

**PROPOSED REVISIONS TO BLANKET AUTHORITY PROCEDURE  
(August 7, 2003)**

(See pages 72-75 of 2002-2003 *Policy and Procedures Handbook*)

**B. Representation by Sections**

*(Blanket Authority)*

At the 1981 Midyear Meeting, the House of Delegates adopted the following "blanket authority" policy, and amended it at the 1991 Annual Meeting. The Board of Governors amended the policy in (DATE)

*Resolved*, That the House of Delegates rescinds the "blanket authority" statement presently in effect and adopts instead the following blanket authority resolution:

*Be It Resolved*, That in order to implement the specific authority required by §25.1 of the Bylaws of the Association, as interpreted by the House of Delegates in this resolution, any section of the Association may present a statement on matters within its primary or special expertise and jurisdiction to a federal, state, municipal legislative body, governmental agency, court (with respect to procedural rules only), or international governmental body, subject to the following conditions:

**A. Requirements of the Application for Blanket Authority**

1. There shall be a clear statement of the policy position to be taken by the section.
2. The section shall submit within the times provided in Part B, below, all communications to be addressed to the federal, state, municipal legislative body, governmental agency, court, or international governmental body, including, without limitation, the following:
  - a. Any report or resolution;
  - b. Prepared testimony;
  - c. Exhibits;
  - d. Letter of transmittal;
  - e. Executive Summary.
3. The position to be taken by the section must:
  - a. Not be in conflict with current Association policy; and
  - b. Have been authorized by the section in accordance with its Bylaws.
4. The documents to be submitted on behalf of the section must make clear that they are being presented only on behalf of the section and not on behalf of the Association.
5. The application must disclose any material interest in the subject matter of the policy on the part of any member of a section committee which initiated the proposal and of the section council which approved the submission of the request by reason of specific employment or representation of clients.
6. The application shall state the date of proposed submission to the federal, state, municipal legislative body, governmental agency, court, or international governmental body.

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**B. *Procedure to Be Followed by Section in Filing Application for Blanket Authority***

**1. Normal Procedure**

- a. At the earliest possible time, but not less than ten (10) working days before the proposed submission date, the section shall send an application meeting the requirements of Part A, above, to (i) the Chair of the House of Delegates; (ii) the Secretary of the Association at the American Bar Center, Chicago, Illinois; (iii) the Governmental Affairs Office, Washington, D.C.; (iv) the chair and staff liaison of each section; and (v) the chair and staff liaison of each committee or affiliated organization which appears to have an interest in the matter.
- b. At the same time, the section shall send to the Chair of the House, the Secretary of the Association and the Governmental Affairs Office (at the places indicated in pPart B, section 1a, above) a list of all distributees to whom the application has been sent.
- c. In the case of a policy statement to be presented to a municipal or state agency or legislature, the section shall at the same time also send an application meeting the requirements of part A, above, to all statewide bar associations in that state and to local bar associations in that state which are represented in the House of Delegates.
- d. In transmitting its application under this procedure, the section shall utilize personal delivery, facsimile transmission, e-mail or other electronic communication, or express mail which is available to the recipients designated herein.
- e. Lengthy submissions, e.g. 10 pages, shall be accompanied by an Executive Summary

**2. Expedited Procedure**

In situations where submission of the application ten (10) working days before the proposed submission date is not possible:

- a. The section shall cause a copy of the application meeting the requirements of pPart A, above, to be received by, or delivered to: (i) the Chair of the House of Delegates; (ii) the Secretary of the Association at the American Bar Center, Chicago, Illinois; (iii) the Governmental Affairs Office, Washington, D.C.; (iv) the chair and staff liaison of each section; and (v) the chair and staff liaison of each committee or affiliated organization which appears to have an interest in the matter, not less than two (2) working days prior to the proposed submission date.
- b. In the case of a statement to be presented to a municipal or state agency or legislature, the section shall also cause a copy of said application to be received by all statewide bar associations in that state and local bar associations in that state which are

represented in the House of Delegates not less than at least two (2) working days prior to the proposed submission date.

- c. To its application the section also shall append a statement explaining why the 10-day procedure outlined above has not been followed.
- e. In transmitting its application under this expedited procedure, the section shall utilize personal delivery, facsimile transmission, e-mail or other electronic communication, or express mail which is available to the recipients designated herein.
- e. Lengthy submissions shall be accompanied by an Executive Summary.

C. *Procedure to Be Followed in Considering Applications for Blanket Authority; ~~Procedure to be followed~~*

- 1. The Office of the Secretary will determine whether proper distribution of the application has been made.
- 2. The Chair of the House of Delegates or the Secretary of the Association may object to the section presentation if:
  - a. It is in conflict with current Association policy; or
  - b. The proposed statement is not within the primary or special expertise and jurisdiction of the section submitting it; or
  - c. The matter is of such significance to the legal profession and the Association as a whole that no presentation should be made without specific authorization from the Board of Governors or the House of Delegates; or
  - d. The statement merely reaffirms existing Association policy approved within the preceding six years.
- 3. If a section or committee desires to object to the presentation of a section policy position under blanket authority, it shall immediately communicate its objection and reasons therefore by telephone, and electronically, to (i) the Chair of the House of Delegates; (ii) the Secretary of the Association; and (iii) the section desiring to submit the position under blanket authority.
- 4. If no objection to the section presentation is received, the section may present its statement to the federal, state, municipal legislative body, governmental agency, court, or international governmental body, on or after the proposed submission date.
- 5. When an objection has been made, the Office of the Secretary will immediately notify the section seeking blanket authority, and if that section so requests, will transmit the application together with any objection thereto to the Board of Governors for its consideration.
- 6. If an objection is made, the section shall not present its statement of policy unless approval is obtained from the Board of Governors or the House of Delegates.
- 7. Blanket authority when granted under the normal procedure shall continue for a period of two years; when granted under the expedited

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procedure, for ninety (90) days. Upon application under the normal procedure it may be renewed for successive two-year periods.

**D. Authority of Section to Submit Technical Comments**

- 1. The blanket authority procedure described above in parts A, B and C, is not applicable when a section submits technical comments to a government executive branch agency (hereinafter "government agency" pursuant to this Part D.**
- 2. "Technical comments" are defined as comments that are narrowly-focused within a particular section's primary or special expertise and jurisdiction, and are being submitted in response to a time limited solicitation for comments by a governmental agency.**
- 3. Technical comments**
  - a. May not be in conflict with current Association policy; and**
  - b. May not conflict with other policy approved pursuant to the blanket authority procedure.**
- 4. The Board may grant to a section the authority to submit "technical comments" as defined herein on an ongoing basis to a specified governmental agency on specified subject matters. The grant of such authority will generally be for three years but subject to rescission by the Board at any time. The grant of authority may be renewed for additional three-year terms by this same application procedure.**
  - a. A section desiring such authority shall submit to the Board an application, which shall state the governmental agency or agencies to which it desires to submit technical comments and the subject matter areas on which it intends to comment.**
  - b. The applying section should at the time of application circulate its application to the Chair and ABA staff liaison of each section and of each committee or affiliated organization, which appears to have an interest in the agencies and/or subject matter areas indicated in the application. These entities will be invited to notify the applying section and the Board whether it opposes the request or whether it would like to be a "reviewing entity" for any or all technical comments submitted pursuant to a grant of authority to the applying section. An entity with expertise may state a reasoned objection or request to be a reviewing entity within thirty (30) days of notice of the application. The Board may determine whether and with respect to what matters an entity will be a reviewing entity.**
  - c. The Board may approve, deny, or modify the application. It may specify that the applying section must submit all or some of its technical comments to a reviewing entity or entities at least two business days in advance of the proposed submission date. A reviewing entity may object to the filing; if it does, the President of the Association will decide whether or not the technical comments may be submitted.**

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5. Technical comments may be submitted to a governmental agency on behalf of the section or an entity of a section, as the views of the section or the section entity, in accordance with the following procedure:
  - a. The comments must be reviewed and approved for submission by section leadership.
  - b. The comments must contain a disclaimer that specifically states the comments do not represent the policy of the Association or, when appropriate, the views of the section.
  - c. Comments of individual members of sections shall not be submitted to a governmental agency using the letterhead of an ABA entity or referencing an ABA entity's involvement.
  - d. Copies of the transmitted letter and comments must be contemporaneously sent to (i) the Secretary of the Association in care of the Policy Administration Division at the American Bar Center, Chicago, Illinois; and (ii) the Governmental Affairs Office, Washington, D.C. The comments when submitted to these ABA entities must be accompanied by a certification, signed by the section chair, that the comments have been reviewed and approved by the section leadership as technical comments within the section's primary or special expertise and jurisdiction. The Office of the Secretary and the Governmental Affairs Office will make periodic reports to the Operations Committee regarding the implementation of the grant of authority.

Detailed guidelines for the submission of blanket authority requests are available upon request to the Division for Policy Administration.