews in the congregation whom they would feel comfortable trusting either to vote on such an issue or to have sufficient commitment to the congregation and the future of the Jewish people, as well as self-awareness and integrity, to abstain if they (the non-Jewish board members) felt that they did not have the experience, knowledge, or interest to vote on the issue at hand.

Moreover, it was further agreed that the same requirements could and should be extended to all Board members, since even the Jewish Board members come from a variety of Jewish backgrounds, from secular to observant.

As a result, the phrasing in Article III, Section 4, requires abstention if, after being briefed on religious practice issues, the person feels an issue is "beyond the sphere of the [board member's] personal experience, interest or knowledge." In addition, Article III, Section 8, instructs the Nominating Committee to nominate candidates who have "a commitment to the Congregation and the future of the Jewish people." (Section 8 also instructs the Committee to "nominate candidates that are broadly representative of the Congregation, whose opinions and perspectives are important to the governance of the Congregation." This was felt to be a semantic improvement on the 1998 language that instructed the Nominating Committee to nominate candidates that are "drawn from the various constituencies whose opinions and perspectives are important to the governance of the Congregation," since there is no defined "constituencies" in the Congregation.)

As a final note, there is protection against any Board Member, or any congregant, who is acting contrary to the interests of the congregation. To use an extreme example, Article III Section 12 allows a supermajority of the Board to vote for the removal a Board Member for any reason, which might occur, for example, if the board learns that such a person is a "Messianic Jew" whose faith requires him/her to proselytize others to Christian beliefs. Similarly, Article II Section 5 allows a supermajority of the Board to vote for the removal from membership a congregant "for just cause."