

AMERICAN BAR ASSOCIATION
LAW STUDENT DIVISION
ELECTION REGULATIONS GUIDE

PURPOSE

Purpose: The purpose of this document is to provide a summarized guide of the Elections Regulation Code. However, it is mandatory that you read the actual Elections Regulations Code in order to get a complete understanding of the guidelines when running for an ABA Law Student Division position. Any ambiguities or vagueness in this document is not a defense to any campaign violation. This document defers to the Elections Regulations Code if any ambiguity or vague term arises. A link to the Code appears at the end of this guide.

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Article I – Duration and Effect of Election Rules

Chapter 1 – Definitions for Key Terms

Nominee - a law student who has filled out and submitted the nomination forms to the American Bar Association/Law Student Division, but is awaiting official certification for candidacy

Candidate - a law student who has filled out and submitted the nomination forms and has received official certification from the ABA Law Student Division certifying candidacy for office.

**** A nominee or candidate is initially bound by the Elections Regulations as soon as their Dean certifies the nomination forms, regardless of whether the ABA Law Student Division has received the nomination forms ****

Requirements for Certification from the ABA Law Student Division:

- Be a law student attending any American Bar Association approved law school;
- Be an ABA Law Student Division member in good standing (dues must be paid in full for the current bar year by the filing deadline);
- A student in good standing at law school (not on academic probation or suspension) during the academic year in which he/she would apply and serve in office, where he/she elected;
- Not have received his/her first degree in law;
- Be a law student for the academic year following the election; and
- A law student who has received the support of his/her law school dean to run for office. All nomination forms must be certified and signed by each candidate's dean.

Continued Certification for Candidacy is Contingent Upon a Candidate:

- Traveling at his/her own expense to the meeting at which the election occurs;
- Attend the meeting at which the election occurs
- Participate in all election functions

A candidate who does not attend the election shall be presumed to have withdrawn, unless he or she notifies the Division Director, the Division Chair, or the Committee Chair in writing that he or she cannot attend.

- **Exception:** If the candidate currently serves as a member of the Board of Governors for whom the ABA Law Student Division would normally reimburse/cover expenses associated with the meeting, the individual is not entitled to expenses subsequent to the start of election activities, including but not limited to, the per diem allowance.

To Withdraw from an Election:

A candidate may use oral or written notice to the Division Director, Division Chair, or Elections Committee Chair

Reporting a Violation:

- Any division member with knowledge of a violation should report it in writing or orally to the Committee Chair, Division Chair, or the Director of the Division ASAP (a report to any other person is invalid)

- The individual receiving the report of the election violation shall immediately notify the other necessary parties.
- The reporting member, committee members, witnesses, and the accused are bound by confidentiality regarding the suspected violation, its reporting to the committee, and any proceedings before the committee.

Disqualification for Violation:

*** Any candidate who knowingly or intentionally violates any rule shall be disqualified from the election in which he/she is a candidate (strict liability)***

Any candidate who recklessly, but not knowingly or intentionally violates any provision of this Code shall be disqualified:

- Exception: Unless the Elections Committee deems a warning is sufficient through “harm analysis”
 - But a candidate is not entitled to more than one warning except in extraordinary circumstances

Chapter 2 – Rules Relating to Third Parties

A candidate is strictly liable for the actions of others taken on the candidate’s behalf (either express or implied authority).

- Can’t have friends or other people break the rules for you

Defenses:

It is a valid defense if a candidate was maliciously targeted by third parties to be disqualified.

- Exception: Ignorance of fact or willful blindness is not a defense

Article II – Rules Governing Campaigning

Chapter 1: Pre-Election Candidacy Guidelines

Nominees and Candidates shall not communicate, orally or in writing, to ABA Law Student Division voting members outside of the normal course of business.

- i. Normal Course of Business – any communication of duties associated with a pre-existing position (either with the ABA Law Student Division or the within the law school)

If the Candidate wants to send out a Communication to voting members:

The following must be done BEFORE the communication is sent:

- ii. Outside the nominee’s/candidate’s circuit – must seek Elections Committee Chair approval
- iii. Inside the nominee’s/candidate’s circuit – must seek approval from Circuit Governor and Elections Committee Chair

Determining which School the Candidate is from:

The school whose dean certified the nominee or candidate for office is the official school of residency for the candidate.

Transferring Nominee or Candidate:

- Residency remains with the school of certification until the nominee/candidate shows evidence to the Committee Chair of acceptance for transfer to the new school
- Notification of Transfer Requirement to the ABA Law Student Division Voting Members:
 - a. The candidate must make a formal statement at the beginning of the candidate's speech mentioning the schools and circuits (if applicable) the candidate is transferring to and from and acknowledging the intent to transfer.
 - (a) **Failure to make this statement will be grounds for disqualification**
 - (b) **If a nominee/candidate communicates to any voting members of the new school and/or circuit:**
 - (1) **prior to showing evidence of a transfer to the Committee Chair; and**
 - (2) **prior to receiving acknowledgement of that evidence from the Chair; shall be deemed a violation**
- The Circuit Governor who is responsible for screening emails from nominees/candidates shall make a report to the Elections Committee prior to the opening of the voting polls

Chapter 2: Election Candidacy Guidelines

A candidate may orally campaign once the election period begins

- Election Period - from **the start of on site registration** for the meeting at which elections are held to **when the polls close**.
- As a candidate or nominee you are PROHIBITED from the following practices during the election period
 - i. **Passing out business cards** during the election period to any law student except to attorneys for networking opportunities;
 1. **Candidates who currently hold other positions are prohibited from passing out business cards even in a capacity related to their current position.**
 - ii. Publishing or distributing any type of **campaign materials**;
 - iii. **Disclosing your candidacy** before the sanctioned time (you will be told when this time is)
 - iv. Organizing **any type of social event or gathering** outside of the meeting programming (see below for more details);
 - v. Providing **any type of consideration**, (consideration for the purposes of these rules is "any benefit") to any ABA Law Student Division member in furtherance of candidacy
 - vi. Spending **any money** for the purpose of campaigning
 - vii. Engaging in the **defamation** of another candidate.

Gatherings and Parties

During the election period you are prohibited from attending or hosting **any hospitality suite, gathering, or party** with voting delegates of the Division Assembly or Board of Governors;

- Note: This provision does not restrict you from attending a general, non-campaign oriented gathering of law students at Division events or local establishments.
 - i. If you have any concerns about a gathering ask the Chair of the Law Student Division or Chair of the Elections Committee.
- Exception: The provisions about hosting events do not apply to the presence of roommate(s) in your hotel room.
- This roommate rule is strictly interpreted and is limited to actual persons using the room for lodging during the meeting.

Article III – Prior Precedent in Relation to Established Rules

Chapter 1: Precedent Affecting the Interpretation of Regulations

Precedent is used by the Elections Committee when rendering judgment on an alleged violation

- Exception: If language is ambiguous or vague, then precedent may not be applicable
- Exception 2: When a term is unreasonably ambiguous and no prior precedent exists in relation to alleged violation, the Elections Committee may petition the Board of Governors for a final decision on the matter.
 1. The final decision from the board shall stand with prejudice with no right of appeal under Article IV of this Code.
 2. The final decision of the board shall be determined by simple majority.
- The Elections Committee shall define the procedures of such hearings before the Board of Governors

Article IV: Procedure, Reporting, and Right of Appeal

Chapter 1 – Burdens and Procedure

After a valid report of a violation has been received by the Division Chair, Elections Chair, or Director, the Elections committee will meet to make a determination of whether a violation actually has occurred

Burden of Proof – A violation is found to have occurred if it can be proven by a preponderance of the evidence

Strict Liability

- Applies in instances where valid defenses are absent (i.e. knowingly or intentionally violated the rules; willful blindness, etc.).

Procedure

- Once a valid report of violation is made, the committee will notify the accused candidate.
- The accuser shall present the complaint in the presence of the accused candidate (confrontation provision).
- Candidate shall be allowed to present his case to the committee through relevant evidence.
- Candidate shall answer any questions reasonably related to the inquiry.
- Committee decides if a violation has occurred by a majority vote.
 - i. Each member of the committee, except the Chair, gets one vote, with no proxy provisions;
 - ii. The Chair shall only vote in the event of a tie.
 - iii. If Chair is absent and the committee is even in number, the Division Chair shall designate a member of the Board of Governors to sit as a committee member, ensuring a tiebreak vote.
- After a vote is taken, the committee shall immediately submit a written report of their findings to the Division Chair and to the candidate.
 - i. The report shall include:
 - a. A summary of the facts found by the committee,
 - b. A statement of the rules and guidelines found to apply,
 - c. The decision of the committee, and
 - d. The punishment imposed

Appeals Procedure

1. A candidate who has been found to have violated the elections regulations shall be entitled to appeal the committee’s decision to the Division Chair.
 - a. The appeal must be made in writing within a reasonable time after the candidate is informed of the committee’s decision.
2. The Division Chair shall review the evidence considered by the committee and either uphold or reverse the committee’s decision.
 - a. The standard of review shall be whether or not the committee reasonably applied the applicable rules to the facts of the matter.
3. If the Division Chair reverses the Committee’s decision, the complaint is dismissed with prejudice.
4. If the Division Chair upholds the Committee’s decision, the candidate is entitled to an appeal to the Board of Governors.
 - a. The appeal must be made in writing within a reasonable time after the candidate is informed of the Division Chair’s decision.
5. The Board of Governors is convened either at the next board meeting, by correspondence, or by special session.
 - a. The hearing is under confidence.
6. The Board will hear testimony and evidence from the Committee members and the candidate
7. The Board shall vote by secret ballot when determining whether the Division Chair’s determination should be overturned.
 - a. The vote to overturn requires 2/3 majority vote.

Adopted: October 28, 2006

Questions or concerns regarding any of these provisions shall be brought to the Elections Committee. It is better to “play it safe rather than sorry.”