RESOLUTION

RESOLVED, That the American Bar Association approves the *Principles and Guidelines on the Election Process for Officers of the Association* as amended August 2019.
With the recognition that seeking office in the Association is a political process, it is the intent of these Rules to minimize the expenditures of a campaign required for office and to ensure that all members of the Association have fair access to the political process without unnecessary financial burdens or sacrifice.

1. A person seeking to serve as President-Elect, Chair of the House of Delegates, Secretary or Treasurer of the Association shall commence the campaign for office by filing a signed letter of intent setting forth the office and the term with the Policy and Planning Division at the American Bar Center. A candidate’s letter of intent shall be filed no earlier than the last January 1 occurring more than 12 months prior to the Midyear Meeting at which the nomination will be made. The letter of intent shall be in the form attached to these Rules and may be accompanied by a resume. The letter shall state that the candidate has read these Rules and commits to abide by them.

2. After determining that the letter of intent meets the requirements of these Rules, the Policy and Planning Division shall forward a copy of the letter to all members of the House of Delegates. All questions of interpretation with respect to these Rules shall be directed to the Policy and Planning Division, which shall respond promptly to such questions.

3. No candidate or prospective candidate (references in this paragraph and in paragraph 6 to “candidate” shall include “prospective candidate”), and no person acting on his or her behalf, shall solicit a public or private commitment from any member of the Nominating Committee, other than from his or her State Delegate, prior to the candidate’s filing the letter of intent as required by Rule #1. Nominating Committee members (with the single exception noted above) shall not give any such commitments. Meetings by or on behalf of any member exploring or considering a candidacy for any office may be held no earlier than one year before the date that such member would be eligible to declare his or her candidacy under these guidelines. Except for the State Delegate from the prospective candidate’s state, members of the Nominating Committee or their designees may not attend the meetings referenced in the preceding sentence.

4. Each member of the Nominating Committee is personally responsible for providing each candidate who desires to meet with the member an opportunity for a meeting. Nominating Committee members are encouraged to hold such meetings during a Midyear or Annual Meeting and the member may choose to include at the meeting others whose views such member may wish to hear. If this does not prove feasible, the member should provide the candidate an opportunity to meet at the Section Officers Conference or the Nominating Committee Orientation meeting, and travel and a per diem will be paid to the candidate for such meeting (other than for a
meeting held in conjunction with the Annual Meeting or Midyear Meeting). Candidates and prospective candidates are discouraged from arranging visits to Nominating Committee members in their home cities and Nominating Committee members are discouraged from accepting such visits.

5. Each member of the Nominating Committee is encouraged to afford the candidate an opportunity to meet with other members of his or her delegation or constituency, and to seek input from all members of his or her delegation or constituency before making a commitment. A candidate may ask a member of the Nominating Committee to nominate the candidate. Except as provided in paragraph 3, no other commitment shall be requested or made before the Midyear Meeting of the year the candidate announces his/her candidacy.

6. A candidate shall not sponsor, or permit others to sponsor on the candidate's behalf, any reception, or organized social function, in support of his or her candidacy. This provision is not intended to interfere with business meetings or functions not sponsored by a candidate or on a candidate's behalf attended by a candidate and member(s) of the Nominating Committee. Staff may secure a conference room for use by a candidate for a non-social function during the Midyear and Annual Meetings. Nothing in these guidelines shall prohibit a candidate from serving non-alcoholic beverages and snacks at a meeting permitted by these guidelines.

7. After a candidate has filed his or her letter of intent, the candidate may speak at the Forums sponsored by the Nominating Committee at the immediately following Midyear and Annual Meetings. The Forums will be open to any member of the Association who wishes to attend and suitable notice will be given of the time and place of the Forums. At each Midyear and Annual Meeting, the Nominating Committee may conduct an executive session to consider the announced candidates.

8. A candidate who decides to terminate his or her campaign for office promptly shall supply a signed letter to that effect to the Policy and Planning Division, which promptly will forward such letter to all members of the House of Delegates.
REPORT

Introduction

During its meeting in August 2018 the Nominating Committee approved in concept two modifications to the Principles and Guidelines on the Election Process for Officers of the Association (the “Principles”). The first proposal would prohibit public commitments by any Nominating Committee member other than the candidate’s State Delegate before the Midyear Meeting in the year before the election. The second would require a regularly scheduled executive session for the Nominating Committee to discuss the candidates. The Steering Committee of the Nominating Committee has drafted revisions to Paragraphs five and seven of the Principles to reflect these recommendations.

The Proposed Amendments

The Steering Committee recommends the following amendments to the current Principles. Deletions are struck through and additions are underlined:

PRINCIPLES AND GUIDELINES ON THE ELECTION PROCESS FOR OFFICERS OF THE ASSOCIATION
(Adopted - August 2008-2019)

With the recognition that seeking office in the Association is a political process, it is the intent of these Rules to minimize the expenditures of a campaign required for office and to ensure that all members of the Association have fair access to the political process without unnecessary financial burdens or sacrifice.

1. A person seeking to serve as President-Elect, Chair of the House of Delegates, Secretary or Treasurer of the Association shall commence the campaign for office by filing a signed letter of intent setting forth the office and the term with the Policy and Planning Division at the American Bar Center. A candidate’s letter of intent shall be filed no earlier than the last January 1 occurring more than 12 months prior to the Midyear Meeting at which the nomination will be made. The letter of intent shall be in the form attached to these Rules and may be accompanied by a resume. The letter shall state that the candidate has read these Rules and commits to abide by them.

2. After determining that the letter of intent meets the requirements of these Rules, the Policy and Planning Division shall forward a copy of the letter to all members of the House of Delegates. All questions of interpretation with respect to these Rules shall be directed to the Policy and Planning Division, which shall respond promptly to such questions.

3. No candidate or prospective candidate (references in this paragraph and in paragraph 6 to “candidate” shall include “prospective candidate”), and no person acting on his or her behalf, shall solicit a public or private commitment from any member of the
Nominating Committee, other than from his or her State Delegate, prior to the candidate’s filing the letter of intent as required by Rule #1. Nominating Committee members (with the single exception noted above) shall not give any such commitments. Meetings by or on behalf of any member exploring or considering a candidacy for any office may be held no earlier than one year before the date that such member would be eligible to declare his or her candidacy under these guidelines. Except for the State Delegate from the prospective candidate’s state, members of the Nominating Committee or their designees may not attend the meetings referenced in the preceding sentence.

4. Each member of the Nominating Committee is personally responsible for providing each candidate who desires to meet with the member an opportunity for a meeting. Nominating Committee members are encouraged to hold such meetings during a Midyear or Annual Meeting and the member may choose to include at the meeting others whose views such member may wish to hear. If this does not prove feasible, the member should provide the candidate an opportunity to meet at the Section Officers Conference or the Nominating Committee Orientation meeting, and travel and a per diem will be paid to the candidate for such meeting (other than for a meeting held in conjunction with the Annual Meeting or Midyear Meeting). Candidates and prospective candidates are discouraged from arranging visits to Nominating Committee members in their home cities and Nominating Committee members are discouraged from accepting such visits.

5. Each member of the Nominating Committee is encouraged to afford the candidate an opportunity to meet with other members of his or her delegation or constituency. Each State Delegate member is encouraged to consult with all members of his or her delegation before making a commitment, and to seek input from all members of his or her delegation or constituency before making a commitment. A candidate may ask a member of the Nominating Committee to nominate the candidate. Except as provided in paragraph 3, no other commitment shall be requested or made before the Midyear Meeting of the year the candidate announces his/her candidacy.

6. A candidate shall not sponsor, or permit others to sponsor on the candidate’s behalf, any reception, or organized social function, in support of his or her candidacy. This provision is not intended to interfere with business meetings or functions not sponsored by a candidate or on a candidate’s behalf attended by a candidate and member(s) of the Nominating Committee. Staff may secure a conference room for use by a candidate for a non-social function during the Midyear and Annual Meetings. Nothing in these guidelines shall prohibit a candidate from serving non-alcoholic beverages and snacks at a meeting permitted by these guidelines.

7. After a candidate has filed his or her letter of intent, the candidate may speak at the Forums sponsored by the Nominating Committee at the immediately following Midyear and Annual Meetings. The Forums will be open to any member of the Association who wishes to attend and suitable notice will be given of the time and place of the Forums. **At each Midyear and Annual meeting, the Nominating Committee may conduct an executive session to consider the announced candidates.**
8. A candidate who decides to terminate his or her campaign for office promptly shall supply a signed letter to that effect to the Policy and Planning Division, which promptly will forward such letter to all members of the House of Delegates.

Discussion

The House of Delegates adopted the Principles and Guidelines on the Election Process for Officers of the Association in 1994 in response to a request from the Special Committee on Governance. The Principles have worked well; they level the playing field for those seeking office in the Association by reducing the expenditures of both time and money necessary to campaign.

This resolution seeks to further amend the Principles to address concerns about the timing of public commitments under the current system, and to allow for more thoughtful consideration of candidates by the Nominating Committee as a group. It prohibits candidates from requesting, and Nominating Committee members from making, a commitment in a race before the Midyear Meeting of the year the race begins. It also requires the Nominating Committee to conduct an executive session at each of its meetings to discuss the announced candidates.

These proposals stem from concern about the chilling effect of public commitments that come early in the campaign. Prospective candidates may consider that it is futile to run if an announced candidate seems close to locking up the nomination. The Nominating Committee serves no meaningful role in vetting the candidates if the race is decided before the Committee even meets.

The proposed revisions also encourage Nominating Committee members to seek input from constituents before making a commitment. This provision will remind members that they serve in a representative capacity and will further ensure an open, fair and thoughtful electoral process.

Conclusion

For the reasons discussed, the Steering Committee of the Nominating Committee recommends that the Principles and Guidelines on the Election Process for Officers of the Association be amended as set forth above. A draft of the Principles as revised is appended to this Report.

If adopted, the revised Principles would be effective following the 2019 Annual Meeting.

Respectfully submitted,

Steering Committee of the Nominating Committee
Justice Adrienne Nelson, Chair
August 2019
Submitting Entity: Steering Committee of the Nominating Committee

Submitted by: Justice Adrienne Nelson, Chair

1. Summary of Resolution(s).

The Recommendation proposes two revisions to the *Principles and Guidelines on the Election Process for Officers of the Association*. The first revision would prohibit candidates from requesting, and Nominating Committee members from making, a commitment in a race before the Midyear Meeting of the year the race opens. It also requires the Nominating Committee to conduct an executive session at each of its meetings to consider the announced candidates, and encourages Nominating Committee members to seek input from constituents before committing.

2. Approval by Submitting Entity.

The Nominating Committee approved the recommendation during the 2019 Midyear Meeting. In drafting the Report and Recommendation the Steering Committee of the Nominating Committee made minor modifications which require approval by the full Nominating Committee. The final proposal has been circulated to the full Nominating Committee for comment and the Committee will vote at its meeting on August 11, 2019.

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

The *Principles and Guidelines on the Election Process for Officers of the Association* were originally adopted by the House of Delegates in August 1994. They were amended in February 2001 and August 2008.

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

The proposed resolution revises the current *Principles and Guidelines on the Election Process for Officers of the Association*.

5. If this is a late report, what urgency exists which requires action at this meeting of the House?

N/A

6. Status of Legislation (If applicable.)

Does not apply.
7. Brief explanation regarding plans for implementation of the policy if adopted by the House.

If adopted, the revised *Principles* would be effective following the 2019 Annual Meeting.

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

No cost to the Association.

9. Disclosure of Interest. (If applicable.)

Does not apply.

10. Referrals

The recommendation was circulated to the full Nominating Committee, current and former officers and candidates for office of the Association, and other leaders of the Association.

11. Contact Person (Prior to the meeting.)

Justice Adrienne Nelson
Oregon Supreme Court
1163 State Street
Salem, OR 97301
(503)276-0952

12. Contact Person (Who will present the report to the House.)

Justice Adrienne Nelson
Oregon Supreme Court
1163 State Street
Salem OR 97301
(503)276-0952
EXECUTIVE SUMMARY

1. Summary of the Resolution

The Recommendation proposes revisions to the *Principles and Guidelines on the Election Process for Officers of the Association*.

2. Summary of the Issue that the Resolution Addresses

Members are concerned about the effect of early commitments on the election process and the role of the Nominating Committee.

3. Please Explain How the Proposed Policy Position Will Address the Issue

The proposed resolution revises the current *Principles and Guidelines on the Election Process for Officers of the Association* to address both concerns.

4. A Summary of Minority Views or Opposition Internal and/or External to the ABA Which Have Been Identified

None to date.