Committee on Drafting Policies and Procedures

ABA House of Delegates

September 2018
Dear ABA Colleague,

The mission of the American Bar Association is to be the national representative of the legal profession and to serve its constituents and the public by promoting justice, professional excellence, and respect for the law. In furtherance of that mission, the ABA House of Delegates considers Resolutions with Reports that become Association policies after adoption by the House.

This Guide has been prepared as a resource for anyone drafting a Resolution with Report. It is intended to assist with general drafting questions or concerns and to help avoid last-minute problems for the drafters of the Resolutions, the submitting entities, and the ABA staff.

It is critical that Resolutions with Reports are clearly understood, not only by members of the House who will vote on their adoption, but also by all other ABA members, the public, and by those to whom these policies are transmitted. These policies are most often directed to Congress, and state, local, territorial, and tribal governments, as well as their various agencies and officials, the courts, and law schools. Resolutions with Reports that are well-written and clearly expressed are less likely to be amended at the request of the Committee on Rules and Calendar or others during the debate on the floor of the House. Further, once adopted, they are less likely to be misunderstood by those asked to implement the policies.

If you have an unusual situation, questions, comments, or suggestions for improving this Guide, please contact the Chair of the ABA House of Delegates Committee on Drafting Policies and Procedures or House of Delegates Business Manager Leticia Spencer, (312) 988-5160, leticia.spencer@americanbar.org. In addition, the Committee on Drafting Policies and Procedures is available to review draft Resolutions and offer feedback.
DRAFTING GUIDE AND STYLE MANUAL
FOR HOUSE OF DELEGATES
RESOLUTIONS WITH REPORTS

Introduction

The ABA House of Delegates formulates policy of the Association at each Midyear and Annual Meeting. One of the primary ways the House formulates policy is through the adoption of Resolutions with Reports.

A Resolution with Report may be submitted to the House of Delegates by any of the following: a delegate to the House, a section, a committee, a state or local bar association, an affiliated organization, or an ABA member. It may be considered only if it proposes new policy or a change of policy, or if it reaffirms existing Association policy that has not been approved within the last 10 years. In addition, a Resolution with Report must meet certain other criteria set forth in the Rules of Procedures of the House of Delegates.1 This Drafting Guide covers each of those requirements and provides examples and other suggestions. It begins with an overview of the drafting and submission process.

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1 The Summary of House Rules of Procedures is available online using the link located at: http://www.americanbar.org/groups/leadership/house_of_delegates.html. Readers may also wish to consult the ABA Constitution and Bylaws, which are available online using the link located at http://www.americanbar.org/about_the_aba/governance_policies.html.
I. DRAFTING AND SUBMISSION PROCESS: OVERVIEW

A. Beginning the Drafting Process and Seeking Collaborators.

One of the first steps in the drafting process is to determine whether there is existing ABA policy that addresses—directly or indirectly—the issue you wish to address. To review a list of the 2000+ active ABA policies (i.e., those that have not been archived), consult the Policy and Procedures Handbook (Greenbook) that is published annually. A link to that book is available on the House of Delegates Website.

Another helpful resource as you begin drafting is the Summary of House Rules of Procedures, which is also available on the House of Delegates website. See Footnote 1, supra. That document outlines the applicable rules, such as filing deadlines and other information referenced in this Guide. The House of Delegates website also contains a link to the ABA Constitution and Bylaws, which addresses the House of Delegates in Articles §§41-50; those Articles are known as the Rules of Procedure of the House of Delegates. See Footnote 1, supra.

It is important to consider, early in the drafting process, whether there are other entities or individuals you would like to include in the drafting process. A Resolution with Report (hereafter generally referred to simply as “Resolution”) may be drafted by a single individual or entity, or it may be the result of a collaboration of numerous entities. When another entity has assisted or collaborated with the primary sponsor on a Resolution, it may choose to be identified as a “co-sponsor” of that Resolution. The term “co-sponsor” refers to an entity that has worked closely with the primary sponsoring entity to draft and develop the Resolution and is identified as such by the printing deadline. Such entities will be included in the bound/electronic books and on documents such as the final calendar, daily journal, and the “official” summary of action.

In addition to having “co-sponsors” of your Resolution, you may ultimately seek “supporters” of your Resolution. The term “supporter” is used to describe an entity that votes to endorse the Resolution but has not been integrally involved with the original drafting. You may choose to mention the names of supporting entities and individuals as you promote your Resolution and when you give your presentation to the House of Delegates, but their names will not be included in the bound/electronic books or printed on documents such as the final calendar, daily journal, or the “official” summary of action.

Throughout the drafting process, you are welcome to seek assistance from the House of Delegates Committee on Drafting Policies and Procedures, which can offer advice on formatting and also assist with identifying helpful resources within the ABA.

B. Timeline for Submission, Editing Process, and Revisions.

About four months before the House of Delegates meeting, the ABA Division for Policy and Planning will send out an email containing “Instructions for Filing Resolutions With Reports and Informational Reports to the House of Delegates.” Those instructions will include details on the e-filing process and will also identify the deadline for filing your Resolution with the House of Delegates Committee on Rules and Calendar. That deadline will be approximately three months before the House of Delegates Meeting, and entities are encouraged to timely file their Resolutions.

Resolutions that are filed by the regular filing deadline three months before the House of Delegates meeting will be reviewed by the Committee on Rules and Calendar. You will receive written feedback and suggestions from the Committee about one month after submitting your Resolution. You will then have one final opportunity to make additional changes before submitting a final version of your Resolution about ten weeks before the House of Delegates Meeting. At that same time, you have your final opportunity to list co-sponsors whose names will appear in the bound/electronic book. Filing tip: During the House meeting, Resolutions are generally (but not
always) considered in the order in which they were filed. If you want to have your Resolution considered early in the agenda, file it early to maximize the chances of that happening.

It is also possible to file a late Resolution. The Committee on Rules and Calendar will consider the urgency that exists when determining whether to calendar a late Resolution. The Committee will also consider the time delegates will have to review the late Resolution, the number of other Resolutions scheduled for consideration, and other factors. In some cases, the late Resolution will not be calendared.

Resolutions filed by State and Local Bar Associations can be timely filed any time before the final Rules and Calendar Meeting on the Sunday before the House of Delegates meets. See Rules of Procedure of the House of Delegates, § 45.5 and § 45.6. However, State and Local Bar Associations are encouraged to file their Resolutions by the regular filing deadline three months before the House of Delegates meeting if at all possible.

Resolutions that are filed late, or Resolutions timely filed by State and Local Bar Associations closer to the House of Delegates meeting, will also be reviewed by the Committee on Rules and Calendar, which may choose to offer more limited suggestions to the sponsoring entity, depending on the time available.

About six weeks before the House of Delegates meeting, a “bound book” is created (although most members of the House of Delegates will receive it in its electronic format, rather than in paper form). It is common for sponsoring entities to receive feedback from House of Delegates members, ABA entities, and others after they review the Resolutions. Frequently, a sponsoring entity may determine that it wants to make changes to its Resolution in response to feedback. Changes to the Resolution language itself may be made by “revising” the language any time before the conclusion of the final meeting of the Committee on Rules and Calendar, which is generally held the Sunday afternoon before the House of Delegates meets. As a practical matter, entities frequently notify the Committee on Rules and Calendar during its open hearing on Saturday or Sunday that revisions are coming and subsequently email them to the appropriate staff person within a few hours of the conclusion of the Sunday meeting of the Committee on Rules and Calendar. Note that if you have co-sponsors, each co-sponsor must agree to the revision before it can be made. If all co-sponsors do not agree to the revision, the Resolution will need to be amended from the floor of the House during the House of Delegates meeting. Entities that have indicated they are “supporters” of the Resolution do not need to agree to all revisions, but you should advise all known supporters of any changes. When a Resolution is revised, members of the House will be notified of the revisions by email the day before the House meets.

Although the language of a Resolution may be revised, the language of the Report that accompanies the Resolution may not be revised prior to the House of Delegates meeting, and it may not be amended from the floor of the House. That is because the Report is not adopted as policy, so the language is not subject to amendment. However, the sponsoring entity may make changes to the Report within a week or so after the Resolution is adopted, and the final version of the Report that is posted online and distributed will reflect those changes. As a practical matter, although sponsoring entities cannot revise or amend the Reports before the House considers a Resolution, it is not uncommon for entities to indicate informally or even during the House debate that they will make certain requested changes to the Report if the Resolution is adopted.

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2 See Rules of Procedure of the House of Delegates, Article 45, Resolutions with Reports.
II. RESOLUTION

A. Resolution Heading Format.

The heading of each Resolution uses the same format. It includes the name of the Association, the primary sponsor of the Resolution, and any co-sponsors, and it also identifies the document as a Resolution with Report to the House of Delegates. In addition, to facilitate discussion and amendments during debate, each line of the Resolution language must be numbered at the left margin. If the Resolution continues on a second page, the numbering should continue sequentially. Your first page will look as follows, using capital and bold letters for everything except the resolved clauses:

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AMERICAN BAR ASSOCIATION
SECTION OF ADMINISTRATIVE LAW AND REGULATORY PRACTICE
SECTION OF DISPUTE RESOLUTION
STANDING COMMITTEE ON ELECTION LAW
REPORT TO THE HOUSE OF DELEGATES

RESOLUTION

1  RESOLVED, That the American Bar Association…
2  FURTHER RESOLVED, That the American Bar Association…
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B. Resolution Language.

A Resolution proposes new policy or a change in policy, or reaffirms existing Association policy that has not been approved within the last 10 years.

Typically, a Resolution begins as follows:

RESOLVED, That the American Bar Association...

FURTHER RESOLVED, That the American Bar Association…

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3 See Section V of this Guide for additional instructions concerning formatting of the Resolution with Report. You can also view Resolutions that have been adopted by visiting the House of Delegates website.
As you draft your Resolution language, consider the following:

1. **What position do you want the Association to take?**

   Consider the message you wish to convey and choose the right verb, usually reflecting the action you wish to be taken by the ABA. Are you urging that the ABA support or oppose a statute, legislation or policy? Or that the ABA should urge or recommend the adoption of legislation?

2. **To whom should the Resolution be addressed?**

   **Federal Legislation.** When a Resolution concerns federal legislation, the Resolution should be addressed to Congress. (Do not refer to the United States Congress, the U.S. Congress, or to the Congress of the United States.)

   **Example:** RESOLVED, That the American Bar Association urges Congress...

   **Federal Policy.** When a Resolution concerns federal policy, the Resolution should be addressed to the particular agency or official.

   **Example:** RESOLVED, That the American Bar Association supports the efforts of the U.S. Trade Representative to encourage the development of transparency disciplines...

   **Example:** RESOLVED, That the American Bar Association urges the Attorney General of the United States to issue a memorandum to Freedom of Information Act Officials...

   **Example:** RESOLVED, That the American Bar Association urges the U.S. Patent and Trademark Office to amend...

   **Non-Federal Legislation or Policy.** When a Resolution concerns legislative or policy action by states, consider the appropriateness of referring to local, territorial, and tribal entities as well.

   **Example:** RESOLVED, That the American Bar Association urges all state, local, territorial, and tribal legislative bodies and governmental agencies to adopt laws and policies that...

   **Non-Governmental Entities.** In addition to making recommendations to governmental entities, it is appropriate to draft a Resolution that urges or encourages action by bar associations and/or individuals.

   **Example:** RESOLVED, That the American Bar Association encourages lawyers and judges to be personally and actively engaged in civic education...

   **Example:** RESOLVED, That the American Bar Association encourages state, local, territorial, tribal, and specialty bar associations to adopt...

   **Example:** RESOLVED, That the American Bar Association urges legal providers and employers to adopt policies and practices...
3. How to Cite to Legislation.

The House of Delegates may express its opinion on specific legislative proposals. An opinion on specific legislative proposals applies to later changes that do not affect the substance of the proposal. The House may also express its opinion on the basic purpose and effect of legislative proposals without acting on specific legislation. See American Bar Association Bylaws § 24.5 Resolutions and Reports.

Example: RESOLVED, That the American Bar Association urges Congress to repeal or amend specified provisions of the Prison Litigation Reform Act (PLRA), 42 U.S.C. § 1997e, as follows:

If the Resolution concerns a change to a current statute with a popular name, the Resolution should refer to the popular name of the statute and include a short description of the statute.

Example: RESOLVED, That the American Bar Association urges Congress to amend the Lobbying Disclosure Act of 1995 to extend the registration and reporting obligations as follows:

If a Resolution concerns a change to a statute without a popular name, refer to the U.S.C. cite.

Example: RESOLVED, That the American Bar Association urges Congress to amend 28 U.S.C. §1259(3) and (4) to permit discretionary review...


A resolved clause regarding and relating to the prior resolved clause may be made in the same Resolution.

Example: FURTHER RESOLVED, That the American Bar Association urges Congress to maintain its commitment for adequate resources to implement...

5. Use of Principles and Standards.

Sometimes the principles and standards proposed are too detailed to delineate in the resolved clause of the Resolution. In such cases, the resolved clause should refer to the standards or principles and attach them to the Resolution.

Example: RESOLVED, That the American Bar Association adopts the Principles of a State System for the Delivery of Civil Legal Aid, dated August 2006.

Note that the date of the Standards or Principles to be adopted should be the month and year of the ABA meeting at which they are considered.

If the Standards include commentary, the Resolution should note that the ABA adopts the black letter Standards and not the commentary unless the House of Delegates specifically is requested to adopt the commentary.

Example: RESOLVED, That the American Bar Association adopts the black letter (and commentary) ABA Criminal Justice Standards on DNA Evidence, dated August 2006.
III. REPORT

A. Heading.

Simply state “Report” without a substantive title:

REPORT

B. Body of the Report.

Pursuant to §45.2 (Resolutions with Reports) of the Rules of Procedure of the House of Delegates, the Report should:

• Be concise and in writing
• Contain a statement of reasons for the Resolution
• Address all components of the Resolution
• Refer to the Resolution as “this Resolution”
• Be no longer than 15 pages, unless the sponsoring entity seeks and receives approval from the Committee on Rules and Calendar
• Be written as a Report of the American Bar Association
• In the case of a Resolution proposing or opposing specific legislation, include a complete summary of the phase of the legislation under consideration together with relevant excerpts from the proposed bill
• In the case of a Resolution calling for action that may result in expenditures, include the amount requested if known

The Report should not:

• Contain any language that commits the Association to a policy not set forth in the Resolution

Note: The Report is not part of the Resolution and is not adopted by the House of Delegates. See American Bar Association Bylaws Article 45, Resolutions and Reports.

It is helpful to:

• Have the Report follow the order of the Resolution. If the Resolution includes more than one resolved clause, the issues in the Report should be in the same order as the issues addressed in the resolved clauses
• Include subheadings
• Ensure that all of the key components of the resolved clause are addressed in the Report
C. Closing.

The Report should end with the name of the chair of the sponsoring entity, the name of the entity, and the month and year in which the Resolution with Report will be submitted to the House of Delegates.

   Example:

   Respectfully submitted,

   Robyn C. Mitchell
   Chair, Dispute Resolution Section
   February 2007

Note: If two or more ABA entities jointly worked on a Resolution with Report, it should be jointly submitted by the chairs of those entities.

IV. FORMS

A. General Information Form.

The General Information Form contains twelve numbered sections, which must be typed exactly as they appear below in bold. Below each of those sections we have offered suggestions for addressing the sections.

1. Summary of Resolution.

   Briefly summarize the Resolution. Be sure that you address the main components of the Resolution, including all resolved clauses.

2. Approval by Submitting Entity.

   Indicate when the Resolution was approved or will be considered by the governing body of the submitting entity. If the vote was taken other than at a regularly scheduled meeting of the governing body, describe the procedure.

3. Has this or a similar Resolution been submitted to the House or Board previously?

   If this or a similar Resolution has been submitted previously to the House of Delegates or the Board of Governors, please include all relevant information, such as the summary of the Resolution, when and before what group the Resolution was considered, and what action or position was taken on the matter. This is where you might indicate, for instance, that a similar Resolution was submitted at the prior meeting of the House of Delegates and was withdrawn for further study.

4. What existing Association policies are relevant to this Resolution and how would they be affected by its adoption?

   This is the place to indicate whether this Resolution builds on a particular prior Resolution, reverses existing policy, etc.
5. If this is a late Report, what urgency exists which requires action at this meeting of the House?

If your Report is not late, then the answer to this question is “N/A.” If your Report is late, only then do you need to explain the urgency that exists, because the Committee on Rules and Calendar will consider whether to add the late-filed Resolution to the calendar. Remember that Resolutions filed by State and Local Bar Associations are not late as long as they are filed by the conclusion of the last meeting of the Committee on Rules and Calendar before the House of Delegates meets, which is generally the Sunday before the House meeting begins.


If the Resolution does not reference pending legislation, then your answer to this question is N/A. If the Resolution relates to legislation, such as that pending in Congress, identify the bill number and the status of the legislation.

7. Brief explanation regarding plans for implementation of the policy, if adopted by the House of Delegates.

Briefly state the next steps that will be taken if the policy is adopted. Consider providing a timeline of the sponsoring entity’s plan of action.

8. Cost to the Association (both indirect and direct costs).

If the Resolution commits the ABA to incur direct or indirect costs, or if the proposed implementation by the ABA is likely to incur direct or indirect costs, estimate the funds necessary, suggest the anticipated source for funding, and list proposed direct and indirect costs. Direct costs include the direct payment of funds, such as funding a scholarship or creating a new ABA entity. Indirect costs include those such as staff time or administrative overhead. Carefully consider whether the Resolution specifically requires the ABA to allocate financial resources or merely requires the ABA to engage in efforts to support or oppose a particular action. A reminder: in some cases, the Board of Governors will need to report on the Resolution’s feasibility if a Resolution requires the expenditure of funds. See ABA Constitution and Bylaws, § 28.1 (“Authority to Incur Expenses. The Board shall formulate and administer Association policy respecting authorized expenditures and procedures for reimbursement. If a proposal requiring the expenditure of funds originates in the House of Delegates, it may be acted on only after the Board reports on its feasibility.”).


Review the background of the proponents of the Resolution to determine if there are potential conflicts of interest. If such potential is found, list by name those proponents who have a material interest in the subject matter of the Resolution due to specific employment or representation of clients. Note all individuals who abstained from voting on the Resolution because of a conflict of interest. If there are no disclosures to make, the answer to this section is “None.”

10. Referrals.

List the sections, committees, bar associations, or affiliated entities to which the Resolution has been referred. Alphabetize the list.
11. **Contact Name and Address Information.** (Prior to the meeting. Please include name, address, telephone number and e-mail address.)

Indicate the name, address and telephone number of the person who should be contacted prior to the meeting concerning questions about the Resolution with Report.

12. **Contact Name and Address Information.** (Who will present the Resolution with Report to the House? Please include best contact information to use when on-site at the meeting. Be aware that this information will be available to anyone who views the House of Delegates agenda online.)

Indicate the name of the person who will present the Resolution with Report to the House and who should be contacted at the meeting when questions arise concerning its presentation and debate. Please be sure to include email addresses and/or cell phone numbers for your on-site contacts.

**B. Executive Summary.**

The Executive Summary contains four numbered sections, which must be typed exactly as they appear below in bold. Below each of those sections we have offered suggestions for addressing the sections.

1. **Summary of Resolution.**

You may choose to use the same summary that you used in the General Information Form.

2. **Summary of the issue which the Resolution addresses.**

This section asks a slightly different question: what is the issue that is being addressed, rather than how this Resolution addresses it.

3. **An explanation of how the proposed policy position will address the issue.**

4. **A summary of any minority views or opposition internal and/or external to the ABA which have been identified.**

This section asks proponents to identify specific opposition. You do not need to anticipate entities or organizations that might oppose it. Rather, you should indicate if you are aware of existing opposition to this particular Resolution.
V. FORMATTING AND STYLE GUIDE

In general, the sponsoring entity has the freedom to draft the Resolution with Report in the manner it believes is most persuasive. However, to maintain consistency throughout the policies, each entity is asked to follow these formatting and style rules:

A. Formatting.

- Your Resolution with Report must be submitted electronically as a Microsoft Word document.
- Margins must be one inch on all sides, except there must be a two-inch margin on the top of the first page of the Resolution.
- The font size should be 12 point for the headings and body text and 10 point for the footnotes.
- Use the font Arial.
- The text should be single spaced, except there should be a double space between paragraphs.
- The maximum length of the Report is 15 pages, unless the sponsoring entity seeks and receives approval from the Committee on Rules and Calendar.
- Use justified margins, except headings may be centered.
- Number all pages at the bottom center. The numbering must start over with page one for the Report.
- For the Resolution only, number each line of the Resolution at the left margin. If the Resolution continues on a second page, the numbering should continue sequentially.

B. Style.

1. When referring to prior policy, refer to the year, the meeting (A for Annual, M for Midyear), and the Resolution number as used in these samples: 15A107B and 14M113.

2. Please use the “Oxford comma” when referring to three or more items in a series, which removes all doubt as to the sentence’s meaning.
   
   Example: “This policy will affect men, women, and children.”
   
   Example: “We are faced with three choices: adopting the rule, amending the rule, or limiting the rule.”

3. Use one space after the end of each sentence, rather than two spaces.

4. When you are using a dash to interrupt a sentence—such as for emphasis—use the long dash called the “em dash,” which you can create by pressing Ctrl-Alt at the same time as two keys on the number pad: - and Num Lock. You can also find the em dash on the insert-symbol menu in Microsoft Word. Do not put spaces before or after the dash. Use the em dash instead of “---” or “-“ or “- - -.” Example: the first line of this style point contains two em dashes.

5. Write out numbers zero through nine; use numerals for 10 and above.
6. When listing governmental entities, please use this order for any applicable entities: federal, state, local, territorial, and tribal.

7. When you reference a Federal law or legislation, please include citations to the United States Code where applicable, rather than simply saying, for instance, the “Prison Litigation Reform Act.”

8. If you refer to a document available on the Internet, be sure to write out the entire URL—rather than simply saying “available here” to a hyperlink—so that a person reading a paper copy of the Resolution with Report can find the referenced document online.

CONTACT INFORMATION

If you have an unusual situation, questions, comments, or suggestions for improving this Guide, please contact the Chair of the ABA House of Delegates Committee on Drafting Policies and Procedures or House of Delegates Business Manager Leticia Spencer, (312) 988-5160, leticia.spencer@americanbar.org. In addition, the Committee on Drafting Policies and Procedures is available to review draft Resolutions and offer feedback.

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