



American Bar Association Law Student Division The Elections Code: Guidelines, Policies, and Procedures

Article I Definitions and Applicability

Section A – Definitions.

1. Any mentioning of “the Code” refers to the American Bar Association Law Student Division Elections Code: Guidelines, Policies, and Procedures.
2. Any mentioning of the “Law Student Division” or “the Division” refers to the American Bar Association Law Student Division.
3. An “Applicant” is defined as a law student who has filled out and submitted the candidacy application forms to the ABA Law Student Division, but is awaiting official certification for candidacy.
4. A “Candidate” is defined as a law student who has completed and submitted the appropriate application forms to the Division, and has received official certification from the ABA Law Student Division certifying the Candidate for office.
5. “Unavoidable Circumstances” shall include medical or family emergencies and prior mandatory obligations, but shall not include poor planning. The Election Committee may require a Candidate to present evidence of Unavoidable Circumstances. After evidence is presented, the Election Committee will vote to decide if Candidate’s situation qualifies as an “Unavoidable Circumstance”.
6. “Division Staff” refers to any ABA employee, or employees, considered Law Student Division staff, listed on the Division’s website at abaforlawstudents.com/contact/.

Section B – Application of the Code, Generally.

1. The ABA Law Student Division Elections Committee (“the Committee”), in its sole discretion, shall interpret these rules and may modify these rules or create additional rules to ensure fairness in the election. Its decisions are final.
2. 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.
3. The [ABA Model Rules of Professional Conduct](#) govern the conduct of all Candidates, voters, Law Student Council members, ABA and Division staff, and other participants in the Division elections and nominations processes. Anyone who participates is expected to act professionally throughout.

4. Any Applicant or Candidate for office shall be bound by the Elections Code from the date their application form is certified by the Dean of their law school, regardless of whether the application form has been received by the Division.
5. Third Parties.
 - (a) A Candidate subject to the provisions of the Code may be strictly liable for the actions taken by others on their behalf, regardless of whether the actor has express or implied authority.
 - i. It shall be an affirmative defense to liability, that a third party purposefully and maliciously violated provisions of the Code to achieve the disqualification of the targeted Candidate.
 - ii. Ignorance of fact of a third party's actions may be a defense under the Code.
 - (b) At the discretion of the Elections Committee, violations of the Elections Code by a third party on the behalf of a candidate may result in:
 - i. any applicable course of action detailed within this Elections Code taken against the Candidate whom benefitted from the third party's action, or for whom the third party intended his or her actions to benefit,
 - ii. removal of the third party from ABA leadership position,
 - iii. forfeiture of the vote of a third party, or his or her school's representatives, for one or more elections;
 - iv. a report of the violation by the Division to the appropriate law school's Dean of Students.

Article II

Eligibility and Application/Certification Process

Section A – Eligibility.

1. To be eligible for candidacy, an individual must:
 - (a) Be a law student attending any American Bar Association accredited law school;
 - (b) Be an ABA Law Student Division [Premium member](#);
 - (c) 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;
 - i. not be on academic probation;
 - ii. not be suspended;
 - (d) Not have received his/her Juris Doctorate;
 - (e) Be a law student for the full academic year following the election; and
 - (f) Be a law student whose law school Dean has certified his/her candidacy for elected office.

Section B – Applying for Candidacy.

1. Interested students should obtain an application form from the ABA Law Student Division website, which is available at www.abaforlawstudents.com.
2. All application forms, materials, deadlines, and procedures will be posted on the Division website. The requirements and deadlines delineated on the application form are strict liabilities. All application forms and materials must be received by the published deadline date, or the Candidate will not be certified.
 - (a) If the application forms are received after the deadline, the Elections Committee may grant Certification due to Unavoidable Circumstances.
3. Students may not apply for more than one position.
4. After the deadline for applications, Division Staff will verify each Applicant's eligibility before passing the names and application forms of all eligible applicants along to the Nominating Committee.

Section C – Law Student Nominating Committee.

1. Pursuant to the ABA Law Student Division bylaws, The Law Student Division Nominating Committee shall review each Candidates' applications, interview Candidates, and publish and forward the name(s) of qualified Candidates to the voting bodies for all Council positions.
2. The Nominating Committee may seek additional applicants if there are no qualified Candidates for a position, or otherwise if necessary to ensure a fair and full election between qualified Candidates.
3. The determination of the Nominating Committee shall be final

Section D – Approval and Maintaining Eligibility

1. Applicants will receive an email granting or denying certification as a Candidate.
2. Any unopposed certified Candidate shall automatically be elected, provided they participate in all election activities.
3. Continued certification for candidacy is contingent upon the Candidate's participation in all election functions and maintaining all certification requirements.
 - (a) A Candidate must travel at his/her own expense to the meeting at which an election occurs by an in-person vote, attend the meeting at which the election occurs, and participate in all election functions.
 - (b) The provisions of this section apply regardless of whether the Candidate is opposed in the election.

Section E – Position Details, Terms, and Timing

1. Terms of Office.
 - (a) The terms of all Division Council positions begin at the adjournment of the ABA Annual Meeting in August, and end at the adjournment of the next ABA Annual Meeting in August.

2. Division Chair and Law Student At-Large on the Association's Board of Governors.
 - (a) Applications shall be available prior to the start of each calendar year.
 - (b) Phase 1 of the Campaign Period shall start before ABA Midyear Meeting in February.
 - (c) An election by remote electronic vote of the Assembly shall occur in the Spring.
 - (d) Immediately upon election, the successful Candidates for The Division Chair and Student At-Large on the Board of Governors shall serve in a non-voting elect- capacity on the Division Council, before the start of their terms at Annual Meeting.
3. Education Director.
 - (a) Applications shall be available prior to the start of each calendar year.
 - (b) In accordance with the bylaws of the ABA Law Student Division and the bylaws of ABA Section of Legal Education and Admission to the Bar ("the Section"), the Education Director serves simultaneously as the law student with a seat on the Section's Council.
 - (c) The Division Nominating Committee is permitted to recommend the Division Council a number of Candidates no less than that which is required by the Section's bylaws. The Division Council shall recommend applicants to the Section by May 1. The Section will then select its Council's Law Student Division representative from among those Applicants, in accordance with its bylaws.
 - (d) The selection of Education Director does not become official until official confirmation vote of the Section's Council. Should the Section's Council recommend a single candidate at any time prior to official confirmation and prior to Annual Meeting, that person shall serve on the Division Council in a non-voting, assumed nominee capacity similar to that of an –elect. Should the Section's Council officially confirm the candidate by vote prior to ABA Annual Meeting in August the Candidate will serve in an –elect capacity until the start of their term at ABA Annual Meeting in August.
4. Vice-Chair of Membership and Three (3) Division Delegates (Delegate of Communications, Publications and Outreach; Delegate of Diversity and Inclusion, Delegate of Programming).
 - (a) Applications shall be available in the Spring, at a time after the election of Division Chair.
 - (b) Phase 1 of the Campaign Period shall begin prior to the call to order of the first meeting of the Annual Meeting
 - (c) Voting shall occur during the Annual Meeting in a method prescribed by the Elections Committee.

Article III

Election Procedures

Section A – Campaign Period.

1. The Campaign Period shall start upon certification of Candidates, and shall continue through a three-phase period immediately prior to the posted election date for each position. The Campaign Period applies to all positions except Education Director, which follows a different selection process in Article IV.

(a) Phase I: Candidate Announcements and Voter Notification.

- i. The Division shall post publicly online the certified Candidates information for each relevant position to start the campaign period.
- ii. Candidate information shall include: Candidate's name and school, written statements resume, and video statement (if applicable) complying with the guidelines set forth by the Elections Committee.
- iii. Adequate notice, in a manner prescribed by the Elections Committee, shall be given to all voters, including instructions for how to access Candidate information, and details of timing and process of election activities and voting.

(b) Phase II: Question and Answer.

- i. The second phase shall consist of a Question and Answer session hosted via an online platform of the Election Committee's choosing.
- ii. The format, including format of questions and time limits, of the Question and Answer session shall be determined by the Elections Committee.
- iii. The Elections Committee Chair shall designate an impartial moderator for each session to keep time and monitor questions.
 1. The Division Chair, Elections Committee member, or presiding officer may serve as a moderator.
 2. A moderator may answer a factual question, but shall not ask a question or otherwise give his or her opinion regarding any Candidate during the Question and Answer session.
 3. A moderator shall also be vested with discretion to prohibit an inappropriate or improper question.
- iv. Any Candidate ought to have an opportunity to respond to any statement concerning him/her made in his/her absence.
- v. The order of the Candidates during the Question and Answer session shall be random.

(c) Phase III: Voting.

- i. The third phase shall consist of voting by the certified delegates.

- ii. The Division Staff shall make available to all voting delegates and proxies an access link to voting via an online, electronic, or in person platform.
- iii. In the case of a tie, the Elections Committee shall immediately announce to the voting delegates the time and manner in which an additional ballot will proceed. The Elections Committee may invite the tied Candidates to address voting delegates through an appropriate platform, and then continue to an additional ballot. If no candidate has the necessary number of votes after an additional ballot, a winner will be determined by a vote of the Division Council.

Section B – Counting of Election Ballots.

1. No Candidate shall staff the polls, approach the polls, or otherwise help administer the election.
2. The vote shall be taken by secret ballot. No voter shall be asked to disclose how he/she voted.
3. The designated Division Staff or presiding officer shall be in charge of certifying all proxies. Proxies shall follow the standard Division procedure.
4. The Division Director, or the presiding officer, with the advice and consent of the Elections Committee, shall appoint at least two impartial tellers who will assist in counting and/or overseeing the tabulation of ballots.
 - (a) When voting in-person, The Division Director or proctor shall, with two witnesses, tabulate the ballots in a separate, undisclosed room where no voting delegate may enter.
 - (b) Upon tabulating and validating the results, the Division Director or proctor shall notify the Division Chair and Elections Committee immediately. The results shall be announced no more than twenty-four (24) hours after the close of the voting period.
 - (c) The timing and procedures of any ties shall be announced to voting delegates immediately, and directly via email.
5. The ballots or tabulated results of the election shall be saved for at least one year. No person may request a recount.
6. Any Candidate or Council member, upon written request to the Elections Committee or Division Director, shall be permitted to view the number of ballots for all Candidates.

Section C - Withdrawing Candidacy.

1. A Candidate or Applicant may withdraw from consideration at any time by written notice to the Elections Committee Chair, Division Chair, or the Division Staff.
2. A Candidate who does not attend any required election activity shall be presumed to have withdrawn, unless he/she notifies the Division Staff, the Division Chair, or the Elections Committee Chair that he/she cannot attend—and presents evidence of Unavoidable Circumstances, if requested.

Article IV

Rules Governing Campaigning and Communications

Section A – Communication Guidelines.

1. Normal course of business shall be defined as:
 - (a) Any communications, activities, or tasks necessary for the performance of any school-related, student organization-related, ABA-related, or work-related position that is already held by the Candidate or Applicant.
 - (b) Communicating with individuals in the same manner and content as was conducted prior to candidacy.
2. Communications with Voters.
 - (a) A Candidate or Applicant may communicate with an individual who is voting in the election for which the Candidate Applicant seeks office, only if the communication is done:
 - i. in the normal course of business,
 - ii. with a current or past holder of the position for which the Candidate is seeking office and specifically in effort to learn more about that position,
 - iii. within the limits of campaigning defined within the Code,
 - iv. with written approval prior to the communication by the Elections Committee.

Section B – Campaigning Guidelines.

1. Campaign Period defined.
 - (a) The Campaign Period is the three phase period outlined in Article III.
 - (b) The Campaign Period starts when the Candidate is certified by the ABA Law Student Division and ends once voting is complete.
2. Candidates may engage in reasonable campaigning during the Campaign Period. However, Candidates may not:
 - (a) send “mass emails,” defined as the candidate, or someone on his or her behalf, without permission of the Elections Committee, sending the same or substantially similar email message promoting his or her campaign to the same voter during the Campaign Period;
 - (b) harass Assembly voters; or
 - (c) expend any funds in relation to the Candidate’s campaign.
3. If any Candidate engages in unreasonable campaigning (e.g., sending out mass emails or continuing to contact Assembly members after being explicitly told not to) the Election Committee will determine the appropriate discipline for the Candidate. Discipline may range from a written warning to requiring resignation of candidacy.

4. In order to determine whether a specific campaigning activity will be deemed reasonable, a Candidates may contact of the Elections Committee Chair and seek a ruling prior to commencing campaign activities.

Article V

Disciplinary Procedure & Right of Appeal

Section A – Procedure.

1. Violation Defined.
 - (a) A violation is defined as an action by the Applicant, Candidate, or by a third party done for the benefit thereof, that is reasonably construed or arguably believed to be a violation of the Code.
2. Intentional Violations.
 - (a) Any Candidate or Applicant who knowingly or intentionally violates any provision of the Code shall be disqualified from the election in which he or she is a Candidate.
3. Unintentional Violations.
 - (a) Any Candidate or Applicant who recklessly, but not knowingly or intentionally violates any provision of the Code shall be disqualified unless the Elections Committee finds that the Candidate’s actions can be remedied by a warning or a public censure.
 - (b) After a Candidate has been notified of censure, any following violation of the Election Code shall lead to the Candidate’s immediate disqualification.
4. Duty to Report Violations.
 - (a) Any Division member with knowledge of activities in violation of the Code shall report the violation to the Division Director and Elections Committee Chair in writing or in person as soon as the violation is witnessed.
 - (b) A report must contain the following information:
 - i. Reporter name;
 - ii. Alleged violating Candidate name;
 - iii. Reporter contact information, including but not limited to, phone number and email address; and
 - iv. Nature of alleged violation.
5. Election Committee Procedure on Receipt of a Reported Violation.
 - (a) 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.
 - i. The Candidate shall be allowed the opportunity to present his/her case and respond to questions in front of the Elections Committee. A lack of response may

be considered against the Candidate in deciding their response to the report. Investigations shall last no more than forty-eight (48) hours.

- ii. 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.

(b) After hearing the evidence, the Elections Committee shall determine whether a violation of the Code has occurred.

- i. The Elections Committee shall determine whether the Candidate's action constitutes a violation under the Code by a majority vote.
- ii. 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 no more than twenty-four (24) hours to vote on the matter, or his or her vote shall not be counted.

(c) 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.

(d) The Elections Committee Chair or designee shall submit a written report to the Division Chair, the Division Director, and to the Candidate within 72 hours of a decision.

- i. The report shall include:
 - 1. a summary of the facts found by the Committee,
 - 2. a statement of the section of the Code found to apply,
 - 3. the decision of the Committee, and
 - 4. the sanction imposed.

6. Duty of Confidentiality.

(a) Except in case of public censure, or other cases where notice to the public or voters is deemed necessary by the Committee, 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(s) or individual(s) involved.

(b) 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.

(c) 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.

Section B – Appeal.

1. A person found in violation of the Code or prohibited from future conduct shall be entitled to appeal the decision of the Committee to the Chair of the ABA Law Student Division.
 - (a) The appeal must be made in writing after the Candidate is informed of the Elections Committee’s decision.
 - (b) The appeal must be made within the shorter period of either:
 - i. five (5) days after the date of the Election Committee’s decision, or
 - ii. twelve (12) hours after the official end time of the final and decisive voting period.
2. 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, and a written report by the Chair shall be submitted to the Elections Committee Chair, the Division Director, and the Candidate stating the decision and analysis for the reversal.

Article VI Adoption of the Code

Section A - Repeal of Conflicting Provisions

Any and all ABA Law Student Division rules, guidelines, policies, and procedures in conflict with this Code are hereby repealed as of November 13, 2016.

Section B - Effective Date

The provisions of this Code shall take effect immediately upon the approval of the Council and shall be published accordingly.

Last Amended and Adopted by the Law Student Division: November 13, 2016.