

**AMERICAN BAR ASSOCIATION  
LAW STUDENT DIVISION  
THE ELECTIONS CODE:  
GUIDELINES, POLICIES, AND PROCEDURES**

**ARTICLE I: CERTIFICATION OF CANDIDACY**

**Chapter 1 -- Rules Relating to Candidates and Nominees**

§A. Definitions

- (a) Any mentioning of “the Code” refers to the American Bar Association Law Student Division Elections Code: Guidelines, Policies, and Procedures.
- (b) Any mentioning of the “ABA Law Student Division” refers to the American Bar Association Law Student Division.
- (c) A candidate is defined as a law student who has completed and submitted the appropriate nomination forms to the Division, and has received official certification from the ABA Law Student Division Director certifying the candidate for office.
- (d) A nominee is defined as a law student who has filled out and submitted the nomination forms to the ABA Law Student Division, but is awaiting official certification for candidacy.
- (e) Travel is defined as all costs incurred including transportation, room, board, and any other expenses associated with candidacy for office.
- (f) Permanent school is defined as the school wherein the student will receive his/her degree in law.

§B. Filing for Candidacy.

- (a) For certification, an individual must:
  - i. Be a law student attending any American Bar Association accredited law school;
  - ii. Be an ABA Law Student Division member in good standing;
    - 1. A nominee who has not paid his/her dues for the current bar year in full at the time of filing shall not be certified as an eligible candidate.
  - iii. Be a law student in good standing at a law school for the year in which he/she would serve in office, were he/she elected;
    - 1. not be on academic probation;
    - 2. not be suspended;
  - iv. Not have received his/her first degree in law;
  - v. Be a law student for the academic year following the election; and
  - vi. Be a law student whose law school Dean has certified his/her candidacy for elected office.
    - 1. A student studying abroad at a school where the candidate is not receiving his/her degree must be certified by the Dean of his/her permanent school.
- (b) Interested students should obtain a set of nomination forms from the ABA Law Student Division website, which is available at [www.abanet.org/lzd](http://www.abanet.org/lzd).
- (c) The deadline to file all appropriate nomination forms to the ABA Law Student Division is a strict liability deadline. All nomination forms must be postmarked by the deadline date or the candidate will not be certified.
  - i. Nomination forms must be sent to the ABA Law Student Division Chicago office using an overnight mail service with a tracking number, in order to furnish clear proof of sending and receipt.
- (d) Nomination is complete by the candidate timely filing the following nomination papers with the ABA Law Student Division Headquarters: American Bar Association, Law Student Division, Attn: Nominations, 321 N. Clark Street, Chicago, IL 60610.
  - i. Nomination Form

1. This form declares the student's candidacy for a particular position and states that the student has read and will observe the election rules and campaign restrictions.
- ii. Dean's certification
  1. The Dean of the candidate's law school states that the nominee will be a law student during the term, and enjoys good academic standing according to his/her school and states approval of the candidacy on this form.
- iii. Statement of candidacy and resume
  1. Each candidate shall enclose with the nomination forms a resume and camera-ready typewritten statement of candidacy. The resume and statement together must not exceed three one-sided 8-1/2 x 11 – inch pages, which may be single spaced.
  2. In the statement, the candidate should state his/her qualifications, platform, and ABA involvement. The three-page statement and resume will be printed and distributed to board members at the election once the campaign period begins.
- (e) A student who wishes to be a candidate for both Circuit Governor and National Officer may file nomination paperwork for both positions by the strict liability deadline simultaneously.
  - i. The filing deadline for Circuit Governor and a National Officer are the same.
  - ii. The National Officer positions are those listed in Art. IV, Ch. II, § A.
  - iii. A student must submit two (2) separate nomination forms pursuant to subsection (d); one for each position that candidacy is being sought. The forms may be mailed together in the same envelope using an overnight service to the ABA Law Student Division Chicago office.
  - iv. A candidate may only file for one National Officer position.
  - v. If a candidate is successful in his/her election as Circuit Governor, then the candidate's consideration for National Officer shall be immediately withdrawn from and he/she is no longer eligible to run for the National Officer position that he/she previously applied for.
    1. The Division Director shall immediately withdraw the candidate from the election for the National Officer upon being informed of the election results for Circuit Governor.
  - vi. If the candidate is unsuccessful in the election as Circuit Governor, then the candidate may still be an eligible candidate/nominee for the election of the National Officer position he/she previously filed for.
- (f) The Chicago office will verify each nominee's membership with the ABA Law Student Division and certify their candidacy.

### §C. How to Withdraw Candidacy

- (a) A candidate may withdraw his/her candidacy at any time after filing the appropriate nomination forms.
- (b) In order to properly withdraw his/her candidacy, written notice must be supplied to the Division Director, Division Chair, or the Elections Committee Chair.
  - i. The individual who receives notice of the withdrawal of a student's candidacy of the ABA Law Student Division will notify the Elections Committee of a candidate's withdrawal within a reasonable time.
- (c) A candidate who does not attend the election shall be presumed to have withdrawn, unless he/she notifies the Chicago office, the Division Chair, or the Elections Committee Chair that he/she cannot attend because of one of the following unavoidable circumstances:
  - i. an obligatory academic exercise, absence from which might result in a penalty of credit or grade;
  - ii. a civic or legal duty, absence from which might result in civil or criminal liability
  - iii. the serious illness or injury of the candidate or a relative or close friend;
  - iv. inability to travel, for a reason other than lack of funding or poor planning;
  - v. advanced pregnancy of the candidate or advanced pregnancy of a candidate's spouse;
  - vi. a religious obligation; or
  - vii. Any other reason that may be deemed an unavoidable circumstance by the Elections Committee.
- (d) No candidate who attends any part of the meeting where the election takes place shall otherwise be presumed to have withdrawn.

§ D. Continued certification for candidacy is contingent upon the individual meeting the following conditions:

- (a) A candidate must travel at his/her own expense to the meeting at which the election occurs, attend the meeting at which the election occurs, and participate in all election functions.
- (b) The provisions of this section apply regardless whether the candidate is opposed in the election.

§ E. If the candidate currently serves as a member of the Board of Governors for whom the ABA Law Student Division would normally provide reimbursement of expenses associated with the meeting at which the election occurs, the individual is not entitled to reimbursement of expenses subsequent to the start of election activities, including but not limited to, the per diem allowance and rooming allowance.

§ F. Any nominee or candidate for office shall be bound by the ABA Law Student Division Elections Code from the date their nomination form is certified by the Dean of their law school, regardless of whether the nomination form has been received by the Division. Any violation thereafter may result in a written warning or disqualification of candidacy at the discretion of the Elections Committee.

## **Chapter 2 -- Rules Relating to Third Parties**

§ A. A candidate subject to the provisions of the Code shall be strictly liable for the actions taken by others on their behalf, regardless of whether the actor has express or implied authority.

§ B. It shall be an affirmative defense to liability under Article I, Chapter 2, that a third party purposefully and maliciously violated provisions of the Code to purposefully achieve the disqualification of the targeted candidate.

§ C. Ignorance of fact or willful blindness to a third party's actions shall not be a defense under the Code.

## **ARTICLE II: RULES GOVERNING CAMPAIGNING**

### **Chapter 1 -- Pre-Campaigning Candidacy Guidelines**

§A. Definitions

- (a) Normal course of business shall be defined as any communications, activities, or tasks necessary for the performance of a position that is already held by the candidate or nominee within a law school or the ABA Law Student Division.
- (b) Residency shall be defined as the circuit in which the candidate or nominee's law school, which certified the nominee or candidate for office, is located.

§ B. No nominee or candidate for office in the ABA Law Student Division shall communicate, orally or in writing, with delegate voting members of the Division Assembly or Board of Governors, even under their normal course of business, without express written approval prior to the communication by the Elections Committee.

- (a) Delegate voting members of the Division Assembly and Board of Governors include:
  - i. Student Bar Association Presidents;
  - ii. American Bar Association Representatives;
  - iii. Any student serving as a proxy for their school's Student Bar Association President and/or American Bar Association Representative;
  - iv. Any member of the Board of Governors who has voting privileges at the time of election.
    - 1. The Board of Governors has voting privileges at the fall and spring Board of Governor meetings. The Board of Governors has no vote at the annual meeting, unless serving also as his/her school's Student Bar Association President, American Bar Association Representative, or a proxy for those individuals.

- (b) If a candidate serves in a leadership capacity at the time filing for an election, the candidate may continue to serve in that capacity, unless it involves communication with voting delegates for an election the candidate is running for a position. In this instance, the candidate's immediate supervisor should reassign any work that may involve communication with voting members for the candidate's position until the election period has concluded.

§ C. Any communications with delegate voting members of the Division Assembly or Board of Governors from within or outside of the nominee's or candidate's circuit shall be screened and approved by the Elections Committee Chair, in consultation with the Circuit Governor in whose circuit the candidate resides, before communication is made.

- (a) For a transferring candidate or nominee, residency remains with the school of certification until such time as the candidate shows evidence to the Elections Committee Chair and Division Director of acceptance for transfer to the new school.
  - i. Any communications to voting members of the new school and circuit:
    - (1) prior to showing evidence of a transfer to the Elections Committee Chair; and
    - (2) prior to receiving acknowledgement of that evidence from the Elections Committee Chair;shall be deemed an election regulations violation under Article 1 Chapter 1 § D of the Code.

## Chapter 2 -- Election Candidacy Guidelines

§A. Definitions.

- (a) The pre-election period starts when the candidate is certified by the ABA Law Student Division Director until the campaign period begins.
- (b) The campaign period is defined from the start of on-site registration for the meeting at which election polling occurs until such time the polls permanently close.

§ B. A candidate or nominee is prohibited from the following practices during the pre-election and election period:

- (a) Passing out business cards to any law student, except to attorneys for networking opportunities;
  - i. Candidates who currently hold other positions are prohibited from passing out business cards even in that capacity
- (b) Publishing any type of campaign materials;
- (c) Distributing any types of campaign materials;
- (d) Attending, organizing or hosting any hospitality suite, gathering, or party with voting delegates of the Division Assembly or Board of Governors;
  - i. This provision does not restrict a candidate from attending a general, non-campaign oriented gathering of law students at Division events or local establishments.
  - ii. However, if a gathering may contain voting delegates of the Division Assembly or Board of Governors, prior approval by the Elections Committee Chair and Division Director is required prior to attending the event.
- (e) Disclosing candidacy before the election period begins;
- (f) Providing any type of consideration to any ABA Law Student Division member in furtherance of candidacy or spending any money for the purpose of campaigning;
- (g) Engaging in the defamation of another candidate;
- (h) Publishing on any social networking or online website one's candidacy for office
  - i. Any posting by a candidate or nominee that a reasonable person may interpret as announcing or promoting one's candidacy will be considered a violation of the Code.

§ C. It shall not be a violation of Article II Chapter 2 § E if a voting member(s) is in the candidate's hotel room and that the voting member(s) is also the candidate's roommate(s) for the meeting.

- (a) Notice of the rooming arrangements must be provided to the Elections Committee and Division Director prior to the meeting where the election takes place.

## ARTICLE III: ELECTION PROCEDURES

### Chapter 1 – Announcement of Candidates for Election

§ A. Candidates for each office in the ABA Law Student Division, upon their successful certification for candidacy, shall be listed on the ABA Law Student Division website, listing the candidate's name, school, and position sought.

§ B. At the beginning of the election period, the Division Director shall post a display containing all eligible candidates for each office to be voted upon. The poster shall list the position sought, the name of the candidate, and a picture to accompany the candidate's information.

### Chapter 2 – Election Procedures

§ A. Division Chair, Vice-Chair, Secretary-Treasurer, and Representative to the ABA Board of Governors.

- (a) Prior to the call to order of the first meeting of the Board of Governors, the Chicago office shall circulate to each voter each candidate's statement. Any interested party may request a list of the names and schools of the candidates.
- (b) A candidate for any position listed in § A, excluding the Representative to the American Bar Association Board of Governors, may, in writing or personal oral notice, to the Division Chair, Division Director, or Elections Committee Chair, at least twelve hours before the scheduled call to order of the meeting at which the Board of Governors votes, change the office for which he/she is running.
- (c) Any unopposed candidate shall automatically be elected, provided they attend the spring Board of Governors meeting/election. He/she may briefly speak to the board.
- (d) If there is opposition for a position, the candidates may speak on his/her own behalf for up to five minutes.
  - i. The Division Chair, or presiding officer, shall organize the forum for candidate speeches and a question-and-answer period, during which any student may directly question any candidate, after the speeches.
  - ii. The question-and-answer period may occur in front of the board as a whole or in small groups that each candidate visits one at a time.
  - iii. The Division Chair, or presiding officer, shall appoint an impartial moderator from the Elections Committee to lead each group.
    1. The Division Chair, or the presiding officer, may serve as a moderator him/herself.
    2. The Division Chair, or the presiding officer, or a moderator may answer a factual question, but shall not ask a question or otherwise give his/her opinion regarding any candidate.
    3. The Division Chair, or the presiding officer, or a moderator shall also be vested with discretion to prohibit an inappropriate or improper question.
  - iv. Each candidate ought to have an opportunity to respond to any statement concerning him/her that is made in his/her absence.
  - v. The question-and-answer period for each group is limited to ten minutes.
- (e) If there is no candidate for any position listed in § A by the deadline for changing position, the Board of Governors shall take nominations for that position from the floor, in which case the foregoing provisions relating to nomination shall be suspended for that position; provided that the candidate elected shall file a certificate of qualification within two weeks after the election, otherwise the election shall be void and the position vacant. A nomination shall not otherwise come from the floor.
- (f) The position of Representative of the American Bar Association Board of Governors, shall proceed to interviews with the Nominating Committee prior to the start of the spring Board of Governors meeting.
  - i. The purpose of the Nominating Committee is to evaluate each candidate, on their own merits, to ensure all qualified nominees are presented to the Board as official candidates for election to the position.
  - ii. The Nominations Committee will
    1. Review all applications;
    2. Interview qualifying candidates (via telephone); and

3. Forward the name(s) of certified recommended nominees to the Division's Board of Governors for consideration and election at the spring Board of Governor meeting.
  - iii. The Nominations Committee is permitted to recommend to the Division's Board of Governors as many candidates as they desire.
  - iv. The determination of the Nominations Committee shall be final.
- (g) Election shall occur by a simple majority (50% plus one vote).
- i. In the case of a tie, the Board of Governors may invite the tied candidates to speak for up to three additional minutes, and then continue to one additional ballot. If a tie reoccurs, the Board may provide for an election by a specified random method where each remaining candidate enjoys the same chance of election. The ordinary method of such a deadlock shall be for the Division Chair, observed by the tellers, to flip a coin once.

§ B. Vice-Chair Student Bar Association.

- (a) Prior to the call to order of the first meeting of the annual meeting, the Chicago office shall circulate to each Student Bar Association President each candidate's statement. Any interested party may request a list of the names and schools of the candidates.
- (b) Any unopposed candidate shall automatically be elected, provided they attend the annual meeting/election. He/she may briefly speak to the assembly.
- (c) If there is opposition for the position, the candidates may speak on his/her own behalf for up to five minutes.
  - i. The Division Chair, or presiding officer, shall organize the forum for candidate speeches and a question-and-answer period, during which any student may directly question any candidate, after the speeches.
  - ii. The question-and-answer period may occur in front of the Student Bar Association Presidents as a whole or in small groups that each candidate visits one at a time.
  - iii. The Division Chair, or presiding officer, shall appoint an impartial moderator from the Elections Committee to lead each group.
    1. The Division Chair, or the presiding officer, may serve as a moderator him/herself.
    2. The Division Chair, or the presiding officer, or a moderator may answer a factual question, but shall not ask a question or otherwise give his/her opinion regarding any candidate.
    3. The Division Chair, or the presiding officer, or a moderator shall also be vested with discretion to prohibit an inappropriate or improper question.
  - iv. Each candidate ought to have an opportunity to respond to any statement concerning him/her that is made in his/her absence.
  - v. The question-and-answer period for each group is limited to ten minutes.
- (d) If there is no candidate for the office of Vice-Chair Student Bar Associations by the start of the annual meeting campaign period, the Student Bar Association Presidents shall take nominations for that position from the floor, in which case the foregoing provisions relating to nomination shall be suspended for that position; provided that the candidate elected shall file a certificate of qualification within two weeks after the election, otherwise the election shall be void and the position vacant. A nomination shall not otherwise come from the floor.
- (e) Election shall occur by a simple majority (50% plus one vote).
  - i. In the case of a tie, the Student Bar Association presidents may invite the tied candidates to speak for up to three additional minutes, and then continue to one additional ballot. If a tie reoccurs, the board may provide for an election by a specified random method where each remaining candidate enjoys the same chance of election. The ordinary method of such a deadlock shall be for the Division Chair, observed by the tellers, to flip a coin once.

§ C. Division Delegate.

- (a) Prior to the call to order of the first meeting of the annual meeting, the Chicago office shall circulate to each voting delegate each candidate's statement. Any interested party may request a list of the names and schools of the candidates.
- (b) If only three candidates apply for the position, they shall automatically be elected, provided they attend the

- annual meeting/election. He/she may briefly speak to the assembly.
- (c) If there is opposition for the position, the candidates may speak on his/her own behalf for up to five minutes.
    - i. The Division Chair, or presiding officer, shall organize the forum for candidate speeches and a question-and-answer period, during which any student may directly question any candidate, after the speeches.
    - ii. The question-and-answer period may occur in front of the board as a whole or in small groups that each candidate visits one at a time.
    - iii. The Division Chair, or presiding officer, shall appoint an impartial moderator from the Elections Committee to lead each group.
      - 1. The Division Chair, or the presiding officer, may serve as a moderator him/herself.
      - 2. The Division Chair, or the presiding officer, or a moderator may answer a factual question, but shall not ask a question or otherwise give his/her opinion regarding any candidate.
      - 3. The Division Chair, or the presiding officer, or a moderator shall also be vested with discretion to prohibit an inappropriate or improper question.
    - iv. Each candidate ought to have an opportunity to respond to any statement concerning him/her that is made in his/her absence.
    - v. The question-and-answer period for each group is limited to ten minutes.
  - (d) If there is less than three candidates for the position, by the first meeting of the annual meeting, the Student Bar Association Presidents and American Bar Association Representatives (or their proxies) shall take nominations for that position(s) from the floor, in which case the foregoing provisions relating to nomination shall be suspended for that position(s); provided that the candidate(s) elected shall file a certificate of qualification within two weeks after the election, otherwise the election shall be void and the position vacant. A nomination shall not otherwise come from the floor.
  - (e) The Assembly Delegates shall elect the Division Delegates by preferential voting. Each vote shall be given a point value:
    - i. # one vote = three points
    - ii. # two vote = two points
    - iii. # three vote = one point
  - (f) The three candidates with the most points/values will be elected. In the event of a tie, the candidate with the most #1 votes shall be elected. If the candidates are still tied, the candidate with the most #2 votes shall be elected. If the candidates are still tied, the candidate with the most #3 votes shall be elected.

#### § D. Circuit Governors.

- (a) Prior to the call to order of the first meeting of the spring circuit meeting, the Chicago office shall circulate to each voter each candidate's statement. Any interested party may request a list of the names and schools of the candidates.
- (b) Any unopposed candidate shall automatically be elected, provided they attend the spring circuit meeting/election. He/she may briefly speak to the circuit.
- (c) If there is opposition for the position, the candidates may speak on his/her own behalf for up to five minutes.
  - i. The Circuit Governor, or presiding officer, shall organize the forum for candidate speeches and a question-and-answer period, during which any student may directly question any candidate, after the speeches.
  - ii. The question-and-answer period will occur in front of the circuit as a whole.
  - iii. The Circuit Governor, or presiding officer, shall appoint an impartial moderator from the circuit to lead the session.
    - 1. The Circuit Governor, or the presiding officer, may serve as a moderator him/herself.
    - 2. The Circuit Governor, or the presiding officer, or a moderator may answer a factual question, but shall not ask a question or otherwise give his/her opinion regarding any candidate.
    - 3. The Circuit Governor, or the presiding officer, or a moderator shall also be vested with discretion to prohibit an inappropriate or improper question.
  - iv. Each candidate ought to have an opportunity to respond to any statement concerning him/her that is made in his/her absence.

- v. The question-and-answer period for each group is limited to ten minutes.
- (d) If there is no candidate for the position by the start of the spring circuit meeting, the Student Bar Association Presidents, American Bar Association Representatives, or certified proxies, shall take nominations for that position from the floor, in which case the foregoing provisions relating to nomination shall be suspended for that position; provided that the candidate elected shall file a certificate of qualification within two weeks after the election, otherwise the election shall be void and the position vacant. A nomination shall not otherwise come from the floor.
- (e) Election shall occur by a simple majority (50% plus one vote).
  - i. In the case of a tie, the circuit may invite the tied candidates to speak for up to three additional minutes, and then continue to one additional ballot. If a tie reoccurs, the board may provide for an election by a specified random method where each remaining candidate enjoys the same chance of election. The ordinary method of such a deadlock shall be for the Circuit Governor, observed by the tellers, to flip a coin once.
  - ii. In the case of a candidate receiving a plurality of votes, and not a simple majority, the candidates receiving the lowest votes shall be removed from the ballot. The Student Bar Association Presidents, American Bar Association Representatives, or their proxies, will vote until one candidate receives a majority vote. In the case of a tie, the same procedures under § D. subsection (e) paragraph (i) shall apply.

### **Chapter 3 – Counting of Election Ballots**

§ A. No candidate shall staff the polls, approach the polls, or otherwise help administer the election. A candidate may only approach the polls in order to cast his/her vote if he/she is eligible to vote.

§ B. The vote shall be taken by secret ballot, which each voter shall directly deposit into a sealed container.

§ C. No voter shall be asked to disclose how her/she voted.

§ D. The Chicago office shall print a standard ballot, and no other ballot shall be valid. The ballot shall contain the date of the election and the candidate names in alphabetical order by surname.

§ E. The Division Director, or presiding officer shall be in charge of certifying all proxies. Proxies shall follow the standard Division procedure.

§ F. The Division Director, or the presiding officer, with the advice and consent of the Elections Committee, shall appoint at least two impartial tellers. If possible, no teller shall come from the same circuit as a candidate. The Division Chair, or the presiding officer, may not serve as a teller.

§ G. Upon the official close of the election polls the Division Director or proctor of the election shall accompany the Election Committee members conducting the election to close all elections.

§ H. The Division Director or proctor shall, with two witnesses, take all ballots placed in the ballot box and to a separate room for counting. There shall always be two witnesses with the Division Director while the ballots are being counted.

§ I. Once the Division Director or proctor has entered the room where the ballots will be counted, no one may enter or leave the room for any reason, except for medical or any other emergency, until all votes have been tallied.

§ J. Two non-biased, non-election members of the ABA Law Student Division shall assist the Division Director or proctor in counting the ballots. These members shall be non-voting assembly members, or have any prior dealings with any candidates.

§ K. Upon counting and validating the casted ballots, the Division Director or proctor shall write the winner(s) of the election on a piece of paper, sign the paper, along with the signature of those counting the ballots, and seal the results in

an envelope. At no time should this envelope be opened until the Division Chair or presiding officer announces the results of the election along with the Elections Committee Chair or Circuit Governor at the delegated time.

- (a) The Division Chair shall announce the election results for the election of Division Chair, Vice-Chair, Vice-Chair Student Bar Association, Secretary-Treasurer, Representative to the American Bar Association Board of Governors, and Division Delegates.
- (b) The Circuit Governor shall only announce the election results for the election of Circuit Governor during the circuit's spring meeting.
- (c) If the Circuit Governor is a candidate for election, an officer of the ABA Law Student Division present at the meeting shall announce the results of the election.

§ L. The ballots of the election shall immediately be sealed and stored for one year. No person may request a re-count or view the number of ballots cast for the runner-ups to the winner.

## **ARTICLE IV: DISCIPLINARY PROCEDURE & RIGHT OF APPEAL**

### **Chapter 1 -- Burdens and Procedure**

§ A. Definitions.

- (a) A violation is defined as an action by the nominee or candidate for office that is reasonably construed or arguably believed to be a violation of the Code.

§ B. Any candidate who knowingly or intentionally violates any provision of the Code shall be disqualified from the election in which he/she is a candidate.

§ C. Any candidate who recklessly, but not knowingly or intentionally violates any provision of the Code shall be disqualified unless the Elections Committee finds under a harm analysis that the candidate's actions can be remedied by a warning

- (a) The harm analysis for the purposes of the Code shall include the following factors:
  - i. the actual prejudice suffered by the opposing candidates in the election as a result of the violating candidate's action,
  - ii. the affect on the integrity of the election, and
  - iii. the nature in which the violation occurred.

§D. Any Division member with knowledge of activities by a candidate in violation of the Code shall report the violation to the Division Director and Elections Committee Chair.

- (a) A report of an election violation shall be made in writing as soon as the person having knowledge of the violation is able to transmit the communication.
- (b) The individual receiving the report of the election violation shall immediately notify the remaining individuals mentioned in §D.
- (c) A report submitted to any other individual other than those listed in §D will be considered invalid and will not be investigated until a proper report is filed with one of the appropriate individuals.

§ E. After receiving a complaint or report of a violation under the Code, the Elections Committee shall convene to determine whether a violation of the Code has occurred.

- (a) The Elections Committee shall determine whether the candidate's action constitutes a violation under the Code by a majority vote.
- (b) All members of the Elections Committee shall be present during the proceeding. If a member is unable to attend the meeting, the Elections Committee Chair shall submit written notes of all testimony and

evidence to that committee member. The absent committee member shall have twenty-four (24) hours to vote on the matter, unless unable due to medical emergency or bereavement.

- (c) If a member of the committee is unable to fulfill their duties and cast a vote during the proceeding, the committee member's vote shall neither be marked as an affirmative or negative.

§ F. Upon receiving a complaint or report of a violation under the Code, the Elections Committee Chair shall immediately notify the candidate of the proceeding commenced against him/her.

§ G. The candidate shall be allowed the opportunity to present his/her case to the Elections Committee.

§ H. The candidate shall submit to and answer any questions reasonably related to the inquiry by the Elections Committee within a reasonable time set by the Elections Committee Chair.

- (a) A reasonable time shall be no more than forty-eight (48) hours from the time the questions have been submitted to the candidate.
- (b) Any lack of response by the candidate shall be construed as a waiver and the investigation shall continue.
  - i. A defense for an untimely response to the answers posed by the Elections Committee shall be a medical emergency or bereavement. In such a case, the candidate shall notify the Division Director, who will then notify the Elections Committee of such reason.

§ I. The candidate shall be allowed to present any evidence for review by the Elections Committee that, in the opinion of the committee, is relevant to the matter at hand.

§ J. Each member of the Elections Committee, except for the Elections Committee Chair, is entitled to only one (1) vote, with no proxy provision. The Chair shall only vote in the event of a tie.

- (a) In the event that the Elections Committee is chaired by two Co-Chairs, one Co-Chair shall be appointed as the head of the investigation. As the person in charge, that Co-Chair shall refrain from voting except in the event of a tie. The Co-Chair not serving as head of the investigation shall have one (1) vote.

§ K. The burden of proof necessary to warrant discipline under the Code shall be a finding of fact by the preponderance of the evidence.

§ L. The Elections Committee shall immediately submit a written report of their findings to the Division Chair, the Division Director, and to the candidate.

- (a) The report shall include:
  - i. a summary of the facts found by the committee,
  - ii. a statement of the rules and guidelines found to apply,
  - iii. the decision of the committee, and
  - iv. the punishment imposed.

§ M. Any decision imposed by the Elections Committee shall only be known to members of the Committee, the Division Director, the Division Chair, and the candidate involved.

§ N. The reporting member, committee member, witnesses, and the accused are bound by confidentiality regarding the suspected violation, its reporting to the committee, and any proceedings before the committee.

§ O. In the event the candidate is disqualified from the election, the Division Director shall make the appropriate notation on the Division website, as well as notify all voting members at the convening of the campaign period.

## Chapter 2 -- Appeal

§ A. A person found in violation of the Code shall be entitled to appeal the decision of the Committee to the Chair of the ABA Law Student Division. The appeal must be made in writing within a reasonable time after the candidate is informed of the Elections Committee's decision.

- (a) A reasonable time shall be no more than five (5) days after the postmark date of the Election Committee's decision.

§ B. The Division Chair shall review the evidence considered by the Elections Committee in light of the rules applied and either uphold or reverse the Election Committee's decision. The standard of review shall be whether or not the committee reasonably applied the applicable rules to the facts of the matter.

§ C. In the event that the Elections Committee's decision is reversed by the Division Chair, the matter against the candidate shall be dismissed with prejudice.

- (a) In the event that the Division Chair reverses the Election Committee's decision, a written report shall be submitted to the Elections Committee Chair, the Division Director, and the candidate stating the decision and analysis for the reversal.

§ D. If the Division Chair should uphold the decision of the Elections Committee, the candidate is entitled to appeal the decision to the Board of Governors by submitting such appeal in writing to the Division Director immediately following the Division Chair's determination.

§ E. The Director shall then convene the Board of Governors for consideration of the matter. If the appeal is requested outside of a normal meeting of the Board of Governors, the matter shall be addressed either at the next board meeting before the election or by an emergency conference call within five (5) days.

§ F. The Board of Governors shall then review the matter *de novo*, taking testimony and evidence from the Elections Committee members and the candidate.

§ G. The Board of Governors shall decide by secret ballot whether the Division Chair's determination should be overturned and the appropriate remedy for the infraction. The vote of the Board to overturn the Division Chair's determination requires a 2/3 majority vote.

## ARTICLE V: PRIOR ELECTION PROCEDURES

### Chapter 1 -- Precedent

§ A. In the absence of unambiguous language governing a reported violation or supposed violation, precedent from previous decisions of the Elections Committee shall be significantly considered when rendering judgment of an alleged violation.

§ B. In circumstances where the Code is unreasonably ambiguous and no prior precedent exists in relation to alleged violations, the Elections Committee reserves the right to petition the Board of Governors for a final decision on the matter.

- (a) The final decision from the Board of Governors shall stand with prejudice with no right of appeal under Art. IV Ch. II of this Code.
- (b) The final decision of the Board shall be determined by a simply majority.
- (c) The petition to the Board, under this Section, shall be made by the Elections Committee after exhausting procedural rules of Art. IV.
- (d) The Elections Committee shall define the procedures of such hearings before the Board of Governors.

## **Chapter 2 -- Repeal of Conflicting Provisions**

§ A. Any and all ABA Law Student Division rules, guidelines, policies, and procedures in conflict with this Code are hereby repealed as of October 30, 2010.

## **Chapter 3 -- Effective Date**

§ A. The provisions of this Code shall take effect immediately upon the approval of the Board of Governors and shall be published accordingly.

## **Chapter 4 -- Guidelines, Procedures, and Forms**

§ A. The Elections Committee, along with the Division Director, is vested with the power to adopt guidelines, procedures, and forms necessary for the implementation of the Code.

**Adopted: October 30, 2010**