

**AMERICAN BAR ASSOCIATION
YOUNG LAWYERS DIVISION
ASSEMBLY**

STANDING RULES

Amended 3 Aug. 2001

Pursuant to section 4.3(e) of the bylaws, the Council has drafted the following standing rules for the Assembly's consideration:

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These rules incorporate the bylaws, including the meaning of terms defined in the bylaws.

Rule 1 Credentials

§ 1.1. Delegate defined

For the purposes of these rules, a “delegate” means one whose credentials are in order.

§ 1.2. Alternates

- (a) For the purpose of this rule, an “alternate” means any member so designated in the same manner as a delegate is designated.
- (b) The Clerk may certify an alternate as a delegate if the alternate’s affiliate is entitled to more delegates than have been certified, and either (1) the affiliate’s chair instructs that the Clerk certify the alternate as a delegate; or (2) the published deadline for certification has passed or is imminent, and the Clerk (A) declares that any alternate present may be certified in preference over any delegate who has been designated but not yet certified, and (B) so certifies each available alternate.

§ 1.3. Certification

- (a) The certification of credentials confers the exclusive right to vote. A delegate’s credentials may not be certified at an annual or midyear meeting unless the delegate has registered with the Association or its registrar for that meeting.
- (b) The Clerk or the Clerk’s designee shall hold one or more sessions totaling at least six hours, including at least two of the four hours immediately before the call to order and ending one hour before the call to order, for the purpose of certifying credentials. The Clerk shall give notice of the

scheduled sessions to the affiliates and delegates by the most effective means available, and shall not certify any credentials more than fifteen minutes before or after the scheduled sessions, except as this rule otherwise provides.

- (c) The Clerk shall certify the credentials of any member who claims to be a delegate if it appears that the claimant is a member and has been designated by the claimant's affiliate's chair. Such a designation may be made—
 - (1) in writing on a form that the Clerk supplied in advance;
 - (2) in writing on the affiliate's or its parent bar's letterhead;
 - (3) in person (including by telephone) by the claimant's affiliate's chair or, in the chair's absence, by a member acting with authority in his or her place or on his or her behalf; or
 - (4) if the published deadline for certification is less than half an hour away and the Clerk cannot reach the claimant's affiliate's chair, by—
 - (A) a certified delegate from the same affiliate;
 - (B) the chair of the state affiliate, or by a member acting with authority in his or her place or on his or her behalf; or
 - (C) the district representative, provided that the designation is not contrary to an instruction from the claimant's affiliate or state affiliate.
- (d) If none of the above appears, the Clerk shall inquire on the basis of all the available information whether the claim is true, and shall accordingly certify or not certify the claimant's credentials. The claimant, any competing claimant, any member from the claimant's affiliate, and the district representative may participate throughout this inquiry, and may offer any relevant information (including oral or written testimony from any member) or affirm, deny, or rebut such information.
- (e) A motion to reopen certification is in order promptly after the Credentials Board's first report or, by written notice to the presiding officer, at any later time before the question is put (whether or not it is adopted) on an original main motion, or on a motion that would dispose of an original main motion; in which case, if the motion to reopen certification is adopted, the Clerk shall promptly reopen certification for fifteen minutes. If the meeting recesses overnight or adjourns overnight, then a motion to reopen certification during the recess or adjournment is in order by written notice to the presiding officer before the recess or adjournment; in which case, if the motion is adopted, the Clerk shall promptly schedule and announce another session of at least half an hour for certification to be held during the recess or adjournment. The presiding officer shall recognize the mover of any motion to reopen certification of which he or she has received written notice, as soon as the motion is in order, and before declaring any recess or adjournment. A motion to reopen certification is an incidental main motion, is debatable, is not amendable,

and takes a two-thirds vote; and a negative vote cannot be reconsidered. No motion to reopen certification is in order except as this paragraph provides.

- (f) The Clerk, with the Credentials Board's advice and consent, may certify a member's credentials outside the scheduled sessions for certifying credentials if a motion to reopen certification would be in order under rule 1.3(e) and—
- (1) the member specially arranged with the Clerk for such certification before the first scheduled session begins;
 - (2) the member was traveling by common carrier, was scheduled for arrival at least three hours before the last scheduled session ends, but in fact arrived at least two hours behind schedule; or
 - (3) the Credentials-Board unanimously finds that the member was delayed by unforeseen circumstances that were beyond his or her control and did not result from poor planning.

§ 1.4. **Rules**

The Clerk shall not fail to certify a claimant's credentials because the claimant did not follow a rule that is not part of these rules, unless—

- (a) the claimant had actual notice of the rule at least fifteen days before the annual meeting;
- (b) the rule is a bylaw; or
- (c) the rule was published before the meeting in the magazine or in a mailing sent at least fifteen days before the annual meeting to every member who had then registered for the meeting.

§ 1.5. **Appeal**

(c) **Credentials.** The Clerk shall certify each delegate's credentials, subject to review by a board charged with hearing and finally determining, without review, any dispute relating to the allocation of delegates under paragraph 4.2(b) or the certification of credentials, according to the Assembly's rules. The board shall consist of the Clerk, as chair, and four certified delegates from four different states appointed by the Clerk. No delegate shall hear a dispute that concerns a delegate from the same state, in which case the Clerk shall appoint another certified delegate to the board for that dispute.

Bylaws § 4.2(c)

A claimant may appeal his or her failure of certification to the Credentials-Board.

Rule 2 Decorum

§ 2.1. **Attire**

The proper attire for a meeting is business attire that is suitable for an appearance in court.

§ 2.2. **Promptness**

Each delegate is asked to be present and ready to proceed to business five minutes before the scheduled call to order.

§ 2.3. **Conversation**

No delegate shall converse, make loud noise, or create any other intrusive sensation that may disturb another delegate. Any delegate who does so shall stop at the request of any delegate who claims to be disturbed thereby, or shall withdraw from the floor (or, if necessary, from the hall) in order to continue.

§ 2.4. **No smoking**

There shall be no smoking on the floor or in the hall.

Rule 3 The Floor

§ 3.1. **Hall**

The staff, as directed by the Speaker in his or her discretion, shall reserve and arrange a suitable hall for the Assembly to meet in.

§ 3.2. **Seating**

- (a) The hall shall include a table for the officers and the Parliamentarian, with—
 - (1) a podium in the center, with a microphone for the presiding officer;
 - (2) seats on the right side of the presiding officer for the Parliamentarian, the Speaker (when he or she is not presiding), and the Clerk; and
 - (3) seats on the left side of the presiding officer for the Chair, the Chair-Elect, and the Secretary-Treasurer.

Comment. See Henry M. Robert, *Robert's Rules of Order Newly Revised* § 47 at 450 (10th ed. 2000) (“The parliamentarian should be assigned a seat next to the chair, so as to be convenient for consultation in a low voice”).

- (b) The hall shall include seating for the delegates, by district. The Speaker may seat his or her district in the front.

§ 3.3. Microphones

- (a) There shall be one or more microphones at the podium.
- (b) There shall be two microphones on the floor, one designated for proponents and one for opponents.

Cross-reference. Proponents, opponents, *see infra* § 6.1(a).

Comment. There ought to be only one “pro” microphone and only one “con” microphone, at the front of the hall where the presiding officer can keep track of the order in which delegates are seeking the floor. Extra microphones in the back are just asking both for confusion about who goes next and for interruptions by delegates who do not want to wait in line. For example, at the 1996 midyear meeting, just moments after the Speaker announced that he would not recognize delegates who did not line up at the microphones, a delegate who wished to call for the question walked over to a back microphone and boomed out, “Call the question!” That delegate effectively took control of the meeting and stole the floor from others who had been waiting in line at the front microphones.

§ 3.4. Privilege of the floor

- (a) The following persons shall enjoy the privilege of the floor and, except as this rule prescribes otherwise, may speak or make a motion:

Comment. According to Robert,

The expression “privileges of the floor,” sometimes used in legislative bodies or conventions, has nothing to do with *having the floor*, but means merely that a person is permitted to enter the hall. It carries no right to speak or any other right of membership, except as may be determined by rules or action of the body.

Henry M. Robert, *Robert’s Rules of Order Newly Revised* § 3 at 28 n. (10th ed. 2000) (emphasis in original).

- (1) each delegate;
- (2) each member of a standing or special committee of the Division, with respect to any matter within or touching the committee’s charge;
- (3) each liaison to or from another entity within the Association;
- (4) each candidate for election by the Assembly;
- (5) the staff, as authorized by the Director (or, in consultation with the Director, by the Chair, the Speaker, the Assembly, or the Council);
- (6) the mover of a resolution, with respect to the resolution;
- (7) the authorized representative of another entity within or of an organization affiliated with the Association, for the purpose of communicating or advocating the entity’s policy on a resolution, without power to make a motion;
- (8) any guest participating in a program planned by the Chair or the Speaker, for the purpose of the program, without power to make or debate a motion;

- (9) any other member or employee of the Association, as authorized by the Chair, the Speaker, the Assembly, or the Council, without power to make a motion; and
- (10) any former officer who is a member of the Association; and
- (11) any Fellow.

Comment. The presiding officer has historically consumed several moments in each meeting in order to ask for speaking privileges for nondelegates. The Assembly has always granted each such request by unanimous consent. Most of the nondelegates who occasion these requests fall into several foreseeable categories. This simple rule may save some time by providing for these categories.

- (b) Each person on the floor is subject to these rules in the same manner as a delegate is.

§ 3.5. **Recognition**

- (a) A delegate or other person with speaking privileges (including an officer) may claim the floor by written notice to the presiding officer or by lining up on the floor at the designated microphone. The presiding officer shall ordinarily recognize speakers in the order in which the floor is so claimed, provided that debate shall generally alternate between proponents and opponents. The presiding officer may, without regard to this order, entertain a motion from the floor in the belief that a sufficient number may favor the motion.

Comment. An officer, just like all his or her fellow delegates, must step to the floor microphones in order to debate. It is perfectly proper for an officer to report from the podium in his or her official capacity. It is not proper for an officer, unlike his or her fellow delegates, to usurp the presiding officer's station when debating a motion. Such a maneuver wrongly implies that some debate is more important than other debate, or that the debate's source is more important than its content. The presiding officer ought to strictly enforce this principle as a valuable symbol that the officers work for the delegates, not the other way around.

- (b) The presiding officer may note when recognizing a speaker whom he or she expects to recognize next, but such notice shall neither constitute recognition nor create a right to be recognized before debate expires or the presiding officer recognizes another.

Comment. This rule lets the presiding officer announce who is "on deck" without formal recognition. It both preserves the right of the Assembly to control its time through the motions to limit and extend the limits of debate, and prevents the presiding officer from abusing the power of recognition to extend the limits of debate without a vote.

§ 3.6. **Open meetings**

- (a) Each meeting shall be open to each member of the Association and to the news media.

- (b) The Assembly may by a two-thirds vote close its proceedings on an extraordinary occasion for a stated reason, in which case only the delegates, the staff (who may attend a closed meeting unless the vote to close the proceedings explicitly provides otherwise), and such others as the vote excepts may attend. The minutes shall record the reason stated for closing the proceedings, and the text of any resolution adopted during the closed proceedings, but shall not otherwise publish the details of the closed proceedings except as the Council prescribes.

Comment. See ABA, *Pol'y & Procs. Handbook* ch. 6.II.A.4 at 96 (2000-01) (open meeting policy) (“In accordance with the Association’s policy on open meetings, programs should be open to the media The Association, in general, encourages media coverage of its activities and cooperation, to the extent feasible, in fulfilling the requests of media representatives.”).

Rule 4 **Quorum**

§ 4.1. Credentials report

Promptly after the call to order, and before any other business is transacted, the Clerk shall report—

- (a) how many delegates have been certified;
- (b) that the list of the names of the delegates and alternates who have been certified up until the call to order appears in the register in his or her custody and is available for inspection during the meeting by any delegate; and
- (c) how many delegates constitute a quorum.

This roll of delegates is the official roll of the voting members of the Assembly.

Comment. The Assembly need not adopt the credentials report, *cf.* Henry M. Robert, *Robert’s Rules of Order Newly Revised* § 59 at 596-98 (10th ed. 2000) (adoption of report), because the bylaws provide that “[t]he Clerk shall certify each delegate’s credentials, subject to review by a board charged with hearing and finally determining, without review, any dispute relating to the allocation of delegates under paragraph 4.2(b) or the certification of credentials, according to the Assembly’s rules,” Bylaws § 4.2(c) (credentials).

However, the quorum depends on how many delegates have been certified, *id.* § 4.3(c) (quorum) (“A simple majority of the certified delegates constitute the Assembly’s quorum.”), and this number ought to be reported early in the meeting. See Robert, § 59 at 609 (“Before the receipt of the Credentials Committee report, since the membership has not been established, no motion whatever is in order under any pretext except those which are in order in the absence of a quorum. Even, for example, a motion relating to the validity of the holding of the convention is not in order.” (parenthesis omitted)). For example, at the 1996 midyear meeting, the presence of a quorum was questioned but nobody knew what number constituted a quorum.

§ 4.2. Quorumlessness

A quorumless meeting may act as if a quorum was present, but any such action, other than an action that can legally be taken in the absence of a quorum, shall be ineffective without confirmation when a quorum is present. Each main motion passed in

the absence of a quorum shall, upon reappearance of a quorum, be in order in the form and order passed, without debate. Such a motion shall take a two-thirds vote, otherwise it shall revert to its status when the quorum disappeared, and the negative vote shall not be reconsidered. If the Assembly adjourns sine die without voting on such a motion, the motion is referred to the Council for expedited consideration.

Rule 5 Order of Business

§ 5.1. Resolutions Committee

For the purposes of this rule, the “committee” means the Resolutions Committee. The committee or its designee shall be available on the floor throughout each meeting in order to receive any notice from a delegate under this rule.

§ 5.2. Orders of the day

For each timely introduced resolution, the committee shall, by the call to order, either certify that the resolution is in order, or return it to the mover with particular objections upon cure of which (to the satisfaction of the committee) the resolution shall be in order. The committee shall, by a report at the beginning of the meeting, make each certified timely resolution a general order. A motion to amend this report is in order, but after each such amendment has been disposed of, the report (as amended, if amended) shall stand adopted and shall not be reconsidered. (A motion to amend something previously adopted is still in order, however, with respect to the report; likewise a motion is still in order that makes a special order out of a resolution that the report made a general order.)

§ 5.3. Agenda

The agenda of each meeting shall be special orders; reports from committees on resolutions previously referred; unfinished business; general orders; and, if there is time, new business.

Comment. “An *order of the day* . . . is a particular subject, question, or item of business that is set in advance to be taken up during a given session, day, or meeting, or at a given hour, provided that no business having precedence over it interferes. . . . Orders of the day are divided into the classes of *general orders* and *special orders*. A special order is an order of the day that is made with the stipulation that any rules interfering with its consideration at the specified time shall be suspended except those relating: (a) to adjournment or recess; (b) to questions of privilege; (c) to special orders that were made before this special order was made; or (d) to a question that has been assigned priority over all other business at a meeting by being made *the* special order for the meeting” Henry M. Robert, *Robert’s Rules of Order Newly Revised* § 41 at 353 (10th ed. 2000) (cross-references omitted). “A *general order* . . . is any question which . . . has been made an order of the day without being made a special order.” *Id.* at 347 (cross-reference omitted).

§ 5.4. Reports and programs

The Speaker or the Chair may, notwithstanding this agenda, place an informational report or program anywhere in the order of business, in which case the report or program shall outrank and suspend all other business.

§ 5.5. Consent calendar

The committee, by a report that it does not expect substantial opposition, may place a resolution on the consent calendar. Any delegate may, by written notice to the committee within one hour thereafter, object to such placement, in which case the resolution shall thereby become a special order at a time promptly appointed and announced by the presiding officer, which time shall be not sooner than thirty nor later than sixty minutes after the objection. Any resolution on the consent calendar to which timely objection is not made shall stand approved, and a motion to reconsider such a resolution shall take a two-thirds vote.

§ 5.6. Late resolutions

- (a) Any delegate may introduce a late resolution by written notice to the committee. The committee shall either certify that a request to move the resolution is in order, or return it to the mover with particular objections upon cure of which (to the satisfaction of the committee) such a request shall be in order. Such a request shall not be in order within one hour before the prescheduled adjournment sine die.
- (b) The mover of a request to move a late resolution shall summarize the resolution, and shall justify its lateness on grounds other than lack of notice of the deadline or poor planning. A member of the committee who opposes the request, if there is one, may briefly reply. The question shall then be put without further debate upon the request, which shall take a two-thirds vote, in which case the resolution shall become a general order and the vote granting the request shall suffice as previous notice. The committee unanimously, or the Assembly by a two-thirds vote, may make the resolution an order of the day for an earlier time.
- (c) Any other provision of these rules to the contrary notwithstanding, a late resolution shall not be in order until the mover, at his or her own expense, has distributed a copy to each delegate.

Comment. A late resolution that barely misses the deadline sometimes comes in time to be distributed along with the timely resolutions, in which case the committee ordinarily (except in the case of a resolution amending the bylaws) authorizes the staff to so distribute it as long as the timely resolutions are not delayed and there is no other administrative inconvenience. The staff then calculates the share of its costs (including but not limited to printing, mailing, and secretarial time) that are fairly allocable to the late resolution, for which the mover must reimburse the Division. The late resolution is not in order until the reimbursement is received or secured.

If the reimbursement has not been received or secured, any other member must first assume and satisfy the mover's duty of reimbursement before he or she requests to move the late resolution. He or she may later petition the Assembly or the Council for relief from the duty, but only if the Assembly has adopted the resolution (or an amended form of the resolution).

§ 5.7. Previous notice

Any delegate may at any meeting give previous notice of a motion by written notice to the presiding officer, who shall announce each such notice, in the order received, before the meeting is declared adjourned.

Comment. According to Robert,

The term *previous notice* (or *notice*), as applied to necessary conditions for the adoption of certain motions, has a particular meaning in parliamentary law. A requirement of previous notice means that announcement that the motion will be introduced—indicating its exact content as described below—must be included in the call of the meeting at which the motion will be brought up, or, as a permissible alternative, if no more than a quarterly time interval will have elapsed since the preceding meeting, the announcement must be made at the preceding meeting. . . .

.....
If previous notice is given *at a meeting*, it can be given orally unless the rules of the organization require it to be in writing—which is often the case with notice of amendments to bylaws. Unless the rules require the full text of the motion, resolution, or bylaw amendment to be submitted in the notice, only the purport need be indicated; but such a statement of purport must be accurate and complete—as in “to raise the annual dues to \$20”—since it will determine what amendments are in order when the motion is considered. The notice becomes invalid if the motion is amended beyond the scope of the notice.

Henry M. Robert, *Robert's Rules of Order Newly Revised* § 10 at 116-17 (10th ed. 2000) (emphasis in original) (cross-references omitted).

§ 5.8. New business

If a meeting disposes of the orders of the day before the prescheduled adjournment, any delegate may move to bring a question again before the assembly, may request to move a certified late resolution (or, if such a request was granted, may move the late resolution), or may make any other main motion other than a resolution. Such a motion or request shall be in order in the order in which previous notice was given, followed by any motion or request (in the order received) for which previous notice was not given. If it is voted to adjourn or the prescheduled time for adjournment arrives before the mover of such a motion or request is recognized, the presiding officer, before the meeting is declared adjourned, shall announce each such motion or request of which previous notice was not already given as if the mover had given previous notice of it.

Rule 6

Debate

§ 6.1. Debate generally

- (a) A “proponent” means a speaker who favors, and an “opponent” means a speaker who opposes, the pending motion. Debate shall generally alternate between proponents and opponents.

Comment. The ordinary rule is that “the chair should let the floor alternate, as far as possible, between those favoring and those opposing the measure.” Henry M. Robert, *Robert’s Rules of Order Newly Revised* § 3 at 30 (10th ed. 2000) (obtaining and assigning the floor); *id.* § 42 at 368 (preference in recognition when a debatable question is immediately pending). However, sometimes those seeking the floor on one side outnumber those on the other side, in which case it is perfectly proper for the presiding officer to recognize two (or more) speeches in a row on the same side of the question. For example, at one midyear meeting, the presiding officer erroneously declined to recognize a delegate because another delegate had just spoken on the same side and there was nobody seeking the floor on the other side.

- (b) The mover of a motion that the mover of a pending motion favors shall be recognized as a proponent, the mover of any other motion (even if the motion does not apply to the pending motion) as an opponent.

§ 6.2. Main motions

Debate shall expire after twenty minutes on any resolution, and after ten minutes on any other main motion. The expiration of debate shall not interrupt a speaker.

Comment. One resolution may theoretically consume the whole meeting. There ought to be a rule setting a time limit, subject to extension by a two-thirds vote, for debate on any resolution.

§ 6.3. Speeches

Each speaker may speak for up to two minutes per speech. The mover of a resolution may speak first and last thereon, for five and one minute respectively, without prejudice to his or her ordinary speaking privileges and even if debate has been limited, the previous question has been ordered, or time has otherwise expired.

§ 6.4. Committee reports

- (a) If the Council (or, in the absence of action by the Council, the Resolutions Committee) recommends that a resolution be adopted or not, or if it recommends other action on the resolution, the reporting member of the Council shall speak next on the resolution after the mover has spoken, for up to four minutes. The report shall include the reasons for the recommendation.

Comment. The Council’s recommendation has not been reported consistently. Sometimes the Speaker makes the report, sometimes the mover of the resolution makes it. Sometimes the report follows the mover’s speech, sometimes it follows the first speech in opposition, and sometimes it immediately precedes the vote. Sometimes the Council’s vote is reported and sometimes the recommendation is reported without the vote. This inconsistency suggests, at best, that the recommendation is unimportant; or, at worst, that the recommendation is being reported in different ways for strategic reasons. The recommendation ought to be reported consistently, in the same format (with or without the vote), by the same person (probably the Speaker), in the same place in the consideration of each resolution.

- (b) The reporting member of any committee that has considered a resolution (other than the primary committee introducing the resolution, if one or more committees introduced the resolution) may speak next on the resolution after the Council has reported (or, if the Council does not report, after the mover has spoken), for up to four minutes. If the resolution was previously referred to the committee, the reporting member shall move the action (if any) that the report recommends, and debate shall expire on that motion (if debatable) after ten minutes. If the report does not dispose of the resolution or is not adopted, debate shall continue on the resolution from the point where it was referred, and shall expire after ten minutes.

§ 6.5. Secondary motions

For the purposes of these rules, a “secondary motion” means a debatable motion that is in order while another motion is pending. The mover of a secondary motion may speak first thereon, after which:

- (a) if the mover of the main motion favors the secondary motion, and there is no objection, the secondary motion shall stand approved;

Comment. It is a common misconception that a “friendly amendment” carries, and avoids a formal debate and vote, if only the mover of the main motion (and perhaps the seconder of the main motion) and the mover of the amendment concur. However, “[a]fter a motion has been stated by the chair, it belongs to the meeting as a whole, and the maker must request the assembly’s permission to withdraw or modify his own motion.” Henry M. Robert, *Robert’s Rules of Order Newly Revised* § 33 at 284 (10th ed. 2000) (request for permission to withdraw or modify a motion) (emphasis in original). This rule protects the meeting against investing significant time and energy in debating—and perhaps amending—a controversial resolution, only for the mover to withdraw the resolution if it has taken a turn that he or she dislikes, or to transform it into a radically different question with the consent of only one other member. A “friendly amendment” cannot avoid a formal debate and vote if even one delegate objects.

- (b) if the mover of the main motion favors the secondary motion, but there is an objection, the presiding officer shall recognize the objector, the mover of the main motion, and another opponent of the secondary motion, after which the question shall be put; or
- (c) if the mover of the main motion opposes the secondary motion, the presiding officer shall recognize the mover of the main motion, a proponent of the secondary motion, and another opponent of the secondary motion, after which the question shall be put.

Comment. Again, the debate on one secondary motion (defined as “subsidiary, privileged, or incidental,” Henry M. Robert, *Robert’s Rules of Order Newly Revised* § 5 at 55 (10th ed. 2000)), may consume the whole debate on a controversial resolution, so that the delegates debate only the secondary motion without ever debating the resolution itself. It may generally be presumed that the issues concerning such a motion can be framed with a minimum of debate.

Rule 7 Motions

§ 7.1. Motions generally

- (a) An incidental motion is in order from the floor. The presiding officer may entertain any other motion from the floor in the belief that a sufficient number may favor the motion.

Comment. Some motions, such as a point of order or a parliamentary inquiry, are in order even when another has the floor. See Henry M. Robert, *Robert’s Rules of Order Newly Revised* at tinted pp. 42-43 (10th ed. 2000). A motion that is not otherwise in order when another has the floor, however, enjoys the same rank as debate. Such a motion, including a call for the question, *id.* § 16 at 197 (previous question “[i]s out of order when another has the floor”), is not in order from an unrecognized delegate unless the presiding officer has offered to entertain it. The presiding officer ought to ignore any such motion by interruption.

- (b) No motion is otherwise in order until the mover files it in writing with the Clerk or the Clerk’s designee.

Comment. Many a motion, especially many a proposed amendment, faces the presiding officer with an ancient yet familiar problem:

In the very early development of parliamentary procedure, a presiding officer was expected to distill from the debate the essence of a motion and, in conclusion, take a vote on that motion. It was found in the House of Lords in England that, when there was no definite motion pending, it was not possible to tell whether debate was germane, and the debate itself often became discursive and lengthy. In addition, the presiding officer might not digest the debate into a motion in a way satisfactory to most of the members. In such a case, there was little opportunity to put the motion in proper form before voting, since the chair’s formulation of it occurred at the conclusion.

Henry M. Robert, *Robert’s Rules of Order Newly Revised* § 4 at 33 n. (10th ed. 2000) (making a motion). The presiding officer ought therefore to require that any motion to amend be submitted in writing.

§ 7.2. Amendment

No amendment to a resolution (other than an amendment made by the mover in moving the resolution or made by unanimous consent) is in order until the mover, an opponent, a proponent, and another opponent, if there are any, have debated the resolution.

§ 7.3. Substitution

If two resolutions concern the same matter but are partly or wholly inconsistent, then each resolution shall be in order as a substitute for the other, in which case—

- (a) The second resolution is out of order, except as a substitute for the first resolution, as soon as the presiding officer states the question on the first resolution. For the purposes of this rule 7.3, the “first resolution” means the one on which the presiding officer states the question first, and the “second resolution” means the other one, regardless of the order in which the resolutions were introduced, certified or reported under rule 5.2, or otherwise made into orders of the day.

Comment. As Robert notes, “The step of stating the question on the motion should not be confused with putting the question, which takes place later and means putting the motion to a vote.” Henry M. Robert, *Robert’s Rules of Order Newly Revised* § 4 at 31 (10th ed. 2000) (emphasis in original).

- (b) The presiding officer shall recognize such a motion to substitute immediately after the first proponent has spoken in favor of the first resolution and before any opponent has spoken thereon. The mover of the motion to substitute may speak first thereon for up to five minutes. The mover of the first resolution may speak second on the motion to substitute for up to three minutes. Each other speaker on the motion to substitute may speak for up to two minutes per speech.
- (c) Debate shall continue on the pending resolution (as amended by substitution, if so amended) as soon as the meeting disposes of the motion to substitute, at which time an opponent may speak against the resolution for up to five minutes. Each other speaker on the resolution may speak for up to two minutes per speech.
- (d) A motion to limit debate, a motion for the previous question, or a motion to extend the limits of debate is in order notwithstanding any other limit in this rule 7.3.
- (e) For the purposes of this rule 7.3, the “motion to substitute” means only the motion to substitute the second resolution for the first resolution as this rule 7.3 provides. This rule 7.3 does not prohibit, limit, or otherwise affect any other motion to amend by substitution or otherwise the resolution, any substitute therefor, or any other resolution.

§ 7.4. Limit debate; previous question

Neither a motion to limit debate nor a motion for the previous question shall take effect until an opponent, if there is one, has spoken against any motion to which it applies. The presiding officer may note when putting the question how many speakers still seek the floor. Neither motion shall prejudice the right of the mover of a resolution to speak last thereon.

Comment. The Assembly’s old procedures contain a highly unusual provision that

If the Assembly Speaker rules that no further speakers are to be recognized, a motion may be made to extend debate and to

recognize a further speaker. No discussion shall be allowed and a vote shall be taken at once if the motion is seconded. If the motion is approved by a majority of the members of the Assembly voting, subsequent speakers shall be recognized

Procedures of the Assembly ¶ 6(D). This rule invites distrust, if not inconsistency and abuse, and deserves repeal. Even when the presiding officer exercises this rule in the utmost good faith, it creates the appearance of arbitrariness and undermines the presiding officer's appearance of impartiality. However, while the rule remains, it still ought to be exercised sparingly (and as consistently as possible). The better practice, when the presiding officer concludes that the meeting is ready for the question but some delegates still seek the floor, is for the presiding officer to offer to entertain a motion for the previous question.

§ 7.5. **Extend limits of debate**

A motion to extend the limits of debate is in order notwithstanding any limit in these rules. Such a motion shall provide that debate be extended for a certain time not less than four minutes, or for an even number of speakers.

§ 7.6. **Division of the assembly**

Upon hearing a proper call for a division of the assembly, the presiding officer shall count or cause to be counted how many are voting for and how many against the question, which result the minutes shall record.

Comment. According to Robert, if a member calls for division of the assembly, the presiding officer must retake the vote, but need not recount. The presiding officer “can count the vote or order it to be counted”; however, “[i]f a member desires the vote on the division to be counted, he must make a motion to that effect, which requires a majority vote.” Henry M. Robert, *Robert's Rules of Order Newly Revised* § 29 at 272 (10th ed. 2000). The presiding officer may thus persist in a mistaken opinion of the outcome, which only a vote can disturb.

This rule makes counting, rather than a rising vote, *see id.* at 271, the ordinary method of dividing the assembly. It thus protects the integrity and certainty of the result, and prevents the presiding officer from abusing the power to declare the result. It further removes doubt from a close vote, not only by providing for a count upon demand, but by providing for the result to be recorded in the minutes.

§ 7.7. **Point of information**

A point of information may request an objective fact or an expert opinion, but may not request anyone, including the presiding officer or the mover of a resolution, to say how he or she expects or intends a resolution to be interpreted or applied by the present or a future administration.

Comment. Two points regarding points of information:

First, a point of information can only be made in order to seek information, not to volunteer it. For example, the mover of a resolution at the 1995 midyear meeting who disliked the turn that the debate had taken interrupted an opponent with a so-called “point of clarification,” then proceeded to make an unwarranted speech in the guise of offering information. The presiding officer ought to immediately curtail any such abuse.

Second, a point of information may request an objective fact or an expert opinion, but may not request anyone—including the Chair, the presiding officer, or the

mover of a resolution—to say how he or she expects or intends a resolution to be interpreted or applied by the present or a future administration. The Assembly cannot control how a resolution is interpreted or applied, except by the language that it adopts. The kind of subjective expectation or intent that this rule prohibits, although it may sound authoritative (especially if it comes from the Chair or the Speaker), is therefore mere speculation and totally nonbinding. Such speculation ought not to turn into a poor substitute for carefully drafted and clearly worded text. A delegate who wants a resolution to mean something that it does not clearly say cannot rely (or mislead others into relying) on speculation by the mover or the presiding officer, and must instead offer an amendment that properly clarifies the resolution.

§ 7.8. **Negative result**

If a resolution is lost, the vote thereon does not adopt the negative result as policy, but a motion to so adopt the negative result shall be in order if made promptly after the result is announced and before debate has begun on any other main motion. The question shall be put without further debate, subject to a motion to extend the limits of debate.

§ 7.9. **Order of business**

The presiding officer may, in his or her discretion, entertain from the floor as a question of privilege a motion relating to the order of business.

Comment. The presiding officer has historically entertained at the last session several motions to make a general order into a special order. Absent this rule, such motions are arguably out of order, since the rules already prescribe an order of business, *see* § 5.3 (agenda) (“The agenda of each meeting shall be special orders; reports from committees on resolutions previously referred; unfinished business; general orders; and, if there is time, new business.”), and suggest that “any other main motion other than a resolution” belongs under new business, § 5.8.

This rule approves the historical practice, and thus liberalizes the right of the Assembly to control the order of business.

Rule 8 Elections

§ 8.1. **Order of election**

If the agenda includes any matter that affects an election for more than one office or other title, including but not limited to any nomination or election under section 7.1(a) of the bylaws, then the Assembly shall vote on, hear, or otherwise consider the matter—

- (a) with respect first to each election for which only one candidate has filed a petition or otherwise been nominated, in the order in which the office or other title is listed in articles VI and VIII of the bylaws; followed by
- (b) each other election, likewise in the order in which the office or other title is listed in articles VI and VIII of the bylaws.

§ 8.2. **Order among candidates**

With respect to any matter that affects more than one candidate for the same office or other title, including but not limited to the order in which such candidates are nominated or speak, the order among the candidates shall be determined by their drawing playing cards (or, if cards are unavailable, straws) held by one of the candidates. The candidate drawing the highest card (or longest straw) shall choose first, the candidate drawing the next highest card shall choose next, and so forth.

§ 8.3. **Speeches**

Whenever the agenda allows time for any nomination or other speech from or in favor of a candidate, then each such candidate shall be limited to seven minutes, which he or she may divide among one or more speakers (including himself or herself) in his or her favor. A candidate's time shall not be further limited except that the Assembly or the presiding officer may limit each speech to not less than four minutes for those elections for which only one candidate has filed a petition or otherwise been nominated.

§ 8.6. **Result**

The presiding officer shall promptly announce the result, including how many votes each candidate received, which result the minutes shall record.

Rule 9 Adjournment

A motion to adjourn before the prescheduled time, or to recess until then or for most of the time until then, shall take a two-thirds vote.

Rule 10 Amendment and Suspension

§ 10.1. **Amendment**

The Assembly may amend these rules by resolution. Such a resolution shall take a two-thirds vote, or a simple majority after a favorable report from the Council.

Comment. No such amendment binds the Assembly at any future annual meeting unless it is incorporated into the permanent standing rules that the Council drafts under section 4.3(e) of the bylaws.

§ 10.2. **Suspension**

A motion to suspend these rules, or any part of them, shall take a two-thirds vote. For the purposes of this rule, there is no difference between an ordinary standing rule and

a rule of order. The Assembly shall not suspend any other rule, policy, or procedure, except by resolution.

Comment. This rule prevents confusion over the difference between an “ordinary” standing rule and a “rule of order,” and removes doubt about whether a rule other than a standing rule can be suspended. See Henry M. Robert, *Robert’s Rules of Order Newly Revised* § 25 at 256-57 (10th ed. 2000) (“An ordinary *standing rule* . . . is a rule that does not relate to parliamentary procedure as such Standing rules . . . can be suspended by a majority vote as they do not involve the protection of a minority of a particular size.”).

Whether a rule is “ordinary” or a “rule of order” is a matter of characterization, subject to dissent and abuse. This rule ignores the difference, and characterizes all such rules uniformly. The minor sacrifice in the freedom to suspend an “ordinary” rule by simple majority is more than offset by the consistency that will result from, and the confusion that will be prevented by, such a uniform treatment.

This rule also prohibits the suspension of a rule other than a standing rule—that is, “any other rule, policy, or procedure”—except by resolution. What this resolution sacrifices in the freedom to suspend such a rule, it more than compensates for in protecting the justified expectations that such a rule creates. There is, furthermore, very little sacrifice even in terms of freedom to suspend such a rule—a majority can still adopt a resolution for suspension, but only in suitable form and after previous notice. This resolution therefore maximizes care and forethought in any suspension of a rule, without much lessening the majority’s freedom.