

**AMERICAN BAR ASSOCIATION  
LAW STUDENT DIVISION  
CODE OF ELECTION REGULATIONS**

**ARTICLE I: DURATION AND EFFECT OF ELECTION RULES**

**Chapter 1 -- Time at Which Rules Bind Candidates and Nominees**

§A. Definitions

(a) A candidate is defined as a law student who has filled out and submitted the nomination forms and has received official certification from the American Bar Association Law Student Division certifying candidacy for office.

- (i) For certification, an individual must:
  - a. Be a law student attending any American Bar Association approved law school;
  - b. 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);
  - c. Be a law student in good standing at law school for the year in which he/she would serve in office, were he/she elected;
    - i. not be on academic probation;
    - ii. not be suspended;
  - d. Not have received his/her first degree in law;
  - e. Be a law student for the academic year following the election; and
  - f. Be a law student whose law school dean has certified his/her candidacy for elected office.
- (ii) Continued certification for candidacy is contingent upon the individual meeting the following conditions:
  - a. A candidate must travel at his/her own expense to the meeting at which the election occurs, attend the meeting at which the election occurs, and participate in all election functions.
    - i. Travel is defined as all costs incurred from transportation, room, board, and any other expenses associated with candidacy for office.
    - ii. A candidate who does not attend the election shall be presumed to have withdrawn, unless he or she notifies the Division Director, the Division Chair, or the Elections Committee Chair in writing that he or she cannot attend because of:
      - 1. one of the following unavoidable circumstances:
        - a. an obligatory academic exercise, absence from which might result in a penalty of credit or grade;
        - b. a civic or legal duty, absence from which might result in civil liability or criminal culpability;
        - c. the serious illness or injury of the candidate or a relative or close friend;
        - d. inability to travel, for a reason other than lack of funding or poor planning;
        - e. advanced pregnancy or advanced pregnancy of a candidate's spouse or partner; or,
        - f. a religious obligation.
      - 2. any other reason that may be deemed an unavoidable circumstance by the Division Chair or the committee Chair.
  - b. The provisions of this section apply regardless of whether the candidate is opposed in the election.
- (iii) If the candidate currently serves as a member of the Board of Governors for whom the American Bar Association Law Student Division would normally provide expenses associated with the

meeting at which the election occurs, the individual is not entitled to expenses subsequent to the start of election activities, including but not limited to, the per diem allowance.

- (iv) A candidate may withdraw by personal or written notice to the Division Director, the Division Chair, or the committee Chair.

(b) A nominee is defined as 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.

§ B. Any nominee or candidate for office shall be bound by the American Bar Association Law Student Division Code of Election Regulations from the date their nomination form is certified by the Dean of their law school, regardless of whether the nomination form has been received by the Division.

§ C. Any Division member with knowledge of activities by a candidate in violation of the Code of Election Regulations should report the violation to the Division Standing Committee on Elections.

(a) A report of an election violation shall be made:

- a. In writing or orally to the Committee Chair, Division Chair, or the Director of the Division as soon as the person having knowledge of the violation is able to transmit the communication.
- b. The individual receiving the report of the election violation shall immediately notify the remaining two individuals mentioned in subsection (a).
- c. A report submitted to any other individual will be considered invalid and will not be investigated until a proper report is filed with the appropriate individuals.

(b) For the purposes of this section of the Code, a violation is defined as an action by the nominee or candidate for office that is reasonably construed or arguably a violation this Code.

§ D. 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.

§ E. Any candidate who knowingly or intentionally violates any provision of this Code shall be disqualified from the election in which he/she is a candidate.

§ F. Any candidate who recklessly, but not knowingly or intentionally violates any provision of this Code shall be disqualified unless the Standing Committee on Elections finds under a harm analysis that the candidate's actions can be remedied by a warning.

(a) the harm analysis for the purposes of this code shall include the following factors:

- a. the actual prejudice suffered by the opposing candidates in the election as a result of the violating candidate's actions.
- b. the affect on the integrity of the election
- c. and, the nature in which the violation occurred.

§ G. A Candidate shall not be entitled to more than one warning under §F, unless the Elections Committee, by a majority vote, believes circumstances require otherwise.

## **Chapter 2 -- Rules Relating to Third Parties**

§ H. A candidate subject to the provisions of this code shall be strictly liable for the actions taken by others on their behalf, regardless of whether the actor has express or implied authority.

§ I. It shall be an affirmative defense to liability under Article I, Chapter 2, that a third party purposefully and maliciously violated the provisions of the Code of Election Regulations to achieve the disqualification of the targeted candidate.

§ J. Ignorance of fact or willful blindness shall not be a defense under this Code.

## ARTICLE II: RULES GOVERNING CAMPAIGNING

### Chapter 1 -- Pre-Election Candidacy Guidelines

§ A. No nominee or candidate for office in the ABA Law Student Division shall communicate, orally or in writing, with delegate voting members of the Division Assembly or Board of Governors outside of the normal course of business.

§ B. For the purposes of this chapter the normal course of business shall be defined as any communications, activities, or tasks necessary for the performance of a position within a school or the American Bar Association Law Student Division already held by the candidate or nominee.

§ C. Any communications with delegate voting members of the Division Assembly or the Board of Governors from outside of the nominee's or candidate's circuit shall be screened and approved by the Standing Committee on Elections before communication is made by the candidate or nominee.

§ D. Any communications with delegate voting members of the Division Assembly or Board of Governors from within the nominee's or candidate's circuit shall be screened and approved by the Elections Committee Chair, in consultation with the Circuit Governor in whose circuit the candidate resides, before communication is made.

- (a) Residency for the purpose of this section is defined by the location of the school which certified the nominee or candidate for office.
- (b) For a transferring candidate or nominee, residency remains with the school of certification until such time as the candidate shows evidence to the Committee Chair of acceptance for transfer to the new school.
  - a. The candidate must make a formal statement at the beginning of the candidate's speech at the election meeting expressly mentioning the schools and circuits (if applicable) the candidate is transferring to and from and acknowledging the intent to transfer.
  - b. Failure to make this statement will be grounds for disqualification from the election under Article 1 Chapter 1 § E of this code.
  - c. Any communications to voting members of the new school and 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 an election regulations violation under Article 1 Chapter 1 § E of this Code.
- (c) The Circuit Governor whose duty it is to screen and consult with the Committee Chair on the communications, shall make a full report of the communications to the Standing Committee on Elections before the election polling occurs.

### Chapter 2 -- Election Candidacy Guidelines

§ E. A candidate or nominee is prohibited from the following practices during the pre-election and election period:

- (a) passing out business cards during the election cycle to any law student except to attorneys for networking opportunities;
  - a. Candidates who currently hold other positions are prohibited from passing out business cards even in that capacity
- (b) publishing any type of campaign materials;
- (c) distributing any types of campaign materials;

- (d) attending or hosting any hospitality suite, gathering, or party with voting delegates of the Division Assembly or Board of Governors;
  - a. This provision does not restrict a candidate from attending a general, non-campaign oriented gathering of law students at Division events or local establishments
- (e) hosting any type of gathering with voting delegates of the Division Assembly or Board of Governors.
- (f) disclosing candidacy before the sanctioned time;
- (g) organizing any type of social event or gathering outside of the meeting programming;
- (h) providing any type of consideration to any American Bar Association Law Student Division member in furtherance of candidacy or spending any money for the purpose of campaigning;
- (i) engaging in the defamation of another candidate.

§ F. The election period is defined from the start of on site registration for the meeting at which election polling occurs until such time the polls permanently close.

§ G. It shall not be a violation of Article II Chapter 2 § E if a voting member(s) is in the candidate's hotel room and that the voting member(s) is also the candidate's roommate(s) for the meeting.

### **ARTICLE III: PRIOR PRECEDENT IN RELATION TO ESTABLISHED RULES**

#### **Chapter 1 -- Precedent**

§ A. In the absence of unambiguous language governing a reported violation or supposed violation, precedent from previous decisions of the Standing Committee on Elections shall be significantly considered when rendering judgment of an alleged violation.

§ B. In circumstances where Election Regulations are unreasonably ambiguous and no prior precedent exists in relation to alleged violations, the Elections Committee reserves the right to petition the Board of Governors for a final decision on the matter.

- (a) The final decision from the board shall stand with prejudice with no right of appeal under Article IV of this Code.
- (b) The final decision of the board shall be determined by simple majority.
- (c) The petition to the board, under this section, shall be made by the Elections Committee after exhausting procedural rules of Article IV.
- (d) The Elections Committee shall define the procedures of such hearings before the Board of Governors

### **ARTICLE IV: PROCEDURE, REPORTING, & RIGHT OF APPEAL**

#### **Chapter 1 -- Burdens and Procedure**

§ A. After receiving a complaint or report of a violation under this Code, the Standing Committee on Elections shall convene to determine whether a violation of the Code has occurred.

§ B. The burden of proof necessary to warrant discipline under this Code shall be a finding of fact by the preponderance of the evidence.

§ C. Absent the defenses specifically provided, a candidate is strictly liable for a violation of the code.

§ D. Upon receiving a complaint or report of a violation under this Code, the committee shall immediately notify the candidate under suspicion of the proceeding commenced against him.

§ E. The candidate shall be allowed the opportunity to present his case to the committee. The candidate has the right to know the identity of and confront the reporting member.

§ F. The candidate shall submit to and answer any questions reasonably related to the inquiry by the Committee.

§ G. The candidate shall be allowed to present any evidence for review by the committee that, in the opinion of the committee, tends to reveal a fact of the matter.

§ H. The committee shall determine whether the candidate's action constitutes a violation under this Code by a majority vote.

§ I. Each member of the Elections Committee, except for the Committee Chair, is entitled to only one (1) vote, with no proxy provision. The Chair shall only vote in the event of a tiebreak.

§ J. In the event that the committee is even in number because of the absence of the Committee Chair, the Chair of the Division shall designate a member of the Board of Governors to sit as a committee member, ensuring a tiebreak vote.

§ K. The committee shall immediately submit a written report of their findings to the Chair of the Division and to the candidate.

- (a) 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.

## Chapter 2 -- Appeal

§ L. A person found in violation of this Code shall be entitled to appeal the decision of the committee to the Chair of the American Bar Association Law Student Division. The appeal must be made in writing within a reasonable time after the candidate is informed of the committee's decision.

§ M. The Chair of the Division shall review the evidence considered by the committee in light of the rules applied and either uphold or reverse the committee's decision. The standard of review shall be whether or not the committee reasonably applied the applicable rules to the facts of the matter.

§ N. In the event that the Committee's decision is reversed by the Division Chair, the matter against the candidate shall be dismissed with prejudice.

§ O. If the Division Chair should uphold the decision of the committee, the candidate is entitled to appeal the decision to the Board of Governors by submitting such appeal in writing to the Division Director immediately following the Division Chair's determination.

§ P. The Director shall then convene the Board of Governors for consideration of the matter. If the appeal is requested outside of a normal meeting of the Board of Governors, the matter shall be addressed either at the next board meeting before the election or by correspondence to the board.

§ Q. Any such proceeding by the Board of Governors shall be in confidence under a motion to close.

§ R. The Board of Governors shall then review the matter *de novo*, taking testimony and evidence from the Committee members and the candidate.

§ S. The Board of Governors shall decide by secret ballot whether the Division Chair's determination should be overturned and the appropriate remedy for the infraction. The vote of the board to overturn the Division Chair's determination requires a 2/3 majority vote.

## ARTICLE V: PRIOR LAW

### Chapter 1 -- Repeal of Conflicting Provisions

§ A. Any and all American Bar Association Law Student Division rules, guidelines, policies, and procedures in conflict with this Code are hereby repealed.

### Chapter 2 -- Effective Date

§ B. The provisions of this Code shall take effect immediately upon the approval of the Board of Governors and shall be published accordingly.

### Chapter 3 -- Guidelines, Procedures, and Forms

§ C. The Elections Committee is vested with the power to espouse guidelines, procedures, and forms necessary for the implementation of this Code.

**Adopted: October 28, 2006**