

ALABAMA STATE BAR RULES GOVERNING ELECTION AND SELECTION OF PRESIDENT-ELECT AND MEMBERS OF THE BOARD OF COMMISSIONERS

STATEMENT OF PURPOSE

The Board of Bar Commissioners believes that the honor and responsibility of the offices of President-Elect and Commissioner should attract only the most qualified persons who have given repeatedly and unstintingly of their time and abilities in the strengthening of the profession, the work of the Bar, and the discharge of its duties to the public and to the judicial system, and who have thereby gained the experience and understanding necessary to properly discharge the important and complex tasks inherent in these offices. Recognizing the diversity of the bar in terms of geography, background, practice areas, ethnicity, and gender, the rules governing the election of these important officers of the Bar were adopted in order to encourage a broad participation in the work of the Bar and to avoid the type of campaigning which can cause divisiveness, polarization, and diminished collegiality of the Bar. These rules attempt to discourage intense campaigning for these offices which entail the outlay of considerable amounts of time and money and tend to limit candidates to wealthy lawyers, to members of large firms, or to members of organized groups. We earnestly request that all persons who seek these high offices in Alabama will conduct their campaigns, and encourage their friends and supporters to campaign on their behalf, in the spirit of these rules and in keeping with the dignity of these offices.

These rules are adopted to govern election of the President-Elect and Commissioners of the Alabama State Bar, pursuant to Sections 34-3-16 and 34-3-40 through 43, Code of Alabama (1975). In adopting these rules, the Board of Commissioners of the Alabama State Bar expresses its intent that they supersede all previous rules and policies on these matters.

ELECTION OF PRESIDENT-ELECT

The President-Elect of the Alabama State Bar is chosen annually and takes office as President-Elect at the end of the annual meeting held during the year of such election.

I. Qualifications of candidates

Candidates for the office of President-Elect shall be members in good standing of the Alabama State Bar as of February 1 of the year of the election. They shall possess a current privilege license or special membership.

II. Nominations

Candidates must be nominated by petition of at least twenty-five (25) Alabama State Bar members in good standing. Such petitions shall be on a form prescribed by the Alabama State Bar, and are to be filed with the secretary of the Alabama State Bar (hereinafter “secretary”) on or before February 1 preceding the election. Petitions filed after 5:00 p.m. on February 1 shall not be accepted and the member will not be qualified as a candidate for the office of President-Elect. Nominating petitions may be hand-delivered, submitted by mail, or transmitted by e-mail, and it shall be the responsibility of the candidate to confirm receipt by the secretary. A nominating petition for a candidate for President-Elect shall be certified as being sufficient if the number of valid signatures on the petition is at least equal to twenty-five (25), at which time no further verification is required on such petition.

III. Publication of candidacy

Also by February 1, a candidate for the office of President-Elect may submit to the secretary biographical and professional data and a high resolution color photograph. If received by February 1, this information will be published in the March issue of *The Alabama Lawyer*, as an announcement of the candidacy, and included on the Alabama State Bar’s Web site. Any information received after February 1 shall not be published.

IV. Campaigns

- A.** Candidates shall not campaign prior to February 1 of the election year but they may inform others of their candidacy at any time when done by the candidate in person or verbally by telephone.
- B.** Each candidate shall be entitled to one bar-wide distribution by the state bar by electronic means (“e-mail”) of campaign literature. The Alabama State Bar shall not distribute a list of the names, contact information, or other data associated with its members to any candidate for President-Elect or anyone acting on the candidate’s behalf.
- C.** Candidates and anyone acting on a candidate's behalf shall refrain from seeking or accepting financial or in-kind contributions.
- D.** Candidates and anyone acting on his or her behalf shall not encourage mailings or e-mailings by or to groups with which the candidate may be associated, such as

alumni groups, specialty bars, county or circuit bar associations, or any other identifiable groups within the bar.

- E.** The use of phone banks, list-servs, or electronic billboards by the candidates or anyone acting on the candidate's behalf is prohibited.
- F.** Solicitation or support by mail or e-mail for a nominee, by an individual lawyer to his or her personal acquaintances is proper, provided such letter or e-mail is on the lawyer's personal stationery or the law firm's stationery, and is sent at his or her own expense or at the expense of his or her firm. Mailings or e-mailings sent in accordance with this paragraph shall not be directed to a group as prohibited in paragraph D of this section. Two or more lawyers shall not by mail, e-mail, or other similar communication jointly solicit support of any candidate or publicize their own support of any candidate.
- G.** Candidates shall not seek or publicize endorsements by groups. Groups such as alumni groups, specialty bars, county or specialty bar associations, or any other identifiable group within the bar shall not endorse a candidate.
- H.** The President of the Alabama State Bar shall appoint five (5) Alabama State Bar members in good standing to serve as the Bar Election Supervision Committee ("Supervision Committee") to ensure compliance with these campaign rules. Three (3) members of the Supervision Committee shall constitute a quorum, which shall be required for any action taken by the Supervision Committee.
- I.** The Supervision Committee's scope of authority includes, but is not limited to, the following:
 - 1.** Hearing election complaints, challenges, and contests, and issuing written rulings on same.
 - 2.** Issuing advisory opinions upon written request of any candidate or qualified elector. A written record of those opinions shall be kept by the state bar.
 - 3.** Issuing a ruling on any complaint filed by any member of the state bar prior to the counting of ballots. The ruling may provide for sanctions, giving due consideration to the nature of any violation that is determined to have occurred. Such rulings may include: (a) the imposition of sanctions consisting of, but not limited to, disqualification; (b) extension of the deadline for the dispatch of ballots by up to one week; and (c) the granting to other candidates of additional rights as may be appropriate.

4. Hearing post-election complaints, challenges or contests, which shall be filed in affidavit form with the secretary of the state bar no later than seven (7) days after certification of the election results.

All rulings of the Bar Election Supervision Committee shall be construed as final determination and there shall be no appeal.

V. Election procedures

- A. The secretary shall announce the election by publication in the January and March issues of *The Alabama Lawyer* each year and on the Alabama State Bar Web site. In the March issue of *The Alabama Lawyer*, biographical and professional data and photographs of each candidate for President-Elect shall be published. This same information shall be included on the Alabama State Bar's Web site beginning no later than March 1, and continuing through the close of the election.
- B. The secretary shall see that an electronic and paper ballot is prepared and that the ballots contain the name of each qualified candidate for the office of President-Elect.
- C. The election for President-Elect shall open on the third Monday in May each year. On this day, every Alabama State Bar member in good standing, who is not excluded by paragraph D of this section, shall be notified by e-mail with a link to the electronic ballot. The Alabama State Bar shall select and engage a vendor to develop and administer a secure ballot delivery system, which shall, at least, contain appropriate means for authenticating the voting member and preventing the voting member from casting multiple ballots while preserving the anonymity of the voting member.
- D. Appropriate provisions shall be made to accommodate members in good standing who wish to cast their vote by paper ballot. In such instance and upon written request received on or before the first Friday in May, a printed paper ballot, privacy envelope and return envelope with space for a signature shall be mailed by U.S. mail to the member requesting a paper ballot. A member who has requested a paper ballot shall not receive access to the electronic ballot and shall not be allowed to cast an electronic ballot.

Each paper ballot shall be marked by the recipient member, placed in the privacy envelope provided and both shall be placed in the return envelope provided. The return envelope shall be signed by the member, in the space provided, certifying it as the member's vote for the office of President-Elect and certifying that the

member is qualified to vote, (i.e., is a member in good standing with the Alabama State Bar). Only one ballot may be returned in each certification envelope.

- E.** All ballots (paper and electronic) must be cast and received in the office of the Alabama State Bar by 5:00 p.m. on the Friday in May immediately following Monday on which the election opens. Any ballot received after the deadline in this paragraph shall be null and void.
- F.** A Bar Election Certification Committee (“Certification Committee”) composed of at least two bar commissioners appointed by the president and the secretary, or designee, shall certify the results of the balloting as soon as practicable after the deadline for the receipt of the ballots.
- G.** In the event more than two candidates qualify for the position of President-Elect and no candidate receives a majority of the votes (50% + one vote), then the names of the two candidates with the highest vote totals shall appear on a run-off election ballot. The run-off election shall open, and run-off ballots shall be made available on the first Monday in June. All run-off ballots (paper and electronic) must be cast and received in the office of the Alabama State Bar by 5:00 p.m. on the Friday in June immediately following the Monday on which the run-off election opens. Run-off ballots received after the deadline in this paragraph shall be null and void.
- H.** If a run-off election for President-Elect results in a tie between the two candidates, the run-off election shall be decided by lot by the Election Supervision Committee in the presence of the candidates.

VI. Assumption of office, duties

The successful candidate for President-Elect shall assume office at the conclusion of the annual meeting following the election and shall serve as a member of the executive council of the Board of Commissioners.

ELECTION OF COMMISSIONERS AND SELECTION PROCESS FOR AT-LARGE COMMISSIONERS

The Board of Commissioners of the Alabama State Bar is composed of at least one member from each judicial circuit, a member from that part of the Tenth Judicial Circuit known as the "Bessemer Cut-off" electoral district, and one additional commissioner for each 300 members of the state bar who maintain their principal office in a circuit as of March 1 of each year, up to ten commissioners per circuit.

In addition, pursuant to amendments to §§ 34-3-40 and 34-3-41 of the Code of Alabama ("the governing statute"), the Board of Bar Commissioners ("Board") shall be responsible for the selection of nine at-large members to the existing Board and shall, to the extent possible, select candidates who reflect the racial, ethnic, gender and age diversity, as well as the geographical diversity, of the members of the Alabama State Bar.

I. Qualifications of candidates and members

- A.** Each candidate for commissioner shall be a member in good standing of the Alabama State Bar and maintain his or her principal office in the circuit he or she seeks to represent.
- B.** Each commissioner shall maintain his or her principal office in the circuit represented. Should an incumbent commissioner's principal office be removed from the circuit represented, the position of commissioner shall be declared vacant and the unexpired term shall be filled in accordance with Section 34-3-43(a)(8) Code of Alabama (1975).

II. Nominations of Commissioners to be elected

- A.** One or more candidates may be nominated on one petition. Each petition must be signed by at least five (5) members in good standing maintaining their principal offices in the circuits where the nominees maintain their principal offices. A nominating petition for candidates for commissioner shall be certified as being sufficient if the number of valid signatures on the petition is at least equal to five (5), at which time no further verification is required on such petition.
- B.** A member in good standing may become a candidate from the circuit of his or her principal office by filing a written declaration of candidacy.

- C. Each candidate must be nominated or declare for a designated position; however, all elections in multi-commissioner circuits shall be at-large elections.
- D. Either nominating petitions or declarations of candidacy shall be filed with the secretary of the Alabama State Bar no later than 5:00 p.m. of the last Friday in April of the election year and shall be null and void after that date. Nominating petitions and declarations of candidacy may be hand-delivered, submitted by mail, or transmitted by e-mail, and it shall be the responsibility of the candidate to confirm receipt by the secretary.
- E. A candidate may submit to the secretary a high resolution color photograph of the candidate, and biographical and professional data of no more than one 8 ½ x 11 page and no smaller than 12 point type by the last Friday in April for posting on the Alabama State Bar Web site. These items shall be submitted electronically. Any item received after the last Friday in April shall not be posted.

III. Campaigns

- A. Each candidate and his or her supporters should make a reasonable effort to represent the candidacy in a dignified manner.
- B. Each candidate may receive, free of charge, a list of those persons eligible to vote in his or her circuit. Additional lists shall be provided at reasonable cost.
- C. The Election Supervision Committee of the Alabama State Bar shall resolve any complaints or challenges with respect to campaign practices. Such complaints or challenges must be in affidavit form, filed with the secretary of the Alabama State Bar no later than June 30 of the election year.

IV. Election procedures

- A. By March 15 of each year, the secretary shall certify to the board the number of members in good standing maintaining their principal office in each circuit and in the "Bessemer Cut-off" electoral district. In order to be a qualified elector in the election of commissioners, a member must provide the physical address of the member's principal office. A home address shall be used only when the member in good standing maintains no office. The circuit in which a member is qualified to vote will be determined by the member's physical address as of 5:00 p.m. on the last Friday in April of any given election year.

B. Places and Terms

1. Based on the census, the secretary shall certify to the board the number of commissioners to which each circuit is entitled.
2. If a circuit is entitled to fewer commissioners than it had the previous year, the most recently created place will be eliminated as of June 30 of the census year.
3. If a circuit is entitled to more commissioners than it had the previous year, one or more places shall be created and a commissioner or commissioners shall be elected for a three-year term.
4. Beginning in 1987, places will be designated "Place Number 1" (the present commissioner position), "Place Number 2" (the next commissioner position), and so on. All elections in multi-commissioner circuits shall be at-large elections; however, each candidate must be nominated or declare for a designated position.
5. Terms of incumbent commissioners are hereby retained. Terms of commissioners for a particular circuit should not expire simultaneously; therefore, for the 1987 election only, commissioners elected to the following places shall be elected for the terms specified. Regardless of the length of the initial term, subsequent terms shall be three years.

<u>Place Number</u>	<u>Term</u>
2	1 year
3	2 years
4	3 years
5	1 year
6	2 years
7	3 years
8	1 year
9	2 years
10	3 years

C. Notice of election

In the January and March issues of *The Alabama Lawyer* each year, the secretary shall give notice of the circuits due to elect commissioners that year, with a disclaimer that some places might change as a result of the annual March 1 census.

D. Balloting

- 1.** The secretary shall see that an electronic and paper ballot is prepared for each circuit election.
- 2.** The election for commissioners shall open on the third Monday in May each year. On this day, each Alabama State Bar member in good standing, whose principal office is in the circuit where the election is occurring, and who is not precluded by paragraph 3 of this section, shall be notified by e-mail with a link to the electronic ballot. The Alabama State Bar shall select and engage a vendor to develop and administer a secure ballot delivery system, which shall, at least, contain appropriate means of authenticating the voting member while preserving the anonymity of the voting member and preventing the voting member from casting multiple electronic ballots.
- 3.** Appropriate provisions shall be made to accommodate members in good standing who wish to cast their vote by paper ballot. In such instance and upon written request received on or before the first Friday in May, a printed paper ballot, privacy envelope and return envelope with space for a signature shall be mailed by U.S. mail to the member requesting a paper ballot. A member who has requested a paper ballot shall not receive access to the electronic ballot and shall not be allowed to cast an electronic ballot.

Each paper ballot shall be marked by the recipient member and placed in the privacy envelope. Both shall be placed in the return envelope and it shall be signed in the space provided, certifying it as the member's vote for a commissioner or commissioners, and certifying that the member is qualified to vote (i.e., is a member in good standing with the bar and maintains his or her principal office in the circuit where the election is occurring). Only one ballot may be returned in each certification envelope.

- 4.** All ballots (paper and electronic) must be cast and received in the office of the Alabama State Bar by 5:00 p.m. on the Friday in May immediately following the Monday on which the election opens. Any ballot received after the deadline in this paragraph shall be null and void.
- 5.** The Bar Election Certification Committee appointed to certify president-elect ballots shall certify the results for the commissioners' elections as soon as practicable after the deadline for receipt of ballots.
- 6.** In the event more than two candidates qualify for the position of commissioner and no candidate receives a majority of the votes (50% + one vote), then the names of the two candidates with the highest vote totals shall appear on a run-off

election ballot. The run-off election shall open, and run-off ballots shall be made available on the first Monday in June. All run-off ballots (paper and electronic) must be cast and received in the office of the Alabama State Bar by 5:00 p.m. on the Friday in June immediately following the Monday on which the run-off election opens.

7. In a run-off election for commissioner where there is a tie between the two candidates, the run-off election shall be decided by lot by the Election Supervision Committee in the presence of the candidates.

V. Assumption of office, duties

Successful candidates for commissioner shall assume office on July 1 following the election and shall carry out those duties specified in Section 34-3-43, Code of Alabama (1975).

VI. Nominations of At-Large Members

A. Notice

The Board shall, by March 1 of each year, send a letter to all known minority bar associations, all sections of the Alabama State Bar, and the committee charged with the responsibility of overseeing the Alabama State Bar's leadership program, and to each Bar Commissioner seeking a nominee for one of the at-large commissioner positions.

B. Application

A nominee's application outlining, among other things, the nominee's bar service and other related activities must be received by the Executive Committee of the Alabama State Bar by no later than April 1 of the selection year.

C. Applicants Recommended by Executive Committee

The Executive Committee of the Alabama State Bar shall review all timely submitted applications. From those applications, the Executive Committee shall recommend to the Board a name for each of the nine at-large places as described in VII (A) below. In carrying out this charge, the Executive Committee shall, to the extent possible, recommend candidates who adequately reflect needed or underrepresented racial, ethnic, gender and age diversity, as well as the geographical diversity, of the members of the Alabama State Bar.

VII. At-Large Selection Process

A. Initial Terms

Pursuant to § 34-3-41(5), the initial terms of nine at-large members shall be staggered as follows: three at-large members shall be selected for terms of one (1) year each, three at-large members shall be selected for terms of two (2) years each, and three at-large members shall be selected for terms of three (3) years each. The Executive Committee will divide the positions by place and initial terms, and will recommend a candidate for each place and initial term (“Recommended Name”) from the applications.

B. Board Consideration of Applicants

The names of all applicants shall be provided to the Board of Bar Commissioners. The list of applicants provided to the Board of Bar Commissioners shall be split into to categories by the Executive Committee, namely: (1) Qualified Diverse Applicants, applicants who enhance the racial, ethnic, gender, age diversity and geographical diversity of composition of Commissioners, as determined by the Executive Committee, and (2) Other Applicants, applicants who apply but fail to enhance the diversity of the Board of Bar Commissioners or whose presence does not coincide with the goals of the governing statute. This information will be provided to the Board of Bar Commissioners in advance of its May meeting in which those names will be considered by the Board. The Recommended Name shall be from the list of Qualified Diverse Applicants. Names may also be nominated from the floor for any of the at-large positions, but any name so nominated for an at-large position must come from the existing applicants listed as Qualified Diverse Applicants with all Commissioners being required to take into account the goals of the governing statute.

C. Majority Vote

Each Recommended or Nominated Name receiving a majority vote of the members of the Board of Bar Commissioners present and voting at the meeting shall be elected to an at-large position.

D. Assumption of Office

The terms of the at-large board members shall correspond with the elected members of the Board.

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