Procedures for the Council’s Assessment of Whether to Take a Position on Resolutions or Other Matters Presented to the ABA House of Delegates by Other Sections of the ABA or Other Groups or Individuals

The Council’s role as a governing council of an ABA Section permits—and, in certain cases, may call for the Council to take a position in the ABA House of Delegates on resolutions or other matters presented to the House by other Sections of the ABA or by other groups or individuals. In determining whether to take a position on any such matters and, if so, what position to take, the following procedures should be employed by the Council, its Chair, its Delegates to the House, and the Managing Director of Accreditation and Legal Education:

(1) Each year, the Chair of the Council should appoint a subcommittee, composed of at least three current members of the Council (one of whom should serve as chair), to advise the Council on whether to take a position (and, if so, what position to take) on matters pending in the ABA House of Delegates. The Council’s Delegates to the House should serve as ex officio members of this subcommittee.

(2) The Managing Director should inform the above-described subcommittee, at the earliest practicable opportunity, of any matters pending in the ABA House of Delegates that are relevant to legal education or admissions to the bar.

(3) The subcommittee should review each matter referred to it by the Managing Director and should:

(a) Decide whether the Section should take a position on the matter or not. In making this judgment, the subcommittee should consider, inter alia, the following factors:

(i) Whether the subject matter is relevant to the Section’s central concerns of “legal education and admissions to the bar,” and, if so, how substantial an effect the matter is likely to have on legal education or bar admissions; and
(ii) Whether there is sufficient time for adequate and informed consideration of the matter before it is due to be heard in the House of Delegates.

(b) If the subcommittee concludes that the matter is one on which the Section should take a position, the subcommittee should decide further whether the matter should be referred to the Council or the Council’s Executive Committee for formulation of the Section’s position or should authorize the Council’s Delegates to the House, in the exercise of their individual discretion, to determine the Section’s position. In making the judgment of whether to refer the matter to Council, the Council’s Executive Committee, or the Council’s Delegates for the formulation of a position, the subcommittee should obtain the input of either or both Delegates and should consider, inter alia, the following factors:
(i) Whether the matter is one on which Council members are likely to take varying positions (and, in the event that it is, the matter should be referred for consideration by the Council or the Council's Executive Committee);

(ii) Whether, even if the matter is unlikely to prompt a division of views on the part of Council members, discussion by the Council or the Council's Executive Committee would be useful to the Delegates in whatever actions they may take on the Council's behalf in the House of Delegates; and

(iii) Whether there is sufficient time for meaningful consideration of the matter by the Council before it is due to be heard in the House of Delegates.

(c) If the subcommittee concludes that the matter is one that should be referred to the Council or the Council’s Executive Committee to determine the Section’s position on the matter, the subcommittee should prepare a recommendation to the Council or the Council’s Executive Committee on what position the Council or the Council's Executive Committee should take on the merits. In doing so, the subcommittee should obtain the input of either or both of the Council’s Delegates to the House.