



# Law Student **Division**

## Assembly Resolutions and Reports

August 7, 2010  
ABA Annual Meeting  
San Francisco, California

# Assembly

- Agenda
- Minutes – 2009 Assembly
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  - Report 11-5\*
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  - Report 10/08-01
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*\* Pending before the ABA House of Delegates*

- National Award Nominees

American Bar Association  
Law Student Division Assembly

Saturday, August 7, 2010  
San Francisco Marriott Hotel – San Francisco, California  
2:00 pm – 6:00 pm

**Agenda**

**Opening and Introductory Remarks** 2:00 pm

- **Call to Order**  
*James Borkman, Chair, Law Student Division*
- **Presentation of the Colors**  
*University of California-Berkeley, Air Force ROTC*
- **National Anthem**
- **Explanation of Purpose and Mission of the Assembly**
- **Introduction of Division Officers and Delegates**
- **Adoption of Reports to Organize as a Delegate Assembly**
  - **Credentials Report**
  - **Adoption of Assembly Rules**
  - **Adoption of Assembly Agenda**
- **Annual Elections Committee Progress Report**
- **Resolutions Committee Report**
- **Approval of 2009 Assembly Minutes**

**Special Order of Business**

- **Presentation**  
*Carolyn B. Lamm, President, American Bar Association*
- **Presentation**  
*Stephen N. Zack, President-Elect, American Bar Association*

**Debate**

**Report 11-5**

**Sponsored by:** ABA Section of Legal Education and Admissions to the Bar  
Amends Sections 45.9 (a) and (b) of the ABA House Rules of Procedure regarding the role of the House of Delegates in the law school accreditation process in order to comply with Department of Education regulations.

## **Presentation**

- **Recognition of Newspaper Award Recipient**
- **Recognition of the Henry J. Ramsey, Jr. Diversity Award Recipient**

## **Debate**

### **Report 110**

**Sponsored by:** ABA Standing Committee on Public Education

Encourages all lawyers to consider it part of their fundamental responsibility to ensure that all students experience high quality civic learning, including the study of law, government, and history.

## **Presentation**

- **Recognition of the Judy M. Weightman Memorial Public Interest Award Recipient**
- **Recognition of Volunteer Income Tax Assistance Program Award Recipient**

## **Report 10/08-01**

**Sponsored by:** Daniel Thies, Division Liaison to the ABA Section of Legal Education and Admissions to the Bar

Urges the ABA Law Student Division to oppose improper attempts by persons, institutions, or governmental bodies outside law schools to interfere in the ongoing activities of law school clinical programs and courses, and to support the efforts of the American Bar Association and the ABA Section of Legal Education and Admissions to the Bar to assist law schools in preserving the independence of law school clinical programs and courses.

## **Presentation**

- **Recognition of Membership and Activity Award Recipient**
- **Recognition of the Division Liaison Award Recipients**

## **Debate**

### **Report 10/08-02**

**Sponsored by:** Mark Pascua, Division Secretary-Treasurer and Chair, Division Bylaws Committee

Revises the Law Student Division bylaws to reflect current Division practices and current Division leadership positions and their roles, updates the language without altering the meaning, and reorganizes information for clarity.

## **Presentation**

- **Recognition of Student Bar Association Award Recipient**
- **State of the Division Address**
- **Division Chair Awards**
- **Announcement of Election Results**
- **Installation of 2010-2011 National Officers and Division Delegates**
- **Chair's Closing Remarks and Announcements**

American Bar Association  
Law Student Division Assembly

Saturday, August 1, 2009  
Chicago Marriott Hotel – Chicago, Illinois  
2:00 pm – 6:00 pm

**Minutes**

**Opening and Introductory Remarks**

2:12 pm

▪ **Call to Order**

*Chris Sprowls, Chair Law Student Division*

▪ **Presentation of the Colors**

▪ **National Anthem**

*Galen Hair, Vice Chair*

▪ **Explanation of Purpose and Mission of the Assembly**

▪ **Introduction of Division Officers and Delegates**

▪ **Adoption of Reports to Organize as a Delegate Assembly**

▪ **Credentials Report**

*Caitlin Fitzgerald, Division Representative to the ABA Board of Governors and Elections Committee Chair*

109 ABA Approved law schools are represented

179 Voting members

Moved; seconded by BOG Representative Brandon Sherr

▪ **Adoption of Assembly Rules**

*Caitlin Groh, Division Delegate*

The Assembly Rules are in the Assembly Book

Moved; no second was necessary as it came from the board

2/3 Vote is needed

Standing vote

All in favor

▪ **Adoption of Assembly Agenda**

*Tammy Lippert, Tenth Circuit Governor and Resolutions Committee Co-Chair*

The motion comes from a committee and no second is necessary

Voice vote – Ayes have it

▪ **Annual Elections Committee Progress Report**

*Caitlin Fitzgerald, Division Representative to the ABA Board of Governors and Elections Committee Chair*

There were 132 votes cast for Division Delegate election and 65 votes cast for the Vice Chair-SBA election. Both were valid elections.

▪ **Resolutions Committee Report**

*Tammy Lippert, Tenth Circuit Governor and Resolutions Committee Co-Chair*

Moved to accept report as is. No objection.

Report is so accepted.

**Special Order of Business**

▪ **Presentation**

*H. Thomas Wells, Jr., President, American Bar Association*

▪ **Presentation**

*Carolyn B. Lamm, President-Elect, American Bar Association*

▪ **Presentation**

*Dean Don Polden, Chair of the Standards Review Committee*

**Debate**

**Report 100**

**Sponsored by:** ABA Section of Legal Education and Admissions to the Bar

Concurs in the action of the Council of the Section of Legal Education and Admissions to the Bar in deleting from the *Standards for Approval of Law Schools* Standard 104, seek to Exceed Requirements, and Interpretation 104-1.

**Daniel Thies, Liaison to the Section of Legal Education and Admission to the Bar**

This resolution has already been adopted by the Standards Review Committee and will be presented to the House. It is to delete standards from the requirements of ABA approved law schools. The Site Visit teams have stated that this is a difficult requirement to be met and to determine if it has been met. He would ask the body to concur with this request.

**Maurice Gibson, Governor on behalf of the Resolution Committee**

The resolution committee and the board of governors recommend that we adopt this resolution.

**Motion by Brandon Sherr to close the debate**

**Dallas Strimple, University of Tulsa seconded**

Standing Vote – 2/3 vote to close debate has been passed.

Vote to accept the resolution.

Voice vote- Ayes have it.

**Presentation**

▪ **Recognition of Feature Article and Editorial Award Recipient**

▪ **Recognition of Magazine and Newspaper Award Recipient**

*John F. Barwell, Student Editor, Student Lawyer*

Feature Article and Editorial Award Recipient – Alexander Marsh at John Marshall Law School

Magazine and Newspaper Award Recipient – King Hall Advocate at University of California Davis School of Law

**Debate**

**Report 09/8-01**

**Sponsored by:** Daniel Thies, Liaison to the Section of Legal Education and Admissions to the Bar

Encourages the ABA Section of Legal Education and Admissions to the Bar, including the Section Council and the Standards Review Committee, to repeal Standard 304(f) of the *Standards and Rules of Procedure for Approval of Law Schools* - a student may not be employed more than 20 hours per week in any week in which the student is enrolled in more than twelve class hours.

This is at an earlier stage in the resolution process. The first reason for this change is mainly the economy. Also, the cost of law school has increased and it will continue to increase. One constraint to students being able to afford the cost of law school is the limit to work 20 hours per week. This is not to say that the need will eliminate the restriction in its entirety. They believe that law students should be free to regulate their own studies. It does not address any other standards other than working.

**Governor Jennifer Furrow**

The Resolution Committee and the Board of Governors recommend that the resolution be adopted.

**Motion to extend the debate by 20 minutes made by Brandon Sherr  
Seconded by Dallas Strimple, University of Tulsa**

Voice vote unclear, call for division

32 votes for and 92 votes against

**Motion to extend the debate by 12 minutes made by Brandon Sherr  
Seconded by Jason Marsh, University of San Diego**

Standing vote

39 votes for and 88 votes against

**Motion to postpone indefinitely made by Jared Vega, SUNY- Buffalo  
Seconded by Elette Fortune, City University of New York**

Motion does not pass.

**Motion to close debate on postponing indefinitely by Dallas Strimple  
Seconded by Jared Vega**

The motion passes.

**Motion to vote on the resolution**

Standing Vote

83 in the affirmative and 50 in the negative

Motion is adopted.

**Debate**

**Report 09/8-02**

**Sponsored by:** Daniel Thies, Liaison to the Section of Legal Education and Admissions to the Bar

Encourages the ABA Section of Legal Education and Admissions to the Bar, including the Section Council and the Standards Review Committee, to repeal Standard 305-3 of the *Standards and Rules of Procedure for Approval of Law Schools* – a law school may not grant credit to a student for participation in a field placement program for which the student receives compensation. This Interpretation does not preclude reimbursement of reasonable out-of-pocket expenses related to the field placement.

Many schools will not allow students who are getting paid for an externship to get credit for the work. Graduate students typically get a stipend when working on their dissertation. This should not be different for the legal community. The standards state clearly that the school must have oversight in place. These employers may not choose to do this but we should not prevent those that are willing to do so from doing so. We should encourage schools and employers to work together.

**Amanda Evanson, Vice Chair**

Board of Governors and the Resolution Committee recommend that the resolution be adopted.

**Motion to close debate by Brent Climen, Phoenix School of Law**

Standing vote

Ayes have it

**Motion to accept the resolution**

Standing vote

77 in acceptance, and 57 against

Motion was adopted.

## Presentation

### ▪ **Recognition of Liaison Award to Daniel Thies**

*Chris Sprowls, Chair*

Daniel Thies received the Gold Key award.

### ▪ **Recognition of Liaison Award Recipients**

*Caitlin Groh, Division Delegate & Liaison Coordinator*

Cynthia Jones, Criminal Justice Section

Marc Meyer, Health Law Section

Sarah Bryan, Section of Labor and Employment Law

Tyler Gibb, Commission on Mental and Physical Disability Law

Paul Johnson, Commission on Sexual Orientation and Gender Identity

Christopher Shelton, Tort Trial & Insurance Practice Section

### ▪ **Recognition of Henry J. Ramsey, Jr. Diversity Award Recipient**

*Ruby Banipal, Ninth Circuit Governor and Diversity Committee Member*

**Recipient** – Judge Stephen O’Neil Trial Advocacy Mentoring Program – Loyola Law School, Loyola Marymount University

## Debate

### **Report 108**

**Sponsored by:** ABA Commission on Lawyer Assistance Programs

Amends the Model Rule of Conditional Admission to Practice Law, including the commentary, dated August 2009, which addresses the standard for conditional admission, notification of violations and terms of art within the language of the Model Rule.

### **Judge Robert Childers, Chair/ABA Commission on Lawyer Assistance Programs**

These are simply improvements and clarifications of the existing rule. They are simply housekeeping matters. The section asks that the LSD adopt this rule.

As a practical matter, this resolution will assign a monitor to the lawyer who is referred by the disciplinary committee. They will be required to do certain things such as get mental assistance, drug rehab, etc. It will encourage students to get help early, which will establish a connection with the lawyer assistance program. The monitor would be able to report to the board of law examiners that the applicant has or has not met requirements to pass the character and fitness. It will also assist with protection of the public.

### **Governor Megan Snyder**

Board of Governors and Resolution Committee recommend adoption of this resolution.

Standing Vote

Ayes have it.

## Presentation

### ▪ **Recognition of Judy M. Weightman Memorial Public Interest Award Recipient**

*Brice Strickland, Fourth Circuit Governor and Public Interest Committee Member*

**Recipient**- University of Oregon – Land Air Water

### ▪ **Recognition of Volunteer Income Tax Assistance Program Award Recipient**

*Andrew Howell, Twelfth Circuit Governor and Public Interest Committee Member*

**Recipient**- Barry University Dwayne O. Andreas School of Law

**Honorable Mention** - Loyola University New Orleans College of Law

## Debate

### **Report 117**

**Sponsored by:** ABA Section of Environment, Energy, and Resources and ABA Standing Committee on Environmental Law

Adopts the *Model Sustainability Policy and Implementation Guidelines for Law Organizations*, and urges law firms and other law organizations to adopt the Model.

**Claudia Rast, Chair/ ABA Section of Environment, Energy, and Resources**

We are here to present the resolution and get feedback on the resolution. There are parties that believe the resolution is strong enough while others believe it is too strong. How many would support this resolution? In formal vote.

**John Dernbach, Professor**

This will support environmental responsibility. We have been working over the past year with law firms and organizations in adopting policies like this. It is about energy and paper use reduction. They are looking to us for pathways as to how to improve in these areas. There ought to be resolutions to force law firms into the process of reducing energy use down the road.

This resolution will be withdrawn from the body.

**Motion by Troy Pickett, South Texas School of Law to postpone indefinitely**

**Seconded by Maureen Wagner, Executive Governor**

One nay

Motion passes.

## Presentations

### ▪ **Recognition of Membership and Activity Award Recipient**

*Galen Hair, Vice Chair and Membership Committee Chair*

**Recipient** – John Marshall Law School

### ▪ **State of the Division Address**

*Chris Sprowls, Chair*

### ▪ **Recognition of Student Bar Association Award Recipient**

### ▪ **Recognition of Student Bar Association President Award Recipient**

*Preston Wells Griffith III, Vice Chair-SBA and SBA Committee Chair*

Student Bar Association Award Recipient- Florida State University College of Law

Student Bar Association President Award- Eric Toscano – University of California, Davis School of Law

### ▪ **Division Chair Awards**

*Chris Sprowls, Chair*

### **Certificates of Appreciation**

- Raju Vyas, Division Delegate
- Yasmin Gabriel, Division Delegate

### **Silver Key Award**

- Tanisha Robertson, Secretary Treasurer
- Galen Hair, Vice Chair
- Caitlin Fitzgerald, Representative to the ABA Board of Governors

### **Gold Key Award**

- Wells Griffith, SBA Vice Chair
- Caitlin Groh, Division Delegate and Liaison Coordinator

**Passing of the Gavel** - James Borkman

▪ **Announcement of Election Results**

*Vice Chair-SBA & Division Delegates to the ABA House of Delegates*

**Vice Chair SBA** – Kent Lloyd, Penn State University School of Law  
**Delegates**

Sam Arora, Georgetown University Law School

Kerven Montfort, Florida State University College of Law

Yasmin Gabriel, Howard University School of Law

▪ **Installation of 2009-2010 National Officers and Division Delegates**

Chair, James Borkman presented the Gold Key to the 2008-2009 Chair, Chris Sprowls

▪ **Chair's Closing Remarks**

**Adjournment *Sine Die***

5:40 pm

**American Bar Association  
Law Student Division**

**Voting and Credentials Procedures**

The following credentials procedures will be used for certifying voting delegates at the Assembly session of the 2010 Annual Meeting in San Francisco, California. These procedures are in place to ensure the legitimacy of the voting process.

The Law Student Division Assembly is the principal voice of all accredited law schools in the country. When appropriate, resolutions that are passed by the Division Assembly are brought before the ABA House of Delegates. If adopted, the resolution becomes Association policy. Legislative issues may then be lobbied before Congress.

Section 3.4 of the Law Student Division Bylaws states, "Each school may send two delegates, one the SBA president or his or her proxy and the other the school representative or his or her proxy, to its circuit and the Assembly. The Assembly or the Board of Governors may regulate voting by proxy. **Only a member of the ABA Law Student Division in good standing is eligible to be a delegate.**" Section 102.3 of the Assembly Standing Rules describes the credentials process. The outline below ensures smooth check-in and alleviates unnecessary delay at each Assembly session. The Division's Credentials Committee shall certify voting delegates according to the following policies:

**1. ABA Representatives and SBA Presidents**

Current ABA Representatives and SBA Presidents must show proof of office if they are not on the current list provided by the Chicago office. This may be accomplished by any of the following means:

- \* a letter on SBA letterhead if a president;
- \* a letter from the Dean on law school letterhead for either a representative or a president; or
- \* recognition by the circuit governor or another member of the Board of Governors who can personally vouch for the claimant's status.

**2. Proxies**

If an ABA Representative or SBA President is unable to attend the Annual Meeting, he or she may send a proxy from the same law school to vote in his or her place. The Proxy must be a current member in good standing of the ABA Law Student Division. Proxies may register as voting delegates by any of the following means:

- \* signed written authorization, preferably on law school letterhead, from the ABA Representative or SBA President;
- \* written authorization from the Dean on law school letterhead if acting as proxy for the ABA Representative or SBA President;
- \* written notification prior to the meeting to the circuit governor of the proxy appointment (written notification must be presented to the Delegate Certification Desk personnel);  
or
- \* an electronically transmitted proxy sent from the email address the ABA has on record for the SBA President or ABA Representative (based on ABA Reporting Form data submitted or membership record) or from a verifiable email address (such as the SBA President's/ABA Representative's email address issued to them by their law school).

A proxy letter can be faxed to the ABA Law Student Division (312.988.6033) provided that it is received before 12:00 noon, Tuesday, August 3. A proxy letter may also be emailed to the ABA Law Student Division ([abalsd@staff.abanet.org](mailto:abalsd@staff.abanet.org)).

#### Sample Proxy Letter Language

*I, {principal delegate's name}, {title: ABA Representative or SBA President} of the {official law school name} and a principal delegate in the Assembly of the American Bar Association Law Student Division, in accordance with ABA Law Student Division Governing Rules, hereby designate as my proxy {name of student to whom proxy is given}, to cast my vote(s) at the Annual Meeting, in San Francisco, California, to be held August 5-7, 2010.*

*{Signature and date}*

### **3. One Delegate-Two Votes**

If only one person from a law school is attending the Assembly, he or she may cast both votes only if he or she is certified for each vote. For example, an ABA Representative may register his/her own vote if he/she is on the current list mentioned above (#1) and register as a proxy for the SBA President by presenting a signed letter as mentioned above (#2).

### **4. Proof of Membership**

Membership status of all prospective delegates will be verified through the ABA master membership list. All delegates should be prepared to furnish proof of current Law Student Division membership (e.g., membership card, cancelled check) before being certified. Anyone not listed on the ABA master membership list or unable to show proof of membership in good standing must enroll as a Division member by filling out an application and paying the \$25 annual fee at the registration desk. In the event this results in a duplicate payment/membership, the \$25 fee will be refunded.

### **5. Additional information**

The Credentials Committee may request additional information if necessary to establish a delegate's credentials. The claimant, and any competing claimant, may offer relevant information to affirm or deny certification, and appeal any failure of certification to the Board of Governors or the Assembly. To avoid any problem, written certification is required.

### **6. Nonvoting students**

All law students are welcome to attend the Assembly, including students from non-approved law schools. There will be an area in the Assembly hall where nonvoting attendees may observe the sessions. The only people allowed on the voting floor, however, will be each school's two delegates, a resolution author when moving his or her resolution, members of the Board of Governors, and other persons with privilege of the floor under rule 103.1 of the Assembly Standing Rules. *Delegates to the Assembly may proxy their vote to another student from their law school who is present, (such as a Lt. Governor), who must also be a member of the ABA Law Student Division, provided the proxy is in writing and presented to the Chair of the Credentials Committee. Such proxies are revocable at any time by the principal delegate. See the Assembly Standing Rules or your Circuit Governor for complete details.*

# American Bar Association Law Student Division

## Assembly

### Voting Floor Instructions

Certified Assembly Delegates (ABA Representatives and SBA Presidents, or their proxies, from each ABA-approved law school who are also members of the ABA) may vote on resolutions brought before the Assembly.

Please note that there is a specific procedure to enter and exit the voting floor of the Assembly. This procedure ensures that only certified Assembly Delegates receive a voting card(s), which in turn protects the integrity of the votes.

- Certified Assembly Delegates, identified by black delegate or pink proxy ribbon, will receive a voting card at the entrance of the voting floor.
- If the Assembly Delegate is also serving as a proxy, the Assembly Delegate will receive an additional voting card. In 2010 the voting cards are blue.
- Members of the Law Student Division Board of Governors are also permitted on the floor, with the right to make or debate motions, but shall not vote unless a certified Assembly Delegate.
- Assembly Delegates who wish to temporarily exit the voting floor must turn in their voting card(s) for an equal number of pass card(s). The pass card(s) will be exchanged for an equal number of voting card(s) once the Assembly Delegate returns to the floor. In 2009 the pass cards are pink.

#### **Notes about Obtaining Certification**

Assembly Delegates receive their black and/or pink ribbons at the Delegate Certification counter once they are certified. The Delegate Certification counter is adjacent to the Division's registration desk.

#### **Delegate Certification Hours**

Certification of Assembly Delegates will take place at the Division's Registration Desk during the following hours:

Thursday, August 5	8:00 am – 6:00 pm
Friday, August 6	8:00 am – 6:00 pm
Saturday, August 7	8:00 am – 12:00 noon

## Robert's Rules of Order

The motions below are listed in order of precedence. Any motion can be introduced if it is higher on the chart than the pending motion.

If You Want To:	You Say:	Interrupt?	2nd?	Debate?	Amend?	Vote?*
Close meeting	I move to adjourn	No	Yes	No	No	Majority
Take break	I move to recess for	No	Yes	No	Yes	Majority
Register complaint	I rise to a question of privilege	Yes	No	No	No	None
Make follow agenda	I call the orders of the day	Yes	No	No	No	None
Lay aside temporarily	I move to lay the question on the table	No	Yes	No	No	Majority
Close debate	I move the previous question	No	Yes	No	No	2/3
Limit or extend debate	I move that debate be limited to...	No	Yes	No	Yes	2/3
Postpone to a certain time	I move to postpone the motion to...	No	Yes	Yes	Yes	Majority
Refer to a committee	I move to refer the motion to a committee	No	Yes	Yes	Yes	Majority
Modify wording of motion	I move to amend the motion by...	No	Yes	Yes	Yes	Majority
Kill main motion	I move that the motion be postponed indefinitely	No	Yes	Yes	No	Majority
Bring business before assembly (a main motion)	I move that [or "to"]...	No	Yes	Yes	Yes	Majority

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\* Majority means more than ½ of the votes cast; 2/3 means at least 2/3 of the votes cast

**Incidental Motions** - no order of precedence. Arise incidentally and decided immediately.

<b>If You Want To:</b>	<b>You Say:</b>	<b>Interrupt?</b>	<b>2nd?</b>	<b>Debate?</b>	<b>Amend?</b>	<b>Vote?</b>
Enforce rules	Point of order	Yes	No	No	No	None
Submit matter to assembly	I appeal from the decision of the Chair	Yes	Yes	Varies	No	Majority
Suspend rules	I move to suspend the rules	No	Yes	No	No	2/3
Avoid main motion altogether	I object to the consideration of the question	Yes	No	No	No	2/3
Divide motion	I move to divide the question	No	Yes	No	Yes	Majority
Demand rising vote	I call for a division	Yes	No	No	No	None
Parliamentary law question	Parliamentary inquiry	Yes	No	No	No	None
Request for information	Point of information	Yes	No	No	No	None

**Motions That Bring a Question Again Before the Assembly** – no order of precedence. Introduce only when nothing else pending.

<b>If You Want To:</b>	<b>You Say:</b>	<b>Interrupt?</b>	<b>2nd?</b>	<b>Debate?</b>	<b>Amend?</b>	<b>Vote?</b>
Take matter from table	I move to take from the table	No	Yes	No	No	Majority
Cancel previous action	I move to rescind	No	Yes	Yes	Yes	M or 2/3**
Reconsider motion ***	I move to reconsider...	No	Yes	Varies	No	Majority

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\*\* Majority if previous notice; 2/3 without such notice

\*\*\* Can only be made by one who voted on the prevailing side of the motion to be reconsidered

**American Bar Association**  
Law Student Division

**ASSEMBLY STANDING RULES**

**Rule 101 - General Provisions**

- § 101.1 Proceedings Governed
- § 101.2 Bylaws Incorporate
- § 106.7 Previous Notice

**Rule 102 - Credentials**

- § 102.1 Credentials Committee
- § 102.2 Delegate Defined
- § 102.3 Certification
- § 102.4 Rules
- § 102.5 Appeal
- § 102.6 Proxies
- § 107.4 Committee Reports

**Rule 103 - The Floor**

- § 103.1 Privilege of the Floor
- § 103.2 Recognition

**Rule 104 - Decorum**

- § 104.1 Attire
- § 104.2 Promptness
- § 104.3 Conversation
- § 104.4 No Smoking

**Rule 105 - Quorum**

- § 105.1 Quorum Defined
- § 105.2 Quorumlessness

**Rule 106 - Order of Business**

- § 106.1 Resolutions Committee
- § 106.2 Orders of the Day

§ 106.3 Agenda

§ 106.4 Reports and Programs

§ 106.5 Consent Calendar

§ 106.6 Late Resolutions

§ 106.8 New Business

**Rule 107 - Debate**

§ 107.1 Debate Generally

§ 107.2 Main Motions

§ 107.3 Speeches

§ 107.5 Secondary Motions

**Rule 108 - Motions**

§ 108.1 Motions Generally

§ 108.2 Amendment

§ 108.3 Limit Debate; Previous  
Question

§ 108.4 Extend Limits of Debate

§ 108.5 Lay on the Table

§ 108.6 Division of the Assembly

§ 108.7 Point of Information

§ 108.8 Order of Business

**Rule 109 - Adjournment**

**Rule 110 - Amendment and Suspension**

§ 110.1 Amendment

§ 110.2 Suspension

## **Rule 101 - General Provisions**

### § 101.1 - Proceedings Governed

These rules govern proceedings in the Assembly at the Annual Meeting.

### § 101.2 - Bylaws Incorporated

These rules incorporate the Bylaws and the handbook including the meaning of terms defined therein.

## **Rule 102 - Credentials**

### § 102.1- Credentials Committee

(a) For the purposes of this rule:

(1) "Committee" means the Credentials Committee

(2) "Circuit Governor" includes his or her designee. The member whom the circuit governor appointed to the committee shall act as such a designee in the circuit governor's absence, unless the circuit governor otherwise notifies the member.

(b) The committee shall consist of one member from each circuit appointed by the circuit governor. This appointee shall not be a candidate running for the position of National Officer or Division Delegate at the Annual Meeting.

### § 102.2 - Delegate Defined

(a) "Principal delegate" means the president of the student bar association or the school representative whether or not he or she attends the Annual Meeting.

(b) "Delegate" means a principal delegate, or his or her proxy, whose credentials are in order.

### § 102.3 - Certification

(a) The certification of credentials confers the exclusive right to vote.

(b) The committee shall certify the credentials of any member who claims to be a delegate if it appears that the claimant is a member and is:

(1) a principal delegate recognized by his or her circuit governor or another member of the Board of Governors from that circuit;

(2) a principal delegate recognized by a national officer, national officer-elect, or division delegate who personally knows the claimant and vouches on the basis of direct personal knowledge for his or her claim;

(3) a principal delegate or the proxy of a principal delegate as evidenced by a letter from his or her dean on school letterhead, a letter or other record from the student bar association on its letterhead or, in the case of a school representative, a letter or other record from his or her school's chapter on its letterhead; or

(4) the proxy of a principal delegate who has filed written notification of his or her appointment with his or her circuit governor prior to the meeting.

(c) If none of the above appears, the committee shall inquire on the basis of all 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 school, and the circuit governor may participate in this inquiry; offer relevant information, including oral or written testimony; and affirm, deny or rebut such information.

#### § 102.4 - Rules

The committee 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 appears in the handbook; 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.

#### § 102.5 - Appeal

A claimant may appeal his or her failure of certification to the Board of Governors or the Assembly but not to both. Neither body shall act on any matter relating to the certification of a delegate once an appeal has been taken to the other body. Such an appeal shall outrank and suspend all other business.

#### § 102.6 - Proxies

(a) A certified delegate or the holder of his or her proxy may, by written notice to his or her circuit governor, give his or her proxy to a member from the same school. A delegate, separately certified for each vote, may cast both votes from his or her school but may not vote on behalf of another school. The circuit governor may certify the credentials of such a delegate.

(b) A principal delegate may, by written notice to his or her circuit governor, limit the exercise or transfer of his or her proxy. The circuit governor shall enjoin or suspend the exercise of any proxy that is otherwise exercised or transferred. This power of limitation, as limited by any prior holder, shall run with the proxy.

**Comment.** *A principal delegate may "limit the exercise or transfer of his or her proxy" by directing that it be voted a certain way on a certain question, that it be transferred only to a certain member or that it not be transferred to another member. A circuit governor may "enjoin or suspend the exercise of any proxy that is otherwise exercised or transferred" on his or her own motion or at the request of any delegate. Every delegate enjoys a right against his or her vote being diluted by an illegally exercised proxy and every member enjoys a right to an orderly decision-making process according to the published procedure whether or not he or she has a direct interest in the proxy itself. The means by which the governor can "enjoin or suspend the exercise of any proxy that is otherwise exercised or transferred" include merely calling the holder of the proxy to order, see H. Robert, Robert's Rules of Order Newly Revised § 60 at 640-41 (S. Robert ed. 1990), and refusing to certify or revoking the certification of the credentials of the holder of the proxy. The power of limitation "run[s] with the proxy" in the sense that the transferee of a proxy gets the full power that the transferor enjoyed except to the extent that the transferor reserves that power.*

(c) The holder of a proxy shall, upon request, surrender it to any prior holder. Such surrender shall destroy the prior holder status of anyone who held the proxy after the holder to whom the proxy is surrendered except to the extent that such a holder also held the proxy before the holder to whom the proxy is surrendered.

**Illustration 1.** A is an SBA president. B is A's vice-president. C and D are other SBA officers from the same school who attend the Annual Meeting. A gives A's proxy to B. A is a "prior holder" of A's vote, so B must surrender the proxy to A upon request.

**Illustration 2.** Same facts as Illustration 1. B gives A's proxy to C. A and B are now both prior holders as to C. A requests that C surrender the proxy to A, which C does. The surrender destroys B's status as a prior holder.

**Illustration 3.** Same facts as Illustration 1. B (Holder 2) gives A's proxy to C (Holder 3), who gives it to D (Holder 4). A, B, and C are now all prior holders as to D, the present holder. B is busy just off the floor on a committee that is redrafting a controversial resolution which is scheduled to be reconsidered in half an hour. D is attentively following the debate on the floor over another controversial resolution on which a minor amendment is about to be put to a vote. D needs to use the restroom and gives the proxy to B (Holder 5) with the understanding that D will reclaim it as soon as D returns from the restroom so that B can return to the committee. D updates B on the pending resolution and tells B how to vote on the amendment. D's transfer to B is not intended as a surrender so B is now both Holder 2 and Holder 5 and D is now a prior holder as to B (as Holder 5) even though B (as Holder 2) is also a prior holder as to D. D's transfer to B therefore does not destroy C's status as a prior holder: C can now reclaim the proxy from B who must surrender it; B's surrender destroys D's status as a holder "who held the proxy after the holder to whom the proxy is surrendered" but it does not destroy B's status as Holder 2 because B "also held the proxy before the holder to whom the proxy is surrendered."

## Rule 103 -The Floor

### § 103.1 - 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:

- (1) each delegate, provided that no two delegates shall be on the floor at the same time on behalf of the same principal delegate;
- (2) each member of the Board of Governors, including each nonvoting member;
- (3) each member of a standing or special committee of the Division with respect to any matter within or touching the committee's charge;
- (4) each liaison to or from another entity within the Association;
- (5) each national officer or division delegate candidate with respect to any matter concerning the election in which he or she is running;
- (6) the staff, as authorized by the Director, the Chair, the Assembly, or the Board of Governors without power to make a motion;
- (7) the mover of a resolution with respect to the resolution;
- (8) 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;
- (9) any guest participating in a program planned by the Chair for the purpose of the program without power to make or debate a motion;
- (10) any other member or employee of the Association, as authorized by the Chair, the Assembly, or the Board of Governors without power to make a motion;
- (11) any former Chair; and
- (12) and any former member of the Board of Governors who is a member of the Law Student Division or the Young Lawyers Division.

**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. H. Robert, Robert's Rules of Order Newly Revised § 3 at 29 n. (S. Robert ed. 1990) (emphasis in original).*

**Comment.** *The intent behind § 103.1(a)(12) is to extend the privilege of the floor to any member of the Board of Governors for a reasonable period after his or her service as long as he or she stays in the Association.*

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

## § 103.2 - Recognition

(a) A delegate or other person with speaking privileges may claim the floor by written notice to the Chair who shall ordinarily recognize speakers in the order in which the floor is so claimed. The Chair may, without regard to this order, entertain a motion from the floor in the belief that a sufficient number may favor the motion.

(b) The Chair 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 chair recognizes another.

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

## **Rule 104 - Decorum**

### § 104.1 - Attire

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

### § 104.2 - Promptness

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

### § 104.3 - 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 such behavior at the request of any delegate who claims to be disturbed thereby. A delegate who does not stop such behavior may be removed so that business may continue.

### § 104.4 - No Smoking

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

## **Rule 105 - Quorum**

### § 105.1 - Quorum Defined

A quorum shall consist of one-third, including proxies, of the certified delegates.

### § 105.2 - 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 without debate in the form and order passed. Such a motion shall take a two-thirds vote or 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 Board of Governors for expedited consideration.

## **Rule 106 - Order of Business**

### § 106.1 - Resolutions Committee

For the purposes of this rule "committee" means the Resolutions Committee. The committee or its designee shall be available on the floor throughout each meeting of the Assembly and the Board of Governors during the Annual Meeting to receive any notice from a delegate under this rule.

### § 106.2 - Orders of the Day

For each timely introduced resolution the committee shall either certify that the resolution is in order or return it to the mover with particular objections within ten (10) working days of the deadline for timely introduced resolutions. The mover shall have fifteen (15) working days from the deadline for timely introduced resolutions to cure all objections at which time the committee shall certify that the resolution is in order. The committee shall, by a report at the beginning of the first Assembly meeting of the Annual 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.

**Note:** See § 403.2 of Resolution Procedures for Definition of Timely Introduced Resolution.

### § 106.3 - 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.

## § 106.4 - Reports and Programs

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.

## § 106.5 - Consent Calendar

The committee, by a report at the first Assembly meeting of the Annual Meeting may place a resolution on the consent calendar if substantial opposition to the resolution is not expected. Any delegate may, by written notice to the committee before the second Assembly meeting, object to such placement in which case the resolution shall be a special order at the second Assembly meeting. 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.

## § 106.6 - Late Resolutions

(a) Any movant may introduce a late resolution by written notice to the Resolutions Committee Chair. 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 the particular objects to the satisfaction of the committee, the request for a late resolution shall be in order. Such a request shall not be in order at the last meeting.

(b) The mover of a request to move a late resolution shall summarize the reasons why the resolution submission procedures should be waived and shall justify its lateness on grounds other than lack of notice of the deadline or poor planning. The mover shall not discuss the content of the resolution. A member of the committee who opposes the request, if there is one, may briefly reply. The question upon the request shall be put, without further debate, and shall take a two-thirds vote. If a two-thirds vote is obtained, the resolution shall be in order at the last meeting and the vote granting the request shall serve as previous notice. The committee unanimously, or the Assembly by a two-thirds vote, may make the resolution an order of the day at the last or an earlier meeting.

(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 paper copy to each delegate. Such expenses shall not be reimbursed by the ABA/LSD absent extraordinary circumstances. The mover shall not distribute copies of the late resolution by electronic mail (e-mail). The Resolutions Committee chair, upon the request of the mover and in consultation with the Chair, may distribute the late resolution by e-mail with an appropriate annotation that the late resolution has been approved to be in order by the Resolutions Committee.

**NOTE:** § 106.6 is intended to only apply to members who bring late resolutions during the Assembly meeting. This section does not permit e-mail notice to the Resolutions Committee Chair or sending out e-mail copies of the late resolution to the Assembly members in lieu of the paper copy because it is presumed that the sponsor and the Assembly members are present at the meeting. Thus, the notice and copies of the resolution should be given in person to avoid confusion. However, the Resolutions Committee chair may distribute the resolution by e-mail in addition to the paper copy if that is deemed appropriate by the Resolutions Committee Chair.

## § 106.7 - Previous Notice

Any delegate may, at any meeting, give previous notice of a motion by written notice to the Chair 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 an 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, Bylaw amendment, etc. to be submitted in the notice, only the purport need be indicated. Such a statement of purport must be accurate and complete 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. H. Robert, Robert's Rules of Order Newly Revised § 10 at 199-20 (S. Robert ed. 1990) (emphasis in original) (cross-references omitted).

## § 106.8 - 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, request to move a certified late resolution, move a late resolution at the last meeting or 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 Chair, 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 107 - Debate**

#### § 107.1 - Debate Generally

"Proponent" means a speaker who favors and "Opponent" means a speaker who opposes the pending motion. Debate shall generally alternate between proponents and opponents. The mover of a motion that the mover of a pending motion favors shall be recognized as a proponent and the mover of any other motion (even if the motion does not apply to the pending motion) as an opponent.

#### § 107.2 - 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.

#### § 107.3 - 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 even if debate has been limited or the previous question has been ordered.

## § 107.4 - Committee Reports

(a) If the Board of Governors or, in the absence of action by the Board, the Resolutions Committee, makes a recommendation as to the disposition of the resolution, the reporting member of the Board shall speak for up to four minutes on the resolution after the mover has spoken. The report shall include the reasons for the recommendation.

(b) The reporting member of any committee that makes a recommendation as to the disposition of the resolution may speak for up to four minutes on the resolution after the Board has reported or, if the Board does not report, after the mover has spoken. 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.

## § 107.5 - Secondary Motions

"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;

(b) if the mover of the main motion favors the secondary motion but there is an objection, the Chair 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 chair 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.

## **Rule 108 - Motions**

### § 108.1 - Motions Generally

An incidental motion is in order from the floor. The Chair may entertain any other motion from the floor in the belief that a sufficient number may favor the motion. No motion is otherwise in order until the mover files it in writing with the Secretary-Treasurer.

### § 108.2 -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.

### § 108.3 - 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 Chair 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.

#### § 108.4 -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.

#### § 108.5 - Lay on the Table

Any action that the Board of Governors returns under § 6.4 of the Bylaws is laid on the table.

#### § 108.6 - Division of the Assembly

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

#### § 108.7 -Point of Information

A point of information may request an objective fact or an expert opinion but may not request anyone, including the Chair 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.** *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, is therefore mere speculation and totally nonbinding. The purpose of this rule is to keep such speculation from turning 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 Chair, and must instead move an amendment that properly clarifies the resolution.*

#### § 108.8 - Order of Business

The Chair 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 Chair 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. "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." §106.3. "[A]ny other main motion other than a resolution" belongs under new business. §106.8. This rule approves the historical practice and thus liberalizes the right of the Assembly to control the order of business.*

### **Rule 109 - Adjournment**

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

## Rule 110 - Amendment and Suspension

### § 110.1 - 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 Board of Governors.

**Comment.** *No such amendment binds the Assembly at any future Annual Meeting unless it is incorporated into the permanent standing rules drafted under § 5.4(a) of the Bylaws.*

### § 110.2 - 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 H. Robert, Robert's Rules of Order Newly Revised § 25 at 263 (S. Robert ed. 1990) ("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 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 lessening the majority's freedom.*

American Bar Association  
Law Student Division

**2010 Annual Meeting of the  
Law Student Division Assembly**

Resolutions Summary

*\*Resolution pending before the ABA House of Delegates*

**Report 11-5\***

**Sponsored by:** ABA Section of Legal Education and Admissions to the Bar  
Amends Sections 45.9 (a) and (b) of the ABA House Rules of Procedure regarding the role of the House of Delegates in the law school accreditation process in order to comply with Department of Education regulations.

**Report 110\***

**Sponsored by:** ABA Standing Committee on Public Education  
Encourages all lawyers to consider it part of their fundamental responsibility to ensure that all students experience high quality civic learning, including the study of law, government, and history.

**Report 10/08-01**

**Sponsored by:** Daniel Thies, Division Liaison to the ABA Section of Legal Education and Admissions to the Bar  
Urges the ABA Law Student Division to oppose improper attempts by persons, institutions, or governmental bodies outside law schools to interfere in the ongoing activities of law school clinical programs and courses, and to support the efforts of the American Bar Association and the ABA Section of Legal Education and Admissions to the Bar to assist law schools in preserving the independence of law school clinical programs and courses.

**Report 10/08-02**

**Sponsored by:** Mark Pascua, Division Secretary-Treasurer and Chair, Division Bylaws Committee  
Revises the Law Student Division bylaws to reflect current Division practices and current Division leadership positions and their roles, updates the language without altering the meaning, and reorganizes information for clarity.

**SPONSORS:** Hon. Ruth V. McGregor, Pauline A. Schneider, Jerome C. Hafter, Hon. Christine M. Durham, Amelia Helen Boss, William R. Rakes, James J. Alfini, Gary A. Munneke

**PROPOSAL:** Amends House Rule 45.9(a) and (b) regarding the role of the House of Delegates in the law school accreditation process in order to comply with Department of Education regulations.

**Amends House Rule 45.9(a) and (b) to read as follows:**

1 **Clean Version**

2 **Rule 45.9 Law School Accreditation**

3 (a) The Council of the Section of Legal Education and Admissions to the Bar shall  
4 advise the House of any action granting or denying provisional or full approval of a law school,  
5 or withdrawing the approval of a law school. A decision by the Council to grant provisional or  
6 full approval is effective upon action of the Council. A decision by the Council to deny or  
7 withdraw approval is effective upon action of the Council and conclusion of an appeal, if  
8 applicable, as provided for in the Standards and Rules of Procedure for Approval of Law  
9 Schools.

10 (b) [deleted]

11 **Redline Version**

12 **Rule 45.9 Law School Accreditation**

13 (a) The Council of the Section of Legal Education and Admissions to the Bar shall  
14 advise the House of any action granting or denying provisional or full approval to a law school,  
15 or withdrawing the approval of a law school. ~~No action of the House is required unless the law~~  
16 ~~school appeals a denial or withdrawal of approval pursuant to Section 45.9(b).~~ A decision of by  
17 the Council to grant provisional or full approval is effective upon the action of the Council. A  
18 decision of by the Council to deny or withdraw approval is effective upon action of the Council  
19 and conclusion of an appeal, if applicable, as provided for in the Standards and Rules of  
20 Procedure for Approval of Law Schools. ~~expiration of the period provided for filing a notice of~~  
21 ~~appeal under Section 45.9(b)(1) if the law school fails to file a timely notice of appeal, or, if a~~  
22 ~~timely notice of appeal is filed, upon concurrence by the House in the decision of the Council.~~

23 (b) ~~An appeal to the House from an action of the Council of the Section of Legal~~  
24 ~~Education and Admissions to the Bar denying provisional or full approval to a law school, or~~  
25 ~~withdrawing approval of a law school, shall be considered in accordance with the following~~  
26 ~~procedures:~~

27 (1) ~~Notice of the appeal must be delivered to the Secretary of the Association at the~~  
28 ~~ABA offices within 30 days after receipt by the law school of notification of the action of~~  
29 ~~the Council;~~

30 (2) ~~The Council shall deliver to the Secretary a report with recommendations, including~~  
31 ~~the record on which the Council based its decision, stating its action and the reasons~~  
32 ~~therefor, within 15 days of the date notice of the appeal is delivered to the Secretary;~~  
33

- 34 ~~(3) The school shall be provided with a copy of the Council's report and may file a~~  
35 ~~response, provided that such response is delivered to the Secretary within 30 days after~~  
36 ~~receipt of the report;~~  
37 ~~(4) The matter shall be included on the calendar at the meeting of the House following~~  
38 ~~filing, or the expiration of the time for filing, the response provided for in subparagraph~~  
39 ~~(3);~~  
40 ~~(5) The materials described in subsections (2) and (3) above shall be made available to~~  
41 ~~the delegates prior to the meeting at which the appeal will be considered;~~  
42 ~~(6) If the law school withdraws its appeal before the meeting of the House for which the~~  
43 ~~matter has been calendared, no action of the House is required and the decision of the~~  
44 ~~Council becomes final; and~~  
45 ~~(7) During any consideration of such a matter by the House, a representative of the~~  
46 ~~school shall have the privilege of the floor with time limitations equal to those of the~~  
47 ~~representative of the Section but without a vote. The House shall vote either to agree~~  
48 ~~with the action or refer it back to the Council for reconsideration based on reasons~~  
49 ~~specified by the House. An action denying provisional or full approval may be referred~~  
50 ~~back to the Council a maximum of two times. The action of the Council following the~~  
51 ~~second referral shall be final. An action withdrawing approval may be referred back to~~  
52 ~~the Council only one time. The action of the Council following the referral shall be final.~~

## Report

The Council of the Section of Legal Education and Admissions to the Bar (the "Council") comes before the House of Delegates (the "House") seeking certain amendments to House Rule 45.9 necessitated by regulatory changes by the Department of Education ("DOE"). Upon advice of outside counsel, the Council has concluded that the proposed changes are necessary to demonstrate full compliance by the Council with DOE's recognition criteria when it seeks re-recognition of its accrediting authority later this year.

The change is mandated by a new DOE regulation affecting appeals from decisions of the Council denying provisional or full approval of a law school or removing a school from the list of approved law schools.

### Background

Since 1952, the Council has been approved first by the Department of Health, Education and Welfare and, since 1973, by DOE as the recognized national agency for the accreditation of programs leading to the first professional degree in law. The Council, rather than the ABA, is the recognized accrediting agency. Since 2007, the Accreditation Committee of the Section also has been included in the DOE recognition.

Under the rules in effect prior to 1999, the House made actual accrediting decisions and had the authority to adopt or modify Standards. In 1998, DOE determined that the Council was not in compliance with the "separate and independent regulations", which require that the decision-making bodies within an accrediting agency be separate and independent of any related trade association. 34 C.F.R. § 602.14(b) (2009). In response to DOE's determination, the Board created a working group to consider ways for the Council and the ABA to comply with the DOE regulations while maintaining in some form the historic role the House has played in accreditation decisions. Report 177C was considered and approved by the House of Delegates in February 1999. The report stated that in order to comply with the "separate and independent" requirement, the role of the House would be changed from that of final judge to that of advisor to the Council. The report states that, under the proposal, if adopted, "... the House will consider all accreditation matters, and will refer back to the Council, with specified objections, those proposed decisions with which the House disagrees, but in each instance the final decision will be made by the Council after receiving the advice of the House."

Under House Rule 45.9(a) - (b), if the Council grants provisional or full approval to a law school, that decision is effective immediately upon notice to the school, without any action by the House. If the Council denies provisional or full approval to a school, or withdraws approval from a school, the Council's decision

is final unless the school timely files an appeal to the House. If the school does appeal, the House may either concur in the Council's decision or refer that decision back to the Council for further consideration. A decision of the Council denying provisional or full approval may be referred back to the Council by the House a maximum of two times, and the Council's decision following a second referral back is final. A decision of the Council to withdraw approval from a school may be referred back to the Council by the House only one time, and the Council's decision following that referral is final.

In October 2009, the DOE adopted revised recognition requirements for accrediting agencies that become effective on July 1, 2010. One of the most significant changes involves a new requirement that governs the manner in which an accrediting agency conducts appeals of adverse actions. Specifically, DOE now requires that the body to which appeals may be taken from adverse decisions of an accrediting agency must have and use the authority to make decisions to affirm, amend or reverse actions of the original decision-making body, and that the appeals body must serve more than just an advisory or procedural role. These regulatory changes require that the appeals body act as the final and ultimate decision-making entity within the accreditation process. The appeals body must have the ability to reverse or amend the underlying decision, and its role may no longer be limited to remanding or referring a decision back for further consideration. 74 Fed. Reg. 55414, 55429 (Oct. 27, 2009) (to be codified at 34 C.F.R. § 602.25(f)).

This change requires that the appeals body be included within the scope of the accrediting agency's DOE recognition, and that the appeals body must meet the requirements for accrediting agency recognition. As a result, the appeals body itself must comply with (a) the "separate and independent requirements", (b) the requirement that not less one-seventh (1/7) of that body be public members and (c) the requirement that an appeals body adopt a conflict of interest of policy.

In a February 16, 2010 letter to the General Counsel of DOE, the ABA General Counsel sought guidance from DOE regarding the Council's compliance with the new due process requirements in the regulations. The letter requested that DOE confirm that it will view the Council as the appeals body that meets the requirements of section 602.25(f)(1). By letter dated March 1, 2010, DOE responded that the current process does not satisfy the requirements of the new regulations. The ABA's letter and the response from DOE are attached.

The Council requested that the ABA General Counsel seek an opinion regarding compliance with these new requirements from outside counsel who has represented the ABA before DOE for many years. The opinion, which is attached, was received by the General Counsel on June 4, 2010.

Outside counsel has advised:

We do not believe that the House can continue in its role as the appellate body within the Council's accreditation process. To do so would require that the House be vested with the ability to amend or reverse an accrediting decision, which in effect, gives the House the authority to accredit a law school. If the House is provided with these powers, it would then need to be included within the scope of the Council's DOE recognition. This would require, among other things, that one seventh of the House be composed of public members. (34 C.F.R. § 602.14(b) (2009).) It also would require that the House operate autonomously from the larger ABA in order to comply with the separate and independent requirements, which is not possible under current ABA governance structures... The new DOE requirements on appeals, in our view, invalidate the prior acceptance of the House's role by the DOE, as the DOE is now requiring that the ABA have an appeals body with actual decision-making authority that cannot be overturned by the Council.

In addition to requesting this amendment to Rule 45.9, the Council is moving expeditiously to adopt a new Rule relating to appeals of Council accreditation decisions that will comply with the new DOE regulation.

The Council will submit its application for re-recognition by the DOE in the fall of 2010 and expects to appear before DOE's National Advisory Committee in the summer of 2011. It is critical that the Council be able to demonstrate that it is in full compliance with all DOE recognition criteria and regulations when it appears before the National Advisory Committee. The Council respectfully requests that the House approve the revisions to Rule 45.9 presented herein so that the Council may make such a demonstration and avoid any questions about whether the ABA is in full compliance with the "separate and independent" requirements.

Respectfully submitted,  
Jerome C. Hafter

No resolution presented herein represents the policy of the association until it shall have been approved by the House of Delegates. Informational reports, comments and supporting data are not approved by the House in its voting and represent only the views of the Section or Committee submitting them.

**AMERICAN BAR ASSOCIATION**  
**STANDING COMMITTEE ON PUBLIC EDUCATION**  
**REPORT TO THE HOUSE OF DELEGATES**  
**RECOMMENDATION**

- 1 RESOLVED, That the American Bar Association encourages all lawyers to consider it part of
- 2 their fundamental responsibility to ensure that all students experience high quality civic learning,
- 3 including the study of law, government, and history.

## REPORT

### **Call to Action**

On August 1, 2009, retired Supreme Court Associate Justice David Souter delivered the keynote speech at the Opening Assembly of the American Bar Association annual meeting in Chicago. His focus was civic education in the United States. He declared, “I believe civic educational reform is, literally, essential to the continued vitality of American constitutional government as we know it.” Justice Souter’s message came with a call to action: “I will ask the American Bar Association as an organization and each one of you as individuals to take on the job. ...Civic education has to be raised to a new power and [that is] why every one of us in this room has to see to it that civic understanding becomes a birthright of every American.”<sup>1</sup>

In response to Justice Souter, Stephen Zack has written “As president-elect of the American Bar Association, I’m pledging my support, and that of our professional association, to answer [Justice Souter’s] call to action. Moreover, I encourage all lawyers and judges to be personally and actively engaged in civic education in their communities and schools.”

President-elect Zack also has emphasized that this effort will require a “rededication” on the part of all Americans:

*We must rededicate ourselves to learning about our constitutional system—not just the words on parchment, but the fundamental principles and values those words represent. Principles and values such as the separation of powers, checks and balances, judicial review, the rule of law, and constitutional democracy—majority rule that protects minority rights. Such a rededication requires a shared commitment to civic education. This will take a concerted effort. We must begin where the need is most urgent and the impact can be the greatest—in our nation’s schools.*<sup>2</sup>

To help address this need for civic education in the nation’s schools, President-elect Zack is planning a special initiative to enhance existing Association efforts and highlight the ABA’s national leadership for civic education. Among his plans are developing a new program for high-school students to be known as Civics and Law Academies. They will be conducted nationwide around President’s Day in February 2011 and will be an ongoing annual program. Bar associations are being asked to join the ABA in this effort. Other plans call for a national civics test, based on law-related questions that new Americans must answer to become U.S. citizens, and a ceremonial opening of the legal year to recognize the vital role of courts in our system of justice. Guiding these efforts during 2010-2011 will be a 21-member commission of distinguished national leaders in law, education, government, and civic affairs.

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<sup>1</sup> Keynote Speech by David Souter, Associate Justice, U.S. Supreme Court, at Opening Assembly, American Bar Association Annual Meeting, Chicago, August 1, 2009, <http://www.abanet.org/publiced/JusticeSouterChallengesABA.pdf>.

<sup>2</sup> “Future Depends on Civics,” Tallahassee.com, Stephen N. Zack, December 9, 2009.

### Opportunities to Improve Civic Learning

This is a propitious moment for education in the nation's schools, especially for civic learning. There clearly is a need to improve civic learning.

Leading experts point to the inadequate state of civic learning. A landmark 2003 report on *The Civic Mission of Schools* warned, "School-based civic education is in decline."<sup>3</sup> Commissioned by the Carnegie Corporation and the Center for Information & Research on Civic Learning & Engagement (CIRCLE), the report has had a galvanizing effect, ushering in an ongoing period of concerted national advocacy for civic learning. It reflected a broad consensus among scholars and practitioners that educational institutions need to play a major role to improve the civic understanding of American students. Seeking to implement the report's recommendations is the Campaign for the Civic Mission of Schools, a nonpartisan, nonprofit coalition of more than 60 organizational partners, including the American Bar Association.

The National Center for Learning and Citizenship is based at the Education Commission of the States (ECS). It maintains an updated report on state statutes and administrative codes. It indicates that 47 states have both state statutes and administrative codes that address "civics, citizenship, citizenship education, or social studies," two states (Alaska and the District of Columbia) have administrative codes, and two states (Missouri and Montana) have neither. A 2004 ECS study noted, however, that only 23 states have testing or assessment systems that include knowledge of civics or government.<sup>4</sup> This suggests there is certainly room for improvement and reform of civic education in the states and at the local level.

Administered by the National Center for Education Statistics, the National Assessment of Educational Progress (NAEP), known as the Nation's Report Card, "is the only nationally representative and continuing assessment of what America's students know and can do in various subject areas. Assessments are conducted periodically in mathematics, reading, science, writing, the arts, civics, economics, geography, and U.S. history." The most recent NAEP Civics Assessment was conducted in 2006. Among its findings: Only 27% of 12<sup>th</sup> graders are *proficient* in civics and government. Only 5% attained an *advanced* achievement level, although 66% scored at least at a *basic* level. Comparable figures for eighth graders: 22% proficient, 2% advanced, 70% basic. For fourth graders: 24% proficient, 1% advanced, 73% basic.<sup>5</sup>

In addition to measures of student achievement, there are also measures of the general American public's knowledge, which point to inadequate understanding of subject matter, including law, government, and history, essential to civic learning. To cite one example, a Harris Interactive

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<sup>3</sup> "The Civic Mission of Schools: A Report from Carnegie Corporation of New York and CIRCLE: Center for Information & Research on Civic Learning & Engagement, 2003, [http://civicmissionofschools.org/site/campaign/cms\\_report.html](http://civicmissionofschools.org/site/campaign/cms_report.html)

<sup>4</sup> "State Citizenship Education Policies," ECS State Notes, Education Commission of the States National Center for Learning and Citizenship, April 2004. Updated information on the State Policies for Citizenship Education Database at [http://www.ecs.org/ecsmain.asp?page=/html/ProjectsPartners/nclc/nclc\\_main.htm](http://www.ecs.org/ecsmain.asp?page=/html/ProjectsPartners/nclc/nclc_main.htm).

<sup>5</sup> The NAEP website, administered by the National Center for Education Statistics, is at [nces.ed.gov/nationsreportcard](http://nces.ed.gov/nationsreportcard). 2006 National Assessment of Educational Progress (NAEP) for Civics: The Nation's Report Card. Definitions of achievement levels: basic = "partial mastery," proficient = "competency over challenging subject matter," and advanced = "superior performance." To attain the "proficient" level, 8<sup>th</sup> grade-students, for instance, are able to "explain the importance of the rule of law and the separation of the legislative, executive, and judicial powers."

Survey conducted for the American Bar Association in July 2005 showed that nearly half (45%) of Americans were unable to correctly identify the three branches of government as “legislative, executive and judicial.”<sup>6</sup>

Retired Supreme Court Justice Sandra Day O’Connor, who has taken on the mission to advance the cause of civic education in recent years, has cautioned, “I don’t know how long we can survive as a nation if we don’t teach every generation how our government is structured and works. I regard that as a very important thing for our public schools to teach. It’s critical for every generation to learn it. You don’t inherit that knowledge through the gene pool.”<sup>7</sup>

Utah Supreme Court Chief Justice Christine Durham has also stated, “By teaching civics to every student, our future citizens will acquire the knowledge and dispositions that self-government demands....Civic education helps students engage with others of differing views. Debates in the classroom demand that students consider the arguments on both sides of an issue. The process of civil deliberation that leads to reasoned conclusions is not only a vital skill for students’ own development, but is at the heart of the process of self-government.”<sup>8</sup>

### **The Nation’s Schools and the Legal Community**

More generally, our nation’s schools are at a critical juncture. Due to the impact of the nationwide economic downturn, many public schools across the country are facing significant funding crises. Many school districts are being compelled to make substantial cutbacks in services, including layoffs of classroom teachers.

At the same time, long-term trends already pointed to the challenges that confront our nation’s K-12 schools. Summarizing the views of many educational policy experts, George Wood, executive director of The Forum for Education and Democracy, a group “committed to the public, democratic role of public education” commented in April 2010: “The over-reliance upon high-stakes standardized measures of achievement has had deleterious effects upon our schools, including narrowing curricula and teaching practices, teaching to the test, and an actual decline in student achievement as measured by international assessments.”<sup>9</sup>

Writing in the introduction to “A Blueprint for Reform: The Reauthorization of the Elementary and Secondary Education Act,” released in March 2010 by the U.S. Department of Education, President Obama has also pointed to this general decline in America students’ achievement and has linked it to our educational institutions: “America was once the best educated nation in the world. A generation ago, we led all nations in college completion, but today, 10 countries have

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<sup>6</sup> “Civics Education” national public opinion poll conducted by Harris Interactive on behalf of the American Bar Association, July 2005, [http://www.justiceteaching.org/resource\\_material/ABASurvey.pdf](http://www.justiceteaching.org/resource_material/ABASurvey.pdf).

<sup>7</sup> “Retired Justice Stumps for Civics,” Education Week, April 26, 2006.

<sup>8</sup> “Stronger civics education work aid American citizens and democracy,” Christine Durham, Chief Justice, Utah Supreme Court, The Salt Lake Tribune, September 15, 2008.

<sup>9</sup> Published letter from George Wood, Executive Director, The Forum for Education and Democracy, Letter to U.S. Senators Tom Harkin and Mike Enzi, transmitting “Creating a National Culture of Learning” regarding recommendations on reauthorizing the Elementary and Secondary Education Act, April 21, 2010, [http://forumforeducation.org/files/u48/Help\\_comm\\_042710.pdf](http://forumforeducation.org/files/u48/Help_comm_042710.pdf).

passed us. It is not that their students are smarter than ours. It is that these countries are smarter about how to educate their students.”<sup>10</sup>

The Elementary and Secondary Education Act (ESEA) is the primary legislation shaping federal policy—and funding—for the nation’s schools. When it was reauthorized in 2002, it was renamed No Child Left Behind (NCLB). Although its effects have been controversial, few deny that it has had a significant impact on schooling and education in the United States. There is also now a general consensus that it is time to reassess federal education policy as Congress is now very likely to reauthorize ESEA later in 2010.

The Obama Administration’s “A Blueprint for Reform” sets out its recommendations for reauthorizing ESEA. In framing these recommendations, President Obama wrote, “Reforming our schools to deliver a world-class education is a shared responsibility—the task cannot be shouldered by our nation’s teachers and principals alone.... We must recognize the importance of communities and families in supporting their children’s education.”<sup>11</sup>

The legal community must do its part to recognize its role and accept its “shared responsibility” for improving our nation’s schools, especially in the area that, ultimately, most directly affects our justice system: civic learning. As the Preamble to the Model Rules of Professional Conduct states, a lawyer, “should further the public’s understanding of and confidence in the rule of law and the justice system because legal institutions in a constitutional democracy depend on popular participation and support to maintain their authority.”<sup>12</sup> Public legal understanding depends upon an active program of civic education.

### **ABA’s Longstanding Support for Civic Education**

The American Bar Association has a long history of support, in policy and direct programs, for law-related civic education. Early efforts date back to the 1920s and have been ongoing since the early 1970s.

In 1971, then-ABA President Leon Jaworski established the Special Committee on Youth Education for Citizenship, the genesis for what became, in 1983, the Division for Public Education. Today, the ABA Division for Public Education<sup>13</sup> provides national leadership for law-related and civic education efforts in the United States, conducts educational programs, develops resources, provides technical assistance and information clearinghouse services, presents awards, and fosters partnerships among bar associations, educational institutions, civic organizations and others. Civic education programs and resources of the Division currently include Law Day, Constitution Day, summer institute for teachers on federal trials in U.S. history, the National Law-Related Education Leadership Conference, National Online Youth Summit, Dialogue program series, *Insights on Law & Society* magazine for teachers, “Looking at

<sup>10</sup> Introduction by President Barack Obama to “A Blueprint for Reform: The Reauthorization of the Elementary and Secondary Education Act,” U.S. Department of Education, March 2010, page 1, <http://www2.ed.gov/policy/elsec/leg/blueprint/blueprint.pdf>.

<sup>11</sup> Ibid.

<sup>12</sup> ABA Model Rules of Professional Conduct: Preamble and Scope, [www.abanet.org/cpr/mrpc/preamble.html](http://www.abanet.org/cpr/mrpc/preamble.html).

<sup>13</sup> The mission of the ABA Division for Public Education is to promote public understanding of law and its role in society. Its extensive website is at [www.abanet.org/publiced](http://www.abanet.org/publiced).

the Law” features in *Social Education* magazine, and a curriculum developed in association with the Anti-Trust Law Section.

At the policy level, the House of Delegates urged support for law-related citizenship education and including understanding of the U.S. Constitution as a secondary school graduation requirement in the 1970s and 1980s. In the 1990s, ABA policy positions urged Association support for citizenship education, including constitutional studies, in elementary and secondary schools; called on judges and courts to support and actively participate in public education programs about the law and justice system; urged bar support for public education about the Constitution and the rights and responsibilities of citizenship through implementation of the national education goals and standards for civics education; and called on the Association to take the lead in developing long-term educational programs to improve public understanding of our system of justice.

A decade ago, the House approved a February 2000 policy that resolves:

*That the American Bar Association encourages every lawyer to consider it part of his or her fundamental professional responsibility to further the public’s understanding of and confidence in the rule of law and the American system of justice.*<sup>14</sup>

In August 2006 the House approved Resolution 06A-102, which resolves:

*That the American Bar Association encourages all lawyers and judges to be personally and actively engaged in civic education in their communities and schools...and further resolved that the American Bar Association urges policymakers at all levels of government to ensure that: all students experience high quality civic learning—including study of law, government, and history; students’ civic learning is regularly and appropriately assessed; and civic learning is accorded national educational priority on a par with reading and mathematics.*<sup>15</sup>

Following up on the 2006 resolution, the House subsequently passed resolutions in 2007 and 2009 directed to policymakers that presented specific action steps to implement the 2006 resolution. These included “[urging] the amendment of the No Child Left Behind Act if reauthorized, or the adoption of other legislation, to ensure that all students experience high quality civic learning” and [establishing] a Coordinating Office of Civic Education in the U.S. Department of Education to enhance students’ civic learning by offering competitive grant programs,” among other steps.<sup>16</sup>

Preserving the civic mission of schools is vital to the continued success of American constitutional democracy. It is imperative that the American Bar Association continue to assume a leadership role in the national effort to promote high quality civic learning for all of the nation’s students. This must be done not only through actions directed to policymakers, but also through a call to action to the nation’s lawyers.

<sup>14</sup> The 2000 ABA resolution and accompanying report are at <http://www.abapubliceducation.org/publiced/resolution00.html>

<sup>15</sup> ABA House of Delegates Resolution 06A-102.

<sup>16</sup> ABA House of Delegates Resolutions 07A-114 and 09A-122.

**To accomplish this—and to meet Justice Souter’s call to action and support President-elect Zack’s civic education initiative—the proposed recommendation to the House of Delegates resolves that the American Bar Association encourages all lawyers to consider it part of their fundamental responsibility to ensure that all students experience high quality civic learning, including the study of law, government, and history.**

### **Civic Education is a Responsibility of Lawyers**

Ensuring civic learning in the nation’s schools should be a responsibility of and a matter of professional interest to every American lawyer. The report accompanying the House’s 2000 policy resolution concerning lawyers’ responsibilities to foster public legal understanding outlined a number of possible ways this goal could be accomplished:

*Lawyers and judges can fulfill their public and professional responsibilities to foster public understanding of the law and justice system by becoming involved in and supporting public education efforts. They can become involved in lawyer in the classroom or mock trial activities as part of law-related education programs for young people. They can participate in community forums or on an ask-a-lawyer program on issues of practical law or public policy. They can take part in organized public education efforts to commemorate Law Day. They can serve on public education committees or task forces. They can foster public understanding of the law through client relations. They can support public education efforts by the organized bar and bench, in partnership with educators and others committed to furthering public understanding.<sup>17</sup>*

Given the state of American education today and the need to improve civic learning, some of these efforts, such as client relations, while laudatory and necessary, are not sufficient to fulfill lawyers’ responsibilities to foster public understanding of the law and justice system. A further step is needed. Such an aim now requires that lawyers consider it part of their responsibility to ensure that all students in the nation’s schools experience high-quality civic learning. While an individual responsibility, this could be met by direct involvement in the classroom or through support for policy or resources that enhance the civic education of students.

### **Our Legal Institutions Depend on our Educational Institutions**

Accordingly, the proposed policy resolution builds upon the aforementioned 2000 and 2006 policies approved by the House of Delegates to forge new and significant policy for the Association. Implicit in this recommendation is the premise that our legal institutions and justice system depend upon the effectiveness of our educational institutions to make sure Americans are educated and acculturated to maintain their commitment to the rule of law and sustain their trust and confidence in the institutions of constitutional democracy, including the jury and other components of our system of law and justice. No other institution in American society can accomplish this civic mission as well as our schools, especially as we welcome new Americans to our land, during an era of historic immigration levels.

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<sup>17</sup> The 2000 ABA resolution and accompanying report are at <http://www.abapubliceducation.org/publiced/resolution00.html>

At a key moment in American education—and hence, in American law and society—the legal community should answer the call to action to participate, as appropriate, in the education of American youth. As stated eloquently by the authors of the recent report, “Creating a National Culture of Learning”:

*From Thomas Jefferson’s first proposals for public education to the current debates over school quality, we have always looked to our schools as a tool for making democracy possible through educating the next generation of citizens. How we conduct those schools, and how equitable and excellent we make all of our schools, says as much about us as a nation as anything else we do.<sup>18</sup>*

For the reasons cited in this report, the Standing Committee on Public Education urges the House of Delegates to approve the proposed recommendation regarding lawyers’ responsibility for civic learning in the nation’s schools.

Respectfully submitted,

Eduardo Roberto Rodriguez, Chair  
Standing Committee on Public Education

August 2010

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<sup>18</sup> “Creating a National Culture of Learning: The Forum for Education & Democracy’s Recommendations for the Reauthorization of ESEA,” April 2010.

**GENERAL INFORMATION FORM**

**Submitting Entities:** Standing Committee on Public Education

**Submitted By:** Eduardo Roberto Rodriguez, Standing Committee Chair

1. **Summary of Recommendation(s).**

The American Bar Association encourages all lawyers to consider it part of their fundamental responsibility to ensure that all students experience high quality civic learning, including the study of law, government, and history.

2. **Approval by Submitting Entity.**

The recommendation was approved by the Standing Committee on Public Education.

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

As noted above, this recommendation is closely related to Resolution 06A-102 and the 2000 Resolution “that the American Bar Association encourages every lawyer to consider it part of his or her fundamental professional responsibility to further the public’s understanding of and confidence in the rule of law and the American system of justice.” Resolution 06A-102 states, “Resolved, that the American Bar Association encourages all lawyers and judges to be personally and actively engaged in civic education in their communities and schools. Resolved, that the American Bar Association urges all lawyers and judges to work to increase Americans’ understanding of the role of separation of powers in our constitutional democracy. Further resolved, that the American Bar Association urges policymakers at all levels of government to ensure that: all students experience high quality civic learning—including study of law, government, and history; students’ civic learning is regularly and appropriately assessed; and civic learning is accorded national educational priority on a par with reading and mathematics.

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

Resolutions 09A-122 and 07A-11 and 06A-102 are relevant to this recommendation.

5. **What urgency exists that requires action at this meeting of the House?**

The Elementary and Secondary Education Act is scheduled for reauthorization later in 2010. The Obama Administration’s federal budget for education makes significant changes to funding for American history and civics education, including recommending a new competitive grants program.

6. **Status of Legislation. (If applicable.)**

See response to #5 above.

7. **Cost to the Association. (Both direct and indirect costs.)**  
This recommendation will not require any additional funding. It will be supported via the activities of the Standing Committee on Public Education, Commission on Civic Education in the Nation's Schools and other relevant entities.
8. **Disclosure of Interest. (If applicable.)**  
Not applicable.
9. **Referrals.**  
The recommendation will be sent to ABA entities that have supported prior resolutions on civic education, as well as national, state, local and specialty bar associations; the Standing Committee on Ethics and Professional Responsibility; Standing Committee on Professionalism; State and Local Government Law Section, Standing Committee on Bar Activities and Services; Young Lawyers Division; Judicial Division; and other ABA sections and divisions.
10. **Contact Persons. (Prior to the meeting.)**  
Eduardo Roberto Rodriguez  
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50 West Morrison Rd., Ste. A  
Brownsville, TX 78520-7262  
Phone: 956.574.9333  
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312.988.5731  
[mckinneyb@staff.abanet.org](mailto:mckinneyb@staff.abanet.org)
11. **Contact Persons. (Who will present the report to the House.)**  
Eduardo Roberto Rodriguez

**This resolution has not been approved by the House of Delegates, Board of Governors, the Law Student Division, or the Law Student Division Board of Governors and, until approved, does not constitute the policy of the American Bar Association/Law Student Division.**

**No. 10/08-01**

**AMERICAN BAR ASSOCIATION  
LAW STUDENT DIVISION  
ASSEMBLY**

**RESOLUTION  
SUPPORT FOR THE INDEPENDENCE OF LAW SCHOOL CLINICS**

**RECOMMENDATION**

**BE IT RESOLVED**, that the ABA Law Student Division opposes improper attempts by persons, institutions, or governmental bodies outside law schools to interfere in the ongoing activities of law school clinical programs and courses, and that it supports the efforts of the American Bar Association and the ABA Section of Legal Education and Admissions to the Bar to assist law schools in preserving the independence of law school clinical programs and courses.

## REPORT

Clinical legal education has become a central part of the curriculum of the modern American law school. Beginning in the 1920s and accelerating in the 1960s and 1970s, clinical legal educators began developing practical, skills-based training for their students by offering legal services to real clients in the classroom.<sup>19</sup> In addition to enhancing legal education, these law school clinics provided a public service by offering free legal services to indigent clients who otherwise could not afford them.<sup>20</sup> Since that time, live-client, in-house clinics have become a central part of legal education, serving to supplement the legal analysis taught in the classroom with the judgment gained from practicing law under the close supervision of an experienced attorney. As the recent *Carnegie Report* on legal education put it, clinical legal education “can provide students with a much-needed bridge between the formal skills of legal analysis and the more fluid expertise needed in much professional work.”<sup>21</sup>

To effectively provide this education, law school clinics must be free to operate like other lawyers, zealously pursuing their clients’ interests and fulfilling their ethical obligations of loyalty, diligence, and confidentiality.<sup>22</sup> Only then can they help form in law students an appropriate professional identity grounded in the attorney’s responsibility to further the public interest through service to the client.<sup>23</sup>

Recently, however, law school clinics have faced significant threats to their independence from state legislatures responding to the lobbying efforts of parties adverse to the clinics’ clients. In Maryland, for example, the state legislature debated a bill to cut funding from the University of Maryland if its law school clinic refused to provide information about its clients, finances, and cases.<sup>24</sup> In Louisiana, a proposed bill would have targeted clinics even more directly by prohibiting any clinic at a public or private university that receives state money from suing a government agency or seeking monetary damages from an individual or business.<sup>25</sup> Both of these bills represent efforts by state governments to shield certain interests from justice and from the legal process through the additional leverage that they can exert over law school clinics.

Fortunately, neither of these efforts was successful, thanks in part to the efforts of ABA President Carolyn Lamm, who issued statements opposing both bills.<sup>26</sup> There have been many

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<sup>19</sup> John O. Sonsteng et al., *A Legal Education Renaissance: A Practical Approach for the Twenty-First Century*, 34 WM. MITCH. L. REV. 303, 330–31 (2007).

<sup>20</sup> *Id.* at 330.

<sup>21</sup> WILLIAM M. SULLIVAN ET AL., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW 88 (2007).

<sup>22</sup> Press Release, Clinical Legal Education Association, *The Attack on the University of Maryland Law School Clinics* (Mar. 27, 2010), available at [http://www.cleaweb.org/commentary\\_on\\_maryland.pdf](http://www.cleaweb.org/commentary_on_maryland.pdf).

<sup>23</sup> See SULLIVAN ET AL., *supra* note 3, at 159–60 (describing how clinics help form professional identity by teaching students to “integrate not only knowledge and skill but the cognitive, practical, and ethical-social facets of lawyering as well”).

<sup>24</sup> Ian Urbina, *School Law Clinics Face a Backlash*, N.Y. TIMES, Apr. 4, 2010, at A12 (reporting that the bill was introduced in response to the clinic’s decision to file a lawsuit alleging environmental violations by one of the state’s largest employers).

<sup>25</sup> Karen Sloan, *Chemical association escalates attack on Tulane over law clinic*, NAT’L L.J., May 12, 2010 (reporting that the bill was backed by the Louisiana Chemical Association, an industry group representing a number of companies in the state).

<sup>26</sup> Press Release, American Bar Association, *Statement of ABA President Lamm Re: Louisiana Senate Bill 549 to Restrict Law School Clinic Activities* (May 12, 2010), available at <http://www.abanow.org/2010/05/statement-of-aba-president-lamm-re-louisiana-senate-bill-549-to-restrict-law-school-clinic-activities/>; Press Release, American Bar Association, *Statement of ABA President Lamm Re: Proposed Legislation Affecting Funding for University of Maryland School of Law* (Apr. 1, 2010), available at <http://www.abanow.org/2010/04/statement-of-aba-president-lamm-re-proposed-legislation-affecting-funding-for-university-of-maryland-school-of-law/>.

other similar attempts to control law school clinics,<sup>27</sup> and there will likely be more in the future. The ABA does not yet, however, have an official policy supporting the independence of law school clinics. To remedy this situation, the ABA Section of Legal Education and Admissions to the Bar will be bringing a resolution before the House of Delegates to make support for the independence of law school clinics an official part of ABA policy, most likely in February 2011 at the Mid-Year Meeting.

Because of the importance of law students' voices in this issue, the Law Student Division should support the efforts of the Section of Legal Education and Admissions to the Bar and of the ABA to preserve the independence of law students. As one of the beneficiaries of clinical legal education, law students must inform others of the importance of the independence of legal clinics for a well-rounded legal education, and for the promotion of the rule of law in our society.

This resolution will authorize the Law Student Division to cosponsor the Section's resolution, and to support it on the floor of the House of Delegates. In addition, it will authorize the Division to take other appropriate steps to support the implementation of that resolution after it passes the House of Delegates. Consequently, the Division will then be able officially to oppose future efforts by governmental bodies and other institutions to interfere with the educational mission of law school clinics.

### **FINANCIAL REPORT**

The adoption of this resolution entails no financial expense for the ABA/LSD.

Respectfully submitted,

*Daniel Thies*

Daniel Thies, Liaison to the Section of Legal Education and Admissions to the Bar  
First Circuit  
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<sup>27</sup> See Urbina, *supra* note 6 (citing similar efforts to interfere with clinics in Michigan and New Jersey).

**This resolution has not been approved by the House of Delegates, Board of Governors, the Law Student Division Board of Governors and, until approved, does not constitute the policy of the American Bar Association/Law Student Division.**

**No. 10/08-02**

**AMERICAN BAR ASSOCIATION  
LAW STUDENT DIVISION  
ASSEMBLY**

**RESOLUTION  
TO UPDATE THE BYLAWS TO CONFORM TO  
CURRENT DIVISION PRACTICES**

**RECOMMENDATION**

**BE IT RESOLVED**, that the Board of Governors of the Law Student Division adopts the following updates to the ABA Law Student Division Bylaws.

## REPORT

A special bylaws committee was established and chaired by Division Secretary-Treasurer, Mark Pascua to review the Division bylaws and to propose, as appropriate, revisions to the bylaws. The committee presented a revision of the bylaws, which were discussed and approved by the Division's Board of Governors, on Saturday, March 20, 2010.

The proposed revisions to the bylaws reorganizes information for clarity, modernizes the language of the current Division bylaws without changing its meaning, and updates the bylaws to reflect current leadership positions and Division practices.

Attached is the redlined version of the bylaw updates. To facilitate your review of the attached revisions, below is a summary of each of the proposed changes:

- 1). In Article 1, the Bylaws Committee drafted §§ 1.1 and 1.2 to be more concise. Referencing diversity without particularity in § 1.2 is more consistent with the Division's current purpose.
- 2). The Bylaws Committee reorganized Article 2 for clarity so law students can easily determine whether or not they are members in good standing of the Division. Amendments in §§ 2.3 and 2.4 fill in gaps or gray areas not addressed in the current version of the Bylaws regarding membership status.
- 3). In Article 3, the Bylaws Committee reorganized the basic terms and provisions related to law schools to achieve better flow and readability.
- 4). Article 4 now describes the correct frequency of circuit meetings and supplements the current Bylaws with current practices. Bylaws regarding duties, term, election, vacancy, induction, etc., are now organized by leadership position throughout the Bylaws. The Bylaws Committee felt that this new format improves readability and properly acknowledges the differences between each leadership position. Any additional language not found in the current Bylaws states current Division practices.
- 5). The Bylaws Committee reorganized Articles 5 and 6 for clarity.
- 6). Article 7 combines current Articles 7 and 8. Under the new organization method by leadership position, the Bylaws could be simplified under the general category of "Officers." The updated Bylaws address a concern that it would be too confusing to seek explanations of officers under two separate Articles when consolidation makes it clear and concise. As stated above, organization by leadership position improves readability and allows for proper recognition of specific differences for each leader. Additional language under duties state current Division practices formerly not included in the Bylaws. An accurate description of the officers' responsibilities promotes transparency and accountability for Division leadership. Finally, the position of Division Representative to the ABA Board of Governors was added, and the description of the Division Delegates was moved to this section.

- 7). In Article 8, the Bylaws Committee created a separate article for removal. The language and order is the same as in the current Bylaws, but sections were added to enable easy reference.
- 8). Liaison positions are appointed leadership positions versus the officer, delegate and governor positions which are elected leadership positions. As such, liaisons require a separate section which remains as Article 9.
- 9). Article 10 consolidates current Articles 10 and 11 because having a separate article for “Meetings” and “Annual Meeting” was redundant. The language remains in large part the same and the Annual Meeting committee descriptions were moved from the article on committees because the Bylaws Committee felt that it fit better. Having the Annual Meeting committees described near the standing committees would be more confusing than having it under the article on Annual Meeting.
- 10). Articles 11, 12 and 13 are original Articles 12, 13 and 14. Other than the shift of Annual Meeting committees to Article 10, the language remains basically the same.
- 11). Original Articles 14, 15 and 16 are now Articles 13, 14 and 15, respectively. The only updates in these sections were the additions of the word “Division” to modify “Board of Governors” as done throughout the updated Bylaws for consistency.

## **FINANCIAL REPORT**

The adoption of this resolution will not entail a financial expense to the Division.

Respectfully Submitted,



Mark B. Pascua, Secretary-Treasurer  
Chair, Bylaws Committee  
ABA Law Student Division  
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[Click here to see separate document of Bylaws redline](#)

**American Bar Association  
Law Student Division  
2010 National Award Nominees**

Award winners will be announced during the Assembly

**MEMBERSHIP AND ACTIVITY**

- Chapman University School of Law
- Florida State University College of Law
- Golden Gate University School of Law
- The John Marshall Law School
- Penn State University, The Dickinson School of Law
- Thomas Jefferson School of Law

**STUDENT BAR ASSOCIATION**

- American University Washington College of Law
- University at Buffalo Law School, SUNY
- Capital University Law School
- Chapman University School of Law
- Florida State University College of Law
- The George Washington University Law School
- The John Marshall Law School
- Louisiana State University, Paul M. Hebert Law Center
- Loyola Law School Los Angeles
- University of Maryland School of Law
- Mercer University Law School
- University of Miami School of Law
- Northern Illinois University College of Law
- University of Oklahoma College of Law
- Penn State Dickinson School of Law
- Roger Williams University School of Law
- University of San Diego School of Law
- University of San Francisco School of Law
- Stetson University College of Law
- Thomas Jefferson School of Law
- Whittier Law School
- Widener University School of Law-Delaware
- Widener University School of Law-Harrisburg
- William & Mary School of Law

**HENRY J. RAMSEY, JR. DIVERSITY**

- *Women's Law Caucus* – Florida A&M University College of Law
- *Florida State University College of Law* – Florida State University College of Law
- *Tanya Nikam* – The George Washington University Law School
- *Gonzaga University School of Law and Gonzaga University School of Law Student Bar Association* – Gonzaga University School of Law
- *Loyola Law School Outlaw* – Loyola Law School Los Angeles
- *Mexican American Law Student Association (MALSA)* – University of New Mexico School of Law
- *Speakers Trust Fund* – Penn State University, The Dickinson School of Law
- *University of San Francisco School of Law Student Bar Association Diversity Committee* – University of San Francisco School of Law
- *Stetson University College of Law* – Stetson University College of Law
- *Jennifer Elyse Kish* – Thomas Jefferson School of Law
- *Women's Law Caucus, The University of Tulsa College of Law* – The University of Tulsa College of Law
- *Widener University School of Law Delaware Student Bar Association* – Widener University School of Law-Delaware
- *Black Law Student Association* – William & Mary School of Law

## National Award Nominees (continued)

### JUDY M. WEIGHTMAN MEMORIAL PUBLIC INTEREST

- *Volunteer Legal Assistance for Artists* – Arizona State University Sandra Day O'Connor College of Law
- *Mary Juetten* – Arizona State University Sandra Day O'Connor College of Law
- *Barry University Dwayne O. Andreas School of Law* – Barry University Dwayne O. Andreas School of Law
- *BPILP* – University at Buffalo Law School, SUNY
- *Florida State University College of Law* – Florida State University College of Law
- *VBA Pro Bono Society* – George Mason University School of Law
- *Judge Stephen O'Neil Trial Advocacy Mentoring Program* – Loyola Law School Los Angeles
- *The Public Action Law Society at the Cecil C. Humphreys School of Law* – University of Memphis Cecil C. Humphreys School of Law
- *Race for Justice* – University of Minnesota Law School
- *Public Interest Law Fund* – Penn State Dickinson School of Law
- *USF Law In Motion* – University of San Francisco School of Law
- *Mr. Eric A. Holte* – Seattle University School of Law
- *Stetson University College of Law* – Stetson University College of Law
- *Sajad Abid Husain* – Thomas Jefferson School of Law
- *Student Hurricane Network* – William & Mary School of Law

### VOLUNTEER INCOME TAX ASSISTANCE

- Barry University Dwayne O. Andreas School of Law
- University of Florida Fredric G. Levin College of Law
- The John Marshall Law School
- Louisiana State University, Paul M. Hebert Law Center
- Loyola University New Orleans College of Law
- Penn State Dickinson School of Law
- Southwestern Law School
- St. Thomas University School of Law
- Valparaiso University School of Law
- University of Virginia School of Law
- Western State University College of Law

### LAW SCHOOL NEWSPAPER AWARD

- *The Cardozo Jurist* – Benjamin Cardozo School of Law, Yeshiva University
- *The Gavel* – Cleveland State University – Cleveland Marshall College of Law
- *In Brief* – University of Detroit Mercy School of Law
- *Nota Bene* – The George Washington University Law School
- *The Docket* – Georgia State University College of Law
- *Harvard Law Record* – Harvard Law School
- *The Verdict* – Oklahoma City University School of Law
- *The Forum* – The University of San Francisco School of Law
- *The Legal Minute* – St. Mary's University School of Law
- *The Informer Newsletter* – Thomas Jefferson School of Law
- *Virginia Law Weekly* – University of Virginia School of Law