There is nothing more exciting than a career in the area of election law! Although at first blush, a career in an area typically classified under administrative law may not sound thrill-a-minute, don’t let the loose classification mislead you. Election law is extremely fascinating and fast paced.

It is typically categorized as a practice area under administrative law because of the many federal and state agencies that regulate elections, candidates, and political organizations and their money. The two main federal agencies that regulate political activity and elections are the Federal Election Commission (FEC) and, to a much lesser extent, the Elections Assistance Commission (EAC). Innumerable other federal and state agencies are also involved, including the Office of Special Counsel, Department of Defense, FCC, and Internal Revenue Service (IRS).

These agencies regulate the activity of the countless individuals, candidates, lobbyists, organizations, unions, corporations, nonprofits, and committees (and all of their
employees, vendors, and volunteers) that influence or attempt to influence elections, legislation, and election disputes.

OUTSIDE INFLUENCES ON THE PRACTICE AND STUDY OF ELECTION LAW

Many other legal practice areas impact election law. Constitutional law provides the underlying framework for all restrictions on political activity. The intersection of constitutional law and election law leads to many fascinating questions. Have you ever wondered why disclaimers, such as the infamous Stand by Your Ad provisions found in the Federal Election Campaign Act (FECA) that result in your favorite candidate staring into the camera proclaiming, “I approve this ad,” are required on political advertisements when anonymous political pamphlets are such an important part of the history of this country? Is it constitutional for the government to limit the amount of money I contribute to a candidate for U.S. president? Does my vote count?

Nonprofit law continues to gain importance in the election law arena. Traditional nonprofit organizations are often interested in affecting election results and legislation. The political activities of these organizations are limited by the IRS. Some of the issues in this area arise because what the IRS considers political activity does not always mirror what the FEC considers political activity.

A separate concern that affects the actual practice of election law is public sentiment. The art of practicing election law involves the ability to recognize and predict public perception. In addition to ensuring that a client is complying with all applicable election laws, an advisor should be aware of the potential negative backlash from the press or certain constituency groups that might result from a particular course of action. Moreover, even if you know a regulation or statute is unconstitutional, a good advisor must consider the negative impact an enforcement action could have on the organization or candidate in a political sense.

Conversely, some knowledge of election law is necessary to ensure that once a candidate does win her election, she does not commit any violations after she enters office. For example, a member of the House of Representatives may not send campaign mail paid for by the federal government. This sounds simple, but should a mail piece lauding her impressive accomplishments while in office be considered campaign mail or merely constituent services?
ELECTION LAW TODAY

In general, the practice area and the academic study of election law issues exploded after the 2000 debacle in Florida. Although that incident specifically highlighted the problems with election administration, many other areas of election law are now receiving heightened scrutiny in the media, state and federal legislatures, and academic scholarship. You may have read about the recently enacted Honest Leadership and Open Government Act that regulates, among other things, “bundling” and the type of food available (e.g., only food that may be served on a toothpick) at certain functions where elected officials are present. The next hot topics that you are likely to read about include redistricting and potential changes in the regulation of contributions to federal candidates by corporations such as Wal-Mart, GlaxoSmithKline, or Exxon.

Obtaining practical experience in this field is quite easy. Regardless of your previous work or volunteer history, opportunities to gain valuable experience are available to you at your law school. Happily, regardless of where you live, there will be an election. There are always elections. Thus, there are always election disputes. Sometimes you don’t even have to leave campus. During my three years of law school, the Student Bar Association (SBA) elections resulted in a redo, a recount (for which we had no established procedures), allegations of campaign finance violations, and a major overhaul of the election regulations.

Certainly much more serious election disputes continue to arise frequently. For example, a local district attorney in a small, mostly white county recently concluded that students attending a historically black university located in the county were not eligible to vote in the county. On the flip side, the Justice Department filed a complaint against the New Black Panther Party alleging that its members engaged in voter intimidation at the polls in the 2008 presidential election. In general, election-law-related issues of varying interest and severity inevitably pop up at least once a week in the major papers.

OPPORTUNITIES AND CAREERS IN ELECTION LAW

There are many paths to a career included in the spectrum of election law. The most important step is to get involved. Somewhere in between reading for class, drafting the next memo, trial team tryouts, that next cite check, and volunteering to sell cookies in the lobby to help raise
money for the Election Law Society, you must find time to get involved in the election community. Here are a few potential opportunities:

1. Find a candidate that you believe in, call the candidate’s office, and offer to volunteer. If you show up and prove to be useful, no good campaign will allow you to waste your talents answering the phone.

2. Find opportunities with nonprofits that are politically active. These include organizations such the National Right to Life Committee and MoveOn.org.

3. Find opportunities to work for nonprofits directly involved in elections, such as the Pew Center on the States, the International Foundation for Electoral Systems, and the Carter Center.

4. Find opportunities with a state, local, or national political party.

5. Volunteer to staff a poll, election hotline, or a boiler room on Election Day. Almost every state now has a network of attorneys who volunteer on Election Day to help ensure a smooth process (or at least great documentation if it isn’t smooth).

6. Find opportunities to work at firms with practice areas in election law, political law, or governmental relations.

7. Find opportunities to work at one of the many state or federal agencies that regulate political activity.

Here are some of the positions that involve election law:

1. Attorney for any of the following:
   a. Federal or state administrative agency regulating elections
   b. Election and/or political law practice area
   c. Governmental relations practice area
   d. Local, state, or national political parties
   e. Campaigns
   f. Politically active nonprofits
   g. Political action committees
   h. Legislative committees on elections

2. Lobbyist

3. Election administrator
4. Campaign manager
5. Executive director
   a. Nonprofits
   b. Political organizations
   c. Political action committees
6. Chief of staff
7. Chief financial officer
   a. Local, state, or federal campaign committees
   b. Local, state, or national political committees
   c. Political action committees
   d. Nonprofits

Obviously, the particular track that you take will dictate your day-to-day work experience. Your day might involve the following: approving campaign literature, ensuring a candidate has complied with rigorous ballot access requirements, researching an individual’s campaign contribution history, drafting campaign finance reports, opposition research, filing reports with the IRS, drafting election administration regulations, training staff in the area of compliance, reviewing voter registration forms for complete information, researching and ordering voting machine equipment, designing the layout of ballots, drafting employment contracts, composing memos on the effects of a recent court decision on current regulations, commenting on proposed regulations, bringing enforcement actions, volunteering at the polls on Election Day, defending clients, and so much more.

In conclusion, this practice area offers you an amazing opportunity to work for people and causes that you believe in and to earn a living. You may be exhausted at the end of every day, but you will sleep well every night.