

# Association Structure, Policies, and Procedures

*As Amended by the ISBA Board of Governors on May 17, 2019*

## I. SECTION AND COMMITTEE AUTHORIZATION POLICIES

### A. Sections

#### 1. Authorization

There shall be sections of the Association as may be authorized by the Assembly or the Board of Governors.

Sections study their particular fields of law so that they may (1) propose to the Assembly new legislation or repeal of undesirable or unnecessary laws and (2) aid in the continuing education of lawyers in their respective fields.

Members may choose the section or sections in which they wish to be enrolled as voting members and receive the newsletters.

Sections are governed by executive councils appointed by the President-Elect, or as provided by resolution of the Assembly. They have the power to assign research work to registered members of the section. Section councils may create with prior approval of the President committees composed of members enrolled in the section, thus allowing for broad participation in the work of the section. Section committees shall be limited to seven members, unless there is just cause for additional members as determined by the executive director. Section committees are limited to four meetings per year, unless there is just cause for additional meetings as determined by the executive director. Members of committees, who also serve on the applicable section council, may be reimbursed for expenses according to the expense reimbursement policy.

Principal activities of sections are the publication of newsletters, legislative research and advice, development of recommendations for the Board, and continuing legal education, in cooperation with the Standing Committee on CLE or through their newsletters.

#### 2. Section Councils—Composition

The councils of sections consist of the immediate past chair, ex officio with vote, for one year, and from seven to 30 additional members appointed by the President for one-year terms.

Unless otherwise authorized by the Assembly, the number of members on the councils, including the immediate past chair, is suggested to be:

- (a) up to 15 members in sections with fewer than 1500 members;
- (b) up to 20 members in sections with between 1501 and 3000 members; and,
- (c) up to 30 members in sections in excess of 3000 members.

Except as the Assembly may otherwise provide, the President-Elect selects, by June 1 of the year of his or her tenure as First Vice-President, a chair, vice-chair and secretary, and as many additional members of the section as the Assembly determines, to be the council of each section. At least one member of the council of each section must be under the age of 36 years at the commencement of his or her term of office. Terms of appointment commence at the beginning of the Annual Meeting. The maximum term that a member may serve on a section council is four consecutive years except for officers.

The President, during his or her term and for extraordinary reasons, may appoint an additional member of a section council above the

authorized strength for a term to expire no later than the current Association year. At the beginning of the next Association year, the number of council members reverts to its authorized strength.

### **3. Presently Authorized Sections and the Number of Council Members for Each:**

Administrative Law—15  
Admiralty and Maritime Law—15  
Agricultural Law—15  
Alternative Dispute Resolution—15  
Antitrust and Unfair Competition Law—15  
Bench and Bar—15  
Business Advice and Financial Planning—15  
Civil Practice and Procedure—30  
Commercial, Banking and Bankruptcy Law—15  
Corporate Law Departments—15  
Corporation, Securities & Business Law—15  
Criminal Justice—20  
Education Law—15  
Elder Law—15  
Employee Benefits—15  
Environmental Law—15  
Family Law—30  
Federal Taxation—15  
General Practice, Solo & Small Firm—20  
Health Care Law—15  
Individual Rights & Responsibilities—15  
Insurance Law—15  
Intellectual Property—15  
International & Immigration Law—15  
Juvenile Justice—15  
Labor and Employment Law—15  
Law Office Economics—15  
Local Government Law—15  
Mineral Law—15  
Public Utilities and Transportation Law—15  
Real Estate Law—30  
State and Local Taxation—15  
Tort Law—30  
Traffic Laws and Courts—15  
Trusts and Estates—20  
Workers' Compensation Law—15  
Young Lawyers Division—19

The general statement of scope and authority for sections is stated above in the second paragraph under "Sections." Several section councils have prepared formal scope statements which have been approved, and such statements are contained in this Blue Book.

### **4. Section Councils – Assembly Representative**

Prior to the Annual meeting of the Assembly, an incoming section chair shall designate an incoming section council member to attend, monitor, speak for (if appropriate), and report back to the section council on Assembly matters of interest. The incoming section council chair's designee shall be a section council member who has been elected or appointed to the Assembly for the upcoming ISBA year. If no one on the section council will be serving on the Assembly, the incoming chair may designate a member of the section council as a non-voting section council representative. Should the designee be unable to attend any particular meeting, the chair may appoint a substitute section council representative consistent with the criteria of this section. This non-voting section council representative to the Assembly shall not be entitled to expense reimbursement.

## **B. Committees**

### **1. Authorization**

There shall be such committees, standing, special, joint and ad hoc, as the Board of Governors or the Assembly may authorize (Bylaw Secs. 9.1 and 9.2). The numbers, qualifications, powers and duties of all committees are determined by the Board of Governors or the Assembly. Members of the standing committees are appointed by the President or as provided by resolution of the Board of Governors or the Assembly. Members may not serve more than six years. Chairs generally serve one or two years in that office.

Standing committees are those which are relatively permanent in the structure of the Association and have an ongoing purpose. Special committees are generally appointed for a particular purpose and their life span should not exceed one and one-half to two years and often may be shorter. A joint committee is a special committee made up of ISBA members and members of a group or association other than the Illinois State Bar Association. Ad hoc committees are those committees appointed for special purposes and are solely made up of members of the Board of Governors. Most committee appointments are made by the President. Exceptions include the Board of Governors Budget Committee which has a number of ex-officio members and the Scope and Correlation Committee which has its members elected from among members of the Board of Governors by members of the Board.

A number of committees and section councils now also include nonlawyers among their membership.

### **2. Standing Committees**

The members of standing committees are appointed by the President-Elect, or as provided by resolution of the Assembly. The President-Elect makes appointments by June 1 of the year of his or her tenure as First Vice-President; terms of appointment commence at the beginning of the Annual Meeting. The maximum term that a member may serve on a committee is six consecutive years.

The President may, during his or her term and for extraordinary reasons, appoint an additional member above authorized strength for a term to expire no later than the current Association year. At the beginning of the next Association year, the number on the committee reverts to its original authorized strength.

### **3. Advisory Committees and Subcommittees**

Officers of standing or special committees, with prior approval of the President, may create, in aid of their work and from outside the personnel of any such committee, advisory committees or subcommittees to be appointed by the chair and having no vote, but having such

scope and function officially designated by such committee officers, all subject to discontinuance or modification by the President or Board of Governors. Committee subcommittees shall be limited to seven members, unless there is just cause for additional members as determined by the executive director. Such subcommittees are limited to four meetings per year, unless there is just cause for additional meetings as determined by the executive director. Members of advisory committees are not entitled to reimbursement for travel or other expense except by special authorization of the President or executive director. Members of subcommittees, who also serve on the applicable standing or special committee, may be reimbursed for expenses according to the expense reimbursement policy.

#### **4. Temporary Committees**

The President may appoint temporary, special, ad hoc and joint committees, subject to the power of the Assembly to abolish any such committee.

## **II. SECTION AND COMMITTEE BUSINESS MEETING POLICIES**

### **1. Organizational Meeting for Section Councils and Committees**

The chair of each section and standing committee is required to call an organizational meeting before September 15 of the fiscal year.

An organizational questionnaire soliciting information on each section council's or standing committee's planned activities for the current year is distributed to each chair in advance of the organizational meeting. The questionnaire asks the chair to summarize activities for the past year, activities that are to be continued during the current year, all new activities planned for the current year, problems to be brought to the attention of the Board of Governors, a listing of subcommittees, and business meetings planned for the future. The section chairs are further asked in the questionnaire to indicate whether the publication of a newsletter is planned during the year, and whether any articles are contemplated for submission to the Illinois Bar Journal. The organizational questionnaire is to be completed and returned to the executive director within five days after the first (organizational) meeting of the section council or standing committee. The headquarters staff will distribute copies to the appropriate board liaison and staff liaison.

### **2. Regular Business Meetings of Section Councils and Committees**

Regular business meetings of section councils and committees may be held at such times as may be determined by the chair. As noted above, they may be held at the general meetings of the Association, but ordinarily they should not be scheduled at times in conflict with programs and general meal functions.

### **3. General Attendance Policy for Section Council and Committee Meetings**

Members of committees and section councils are strongly encouraged to regularly attend scheduled business meetings. Failure to consistently attend meetings weighs heavily at the time when members are considered for reappointment to respective groups. Nonmembers of the Association may be invited to attend meetings of section councils and committees by a majority vote of the members present at said meeting. Lay members are, of course, entitled to attend meetings of their section council or committee. Committee and section council meetings may be attended by members of the Association who may not participate unless invited by a majority of committee or council members present.

Committees and section councils may, under appropriate circumstances, resolve themselves as a committee of the whole by a majority vote of the council or committee members present, and as such may act in executive session.

Absentee voting is not authorized for committees and section councils at called meetings, with the express understanding that this policy is not intended to preclude the polling of committee or section council members under emergency circumstances where there is not a meeting per se. Exempted from this policy are the committees on Public Protection from the Unauthorized Practice of Law and Judicial Advisory Polls.

#### **4. Attendance Records**

Records of attendance at all meetings must be kept by the chair or secretary. These records and a report as to participation by the various section council or committee members should be made available to the First Vice-President of the Association upon request (about January 15) to assist in making appointments for the ensuing year.

#### **5. Minutes and Reports**

Each section council and committee must keep minutes of its meetings. The secretary, or secretary pro tem, should promptly file with the executive director a copy of the minutes of the meeting. Copies are also to be distributed to the appropriate section council or committee members, the appropriate board liaison and the president of the Association. If desired, the Illinois Bar Center will handle this distribution if such a request accompanies the minutes.

#### **6. Meetings at the ISBA Chicago Office and the Illinois Bar Center**

Section councils and committees shall exclusively use the meeting facilities at the ISBA Offices. All business meeting arrangements should be made, in advance, through the appropriate staff liaison.

#### **7. Meetings at Other Locations**

Notwithstanding section II.6. above and in extraordinary circumstances, section councils and committees may meet outside the ISBA's Chicago Regional Office ("CRO") and Springfield's Illinois Bar Center ("IBC") subject to advance approval of the Executive Director. Requests for section council and committee meetings outside of the CRO and IBC should be given to the appropriate staff liaison for forwarding to the Executive Director. Such requests should be made 90 days before the requested meeting date. All meeting arrangements should be handled by the staff liaison. Nothing in these sections II.6. and 7. shall be construed to prohibit section council or committee meetings at a section council or committee member's office in Chicago.

#### **8. Meals during Meetings**

Authorization for reimbursement for committee and section council meals may be given only for luncheons when an all-day meeting is anticipated. Arrangements must be approved in advance by the executive director and are to be requested only if such a meal function will materially aid in the objective of the meeting. However, the Board of Governors has authorized luncheon expenses for any committee or section council meeting held at the Chicago Regional Office or the Illinois Bar Center in Springfield.

### **III. ISBA POLICY ON NEW SECTION AND COMMITTEE FORMATION**

Persons or groups proposing the formation of a new section or committee, other than the Board of Governors or the Assembly, must:

1. Submit a formal petition seeking creation of a section or committee (signed by a minimum of 25 members of the Association).
2. Submit a “need statement” showing cause for creation of such section or committee.
3. Submit a proposed scope and a description of the effect upon other or existing sections or committees.
4. If a formation of a section is being proposed, indicate the probable numbers of section members which must be expected in the first year and in a second year and the source thereof.
5. Agree that approval of such a new section or committee would be probationary for the first two years of its existence.
6. Submit the application to the Scope and Correlation Committee which would make a recommendation to the Board of Governors for the final decision.

#### **IV. SECTION NEWSLETTER POLICY**

##### **A. General**

1. The section newsletter program is administered by the director of legal publishing in consultation with the IBJ Editorial Board.
2. Newsletter editors are appointed by the section chair no later than July 1, the beginning of the Association year, and reported to the Department of Publications.
3. Each section or committee with a dues-paying membership must publish a minimum of one newsletter per quarter. The Department of Publications staff will work with the newsletter editor(s) and section council/committee chair in question to address any failure to meet this requirement. If a section or committee is out of compliance with the policy and, in the judgment of the newsletter managing editor and the director of legal publishing, the section council/committee chair has failed to adequately address the noncompliance, that failure will be reported to the executive director and/or Board of Governors for appropriate action.
4. Newsletter schedules are set by the Department of Publications in consultation with newsletter editors, as necessary.
5. All material intended for publication during any given month must be submitted in full no later than the first day of that month. This applies to newsletter content as well as any supporting documentation, including author permission forms.
6. Section councils and their representatives are not authorized to distribute their newsletters to members of other sections (e.g., the council of Section A may not direct that its newsletter be mailed to the members of Section B as a means to recruit members for Section A). They may distribute individual newsletter articles or other content to members of another section but only via that section’s newsletter with the permission of its editor(s). This policy should not be read to forbid de minimis distribution (e.g., the mailing of section A’s newsletter by the chair of section A to the chair of section B).
7. Newsletters are ideally eight pages in length, but longer newsletters are accommodated as necessary.
8. A Newsletter Editor's Conference is conducted by the Department of Publications in July or August in Chicago. This is an orientation session for new editors and a review for others. Both new and past editors are invited.
9. A Newsletter Editor's Guide, which details policies and procedures, is produced annually and provided to all newsletter editors.

##### **B. Editorial Policy**

1. It is intended that editors of newsletters be relatively free to express their individual points of view, including discussion of cases actively on appeal within the following limits. In the discretion of the editors, discussion of a particular case may include a comparison of the decision with opinions in prior cases presenting similar issues. It may also include editorial comments concerning the wisdom or propriety of the decision, as perceived by the editor. However, a newsletter editor should not urge a court to take specific action in a pending case, e.g., to grant rehearing or a petition for certiorari, or for leave to appeal.
2. Each newsletter is to contain a disclaimer as to the contents, indicating that the views contained therein do not necessarily represent the view or opinion of the Association but rather that of the editor(s) or contributor(s).
3. Sections (and committees as well) may make public statements or support legislation (under certain specified circumstances pursuant to Sec. 3.8 of the Bylaws) when such positions are not contrary to action previously taken by either the Assembly or the Board of Governors.
4. Promotion in ISBA newsletters of non-ISBA-affiliated products or services by or on behalf of those with a financial interest in those products or services is prohibited unless it is paid advertising.
5. Notwithstanding any or all of the above, it is within the province of a section council to act as the editorial board for the newsletter of its section.
6. As publisher, the Illinois State Bar Association has the ultimate authority to determine newsletter content.

#### **C. Awards for Newsletter Editors**

1. Editors who have served for five years and produced an average of at least four newsletters each year (defined as a fiscal year) will be awarded a framed certificate or other appropriate commemorative item acknowledging this service. They are eligible for another certificate for every additional five years of service on the terms described above.
2. The IBJ Board can also confer the Austin Fleming Newsletter Editors Award. Eligibility criteria and other details are available from the Publications Department.
3. Awards are presented at the Awards Luncheon at the Annual Meeting (or at the Section and Committee Officer's Meeting if no awards luncheon is scheduled).

#### **D. Newsletter Subscription Policy**

1. No Illinois law firm may subscribe to a newsletter (except through the package subscription plan).
2. No Illinois lawyer who is not a member of the ISBA may subscribe to a newsletter.
3. Out-of-state attorneys who are neither licensed in Illinois nor residents, do not have to become associate members and may subscribe to a newsletter at a fee established by the Department of Legal Publishing, in consultation with the Department of Administrative Services.
4. A complimentary subscription list will be maintained. Subscribers may be added to this list at the discretion of the Department of Legal Publishing in consultation with other appropriate staff.
5. Any nonlawyer who is a member of a section council receives a complimentary subscription to that section's newsletter for the period for which he or she is appointed.
6. Any nonlawyer individual or entity may subscribe to a newsletter under terms and at a fee established by the Department of Publications, in consultation with the Department of Administrative Services.

#### **V. BOARD OF GOVERNORS AGENDA POLICY**

To expedite the work of the Association and to allow time for adequate consideration of each item of business coming before the Board, a rule adopted by the Board of Governors states that no matter received by the executive director less than 14 days prior to a meeting of the Board shall be placed on the meeting agenda.

Any matter not on the agenda when it is mailed to the Board members (the Friday preceding the date of the Board meeting) will be considered at the second meeting after it is received, unless consent of the Board itself is sought and obtained. The President, the board liaison or the Executive Director may request that a section or committee representative present a report if it appears necessary or advisable.

## **VI. PUBLIC STATEMENT POLICIES**

### **1. Sec. 3.8. (from the Bylaws) - Approval of Section and Committee Statements**

No section, section council, or committee or member thereof, shall assume to represent the Illinois State Bar Association before any legislative body, in any court, or before any other tribunal unless authorized to do so by the Board of Governors or the Assembly.

No report or recommendation or any action of any section or council thereof, or of any committee of the Illinois State Bar Association, shall be considered as the action of the Illinois State Bar Association unless and until it has been approved by the Board of Governors or the Assembly in accordance with the Bylaws of the Association.

Reports, recommendations or other actions of any section, section council, or committee of the Illinois State Bar Association may be released, announced or published as the action of such section, section council, or committee, only when it is determined by the President of the Illinois State Bar Association that:

- (1) The report is germane to the business of the section, section council, or committee;
- (2) The report has been approved by a majority of the full membership of the section, section council, or committee after notice to the members thereof;
- (3) The report reveals that notice was given and the vote on the matter, and
- (4) The report indicates, in a form approved by the President, that it is the action of the section, section council, or committee only, and does not represent the view or action of the Illinois State Bar Association unless and until the Board of Governors shall have taken an approving action with respect thereto in accordance with the Bylaws of the Association.

### **2. Public Statements by Association Leaders**

No present or past officer, member of the Board or Assembly, section or committee officer, or member of the Association shall make any public statement on behalf of the Association which has not been first approved by the Assembly or the Board of Governors. When such person makes any public statement as an individual, there is a probable implication that such statement is the official position of the Illinois State Bar Association. Accordingly, if such a person makes a statement in his or her individual capacity that person shall have a duty to make certain that it is made clear that such statement is personal only.

## **VI. BOARD LIAISON POLICY**

Board of Governors members are assigned to two to four sections and committees as liaison. A list of the board liaison for each section and committee is distributed to official personnel shortly after July 1.



The board liaison is to receive copies of agendas, minutes and reports of the section councils and committees assigned to them. Those reports requiring Board of Governors action shall normally be presented by the board liaison. When a Board member presents a report or recommendation of a committee or section covered, it is very important that the Board member be knowledgeable of the thoughts and rationale of such committee or section council proposal. The board liaison (or appropriate section or committee personnel) may, however, request that a section or committee representative present the report. The final determination on appearances shall be made by the President. The section and committee chairs are responsible for informing their board liaison of the projects begun and their status, and the Board members are equally responsible for keeping themselves posted on the committee and section activities.

Board liaisons are expected to attend in person or by telephone all regular business meetings of their assigned sections and committees, whenever possible. In the event that it is not possible to attend a business meeting, the liaison shall make every reasonable effort to be available over the phone should a question arise concerning a matter on which the liaison could be of assistance to the section or committee. Board liaisons are not voting members nor does their presence affect any quorum requirements.

## **VIII. AMICUS CURIAE POLICY**

It shall be the general policy of the Illinois State Bar Association to authorize the filing of briefs amicus curiae sparingly and only in appropriate cases as described. Briefs amicus curiae authorized by the Association shall be filed only in the name of the Association.

### **A. Appropriate Cases**

1. Briefs amicus curiae shall be authorized only at the appellate level and only in the highest court where the issue is likely to be determined.
2. Briefs amicus curiae shall only be authorized when such a brief would constitute a significant contribution to the determination of the issue or issues involved and only when the position sought to be advanced is:
  - (a) Consistent with previously adopted policy of Association; or
  - (b) A matter of compelling public interest which the Board of Governors or Assembly adopts as policy of the Association; or
  - (c) Of peculiar significance to lawyers or the legal profession.
3. Briefs amicus curiae shall only advance arguments with respect to legal issues and not factual questions.

### **B. Authorization**

Briefs amicus curiae filed in behalf of the Association shall be authorized by the Board of Governors or the Assembly.

### **C. Application to the Board**

1. The Board of Governors, or the Assembly, will consider applications for authority to file a brief amicus curiae from section councils and standing or special committees. Any member of the Association may submit an application for authority to file a brief amicus curiae to the executive director who will refer it to the appropriate section council, standing committee or special committee for a report and recommendation to the Board or Assembly. The Committee on Scope & Correlation will serve as an amicus review committee, making recommendations to the Board of Governors, when it is timely for the committee to do so.

2. Each application shall be accompanied by:

(a) A full statement of the facts of the controversy and the status of the litigation: (b) A statement of the principle or principles of law to be supported with a full explanation of the applicant's reasons for believing that the case is an appropriate one for Association involvement;

(c) A statement advising when the application was authorized by the section council or committee, including a description of any dissenting views;

(d) A full disclosure of any personal or professional interest in the matter of any proponent of the application, or of any individual member of the section council or committee which authorized the submission of the application;

(e) The name of the person or persons who will actually prepare the brief amicus curiae;

(f) The names of all interested sections and committees to which a copy of the application has been furnished prior to submission to the Board or Assembly.

#### **D. Procedure**

1. Upon receipt of an application, the executive director shall furnish copies of the application and shall invite comment from all sections and committees the executive director shall deem to have an appropriate interest and which have not been previously furnished the application by the applicant.

2. In considering an application, where the brief amicus curiae does not support a previous policy of the Association, the Board of Governors or Assembly shall first determine whether the position sought to be advanced ought to be the policy of the Association. In all applications, the Board of Governors or Assembly shall make a separate factual determination of whether the policy position of the Association should be advanced in that particular case through a brief amicus curiae.

3. Briefs amicus curiae authorized by the Board of Governors or Assembly shall be filed only after review by an ad hoc committee appointed by the President to assure that the brief is:

(a) Of high professional quality; and

(b) A fair representation of the policy position of the Association

#### **E. Joint Briefs**

Generally, the Association will not join in briefs amicus curiae with other organizations except other bar associations.

#### **F. Costs**

1. The Association will pay no legal fee to members of the Board of Governors or Assembly or applying counsel or committee for the preparation of or a review of a brief amicus curiae, and will pay such a fee to outside counsel only in exceptional circumstances.

2. The costs of printing and filing an authorized brief amicus curiae shall be borne by the Association.

#### **G. Appearances**

In addition to the person or persons actually preparing the brief, the brief amicus curiae, unless otherwise specified by the Board or Assembly, shall show as counsel the President. The Unauthorized Practice of Law Committee may, after prior approval of the Board of Governors, appear as party plaintiff or as amicus curiae at the trial or appellate level.

**H.** In considering whether to participate as an amicus curiae, the Association shall invite comment from counsel of record.

### **IX. LEGISLATIVE POLICY AND PROCEDURES**

**A. General Policy:** The Association has a duty to initiate legislation designed to improve the administration of justice in Illinois and to make properly considered recommendations for the approval, amendment or rejection of measures advocated by other interested groups or individuals.

**B. State Legislative Procedures:** ISBA Sponsored Legislation: Under the provisions of the policy on legislative procedures adopted by the Board in April, 1978, the ISBA state legislative program will be directed and supervised on a biennial basis by the Standing Committee on Legislation. The timetable for submission of proposed legislation by committees and sections for the ISBA program will remain in effect. Assistance from the Department of Legislative Affairs will be available to committees and sections in drafting legislative proposals. The Legislation Committee with the assistance of the legislative counsel, will determine at the outset of each General Assembly session (1) which legislative proposals the ISBA will sponsor and (2) which legislative proposals the ISBA will sponsor with other bar and non-bar groups.

**C. Non-ISBA Sponsored State Legislation:** The decision to support, amend or oppose any item of state legislation shall be made in accordance with the following guidelines:

1. The director of legislative affairs shall have initial responsibility for selecting bills for review and recommendation. The director shall limit selection to those bills which pertain to the administration of justice and the practice of law or involve urgent matters of public concern as to which lawyers have special knowledge or expertise.
2. Section councils and committees shall have the responsibility of reviewing and commenting upon legislation which falls within their particular areas of expertise. They shall have the option of delegating this responsibility to a legislative subcommittee or reserving this task for the entire body. Section councils and committees shall report their recommendations to the Department of Legislative Affairs with due diligence. Recommendations to support, oppose or amend a particular piece of legislation shall be accompanied by specific reasons therefor. A recommendation of no position shall indicate that an individual section council or committee deems a bill inappropriate for ISBA involvement. A recommendation of no concurrence shall indicate that no clear majority exists with regard to the support or opposition of a bill. Constant contact between the Department of Legislative Affairs and the various section councils and committees shall be maintained to encourage timely responses to circulated legislation.
3. The Legislation Committee shall have primary responsibility for management of the legislative direction of this Association under the guidance and supervision of the Board of Governors and Assembly. During legislative sessions, the committee shall meet once a month to review the recommendations of the section councils or committees. Such recommendations should be disturbed only when deemed to be contrary to established policy of this Association, when a clear majority of the Legislation Committee disagrees with the recommendation, or when the Legislation Committee deems a bill inappropriate for ISBA involvement. In either of the first two circumstances or when an actual conflict exists between two or more section councils and committees, the Legislation Committee shall refer such legislation to the Board of Governors. In addition, the Legislation Committee may, on its own motion, refer to the Board of Governors any piece of legislation which it determines to be of particular concern or importance. Otherwise, the action of the Legislation Committee will be considered final action and its recommendation will be that of the Association.
4. The Board of Governors shall make the ultimate decision on all legislation referred to it. In addition, a summary report of the action of the Legislation Committee shall be provided to the

Board for informational purposes and, upon motion of any member thereof, the Board may reconsider such action as to any particular piece of legislation of interest or concern.

5. Emergency positions on any item of state legislation may be taken upon the concurrence of the majority of the following: (1) the President, (2) the Legislation Committee chair, (3) the chair, or in his or her absence, vice-chair of the section councils and committees so concerned with the substantive nature of the legislation, and (4) the legislative counsel or, in his or her absence, the director of legislative affairs. In extreme situations where immediate response is required, the legislative counsel or, in his or her absence, the director of legislative affairs shall be authorized to exercise his or her own best judgment as to the probable recommendation of this Association based upon its legislative direction.

#### **D. Federal Legislative Policy**

1. Bill Selection: In the area of federal legislation, prescreening of bills of concern to the legal profession is one of the functions of the ABA's Government Affairs Office (GAO) in Washington. That office performs the same screening process as is done with bills introduced in the Illinois General Assembly by the ISBA Legislative Affairs Department. The weekly, Washington Summary, serves the same purpose as ISBA's Legislative Bulletin of alerting members of legislation in which they have an interest. From the Summary, the director of legislative affairs selects bills in which he or she know or believes an ISBA section council or committee may have an interest. The ABA GAO provides copies of the bills upon request.

2. Position Taking: The Department of Legislative Affairs undertakes to circulate the selected bills to the section council(s) or committee(s) concerned and solicits recommendations in the same manner that is utilized in handling of state legislation. When recommendations are received from the section council(s) or committee(s), they are placed on the Legislation Committee agenda for review. Section council and committee recommendations should be disturbed only when deemed to be contrary to established policy of this Association, when a clear majority of the Legislation Committee disagrees with the recommendation, or when the Legislation Committee deems a bill inappropriate for ISBA involvement. In either of the first two circumstances or when an actual conflict exists between two or more section councils and committees, the legislation shall be forwarded to the Board for finalization of a policy position. Otherwise, the action of the Legislation Committee will be considered final action and its recommendation will be that of the Association.

ISBA positions are transmitted to the Illinois Congressional Delegation, the ABA GAO in Washington and, depending on the bill and ISBA's criticism of it, to the sponsor's office and committee counsel.

3. Emergency Positions: Emergency position taking can have greater impact in the federal legislation area than in state legislation for two reasons:

A. Multiple bills on the same subject are introduced with changes of such magnitude as to cause a change of position by the Association. Many times these bills do not emerge until late in a session in the form of committee bills and proceed rapidly through markup (general hearing already having been held), committee vote, and floor action.

B. The amending process at the federal level differs from that used in Illinois. Many times significant legislation is appended to a bill that on its face bears no relationship to the amended statute. For those reasons ISBA must remain alert for committee bill amendments to non-related legislation, about which it learns from the ABA or committees and staff with whom it maintains contact. ISBA must also take a position rapidly and use the same procedure as utilized by the Department of Legislative Affairs

for state legislation, i.e. (1) the President; (2) the Legislation Committee chair; (3) the chairs or in their absence, vice-chairs, of the section councils and committees who are concerned with the substantive nature of the legislation; and (4) the director of legislative affairs.

## **X. ADVERTISING POLICY FOR ISBA PUBLICATIONS**

*Adopted by Board of Governors, May 16, 1990 Approved by Outside Counsel, May 29, 1990*

### **PREAMBLE**

ISBA's charter states objectives of the Association, including the injunction "to establish and maintain the honor, standards and dignity of the legal profession, . . .to improve the prompt administration of justice. . . , . . . [and] to promote the general welfare of the members of the Association. . . ." As such, ISBA has determined that publication of advertisements in ISBA publications may imply the endorsement, recommendation, support or approval of such products and services by the Illinois State Bar Association. This implication will be considered in determining whether potential advertising will be accepted or is misleading or deceptive to the readers of ISBA publications.

### **In all matters relating to the interpretation of the following policies, their application to potential advertising, the decision of ISBA will be final and controlling.**

1. All advertising is subject to ISBA approval. ISBA reserves the right to reject any advertising at any time that ISBA determines is not in keeping with the standards of ISBA publications.
2. As a matter of policy, the following are not accepted:
  - (a) Advertising for products or services that are illegal or whose movement in interstate commerce is illegal.
  - (b) Advertising relating to contests, lotteries, or the offering of prizes based on chance, unless first cleared by the U.S. Postal Service.
  - (c) Advertising relating to alcoholic beverages or tobacco products.
  - (d) Advertising by or on behalf of political candidates at any level, including, but not limited to, internal ISBA positions (except as provided under paragraph 4.5 of the ISBA Policy and procedures on Association Elections).
  - (e) Advertising advocating positions on political or social issues.
3. Advertising is not accepted by which the advertiser violates or may enable another to violate the Illinois Code of Professional Responsibility, the Illinois Rules of Professional Conduct, or the Illinois Code of Judicial Conduct.
4. Advertising which is on its face false and/or misleading to the "reasonable reader" of ISBA publications and/or advertising copy for which the advertiser cannot provide factual substantiation or legal authorization from the appropriate jurisdiction when requested and which therefore might be false, misleading and/or violative of the Illinois Rules of Professional Conduct, the Illinois Code of Professional Responsibility, or the Illinois Code of Judicial Conduct is not accepted.
5. Advertising may not in subject matter, content, material or design jeopardize the mailing status of the publication in which it appears. The publisher reserves the right to obtain clearance from the U.S. Postal Service.
6. Advertising which by its subject matter or content may imply or lead to an implication of ISBA endorsement, recommendation, support, or approval will be accepted if, as a condition of

acceptance, it includes in the advertisement a disclaimer which indicates that the product or service is not endorsed, recommended, supported, or approved by ISBA.

7. Classified advertising is limited to the following matters: lawyer employment opportunities; employment wanted; referral of legal work; sale of used law books; sale of law office equipment or furnishings; law office rental opportunities; and miscellaneous matters involving a time-limited exchange of specific information. Generalized advertising of professional services to lawyers, such as expert witness services, or other advertising that cannot qualify under this standard of advertising, must be purchased at display classified or regular display rates.

8. No unpaid advertising space will be provided for public service or other advertising except:

(a) Advertising for products and services of the Illinois State Bar Association, or ISBA-generated advertising of Association-sponsored products or services, shall be published on a space available basis.

(b) Organizations affiliated with ISBA are entitled to a 50% discount on display advertising space.

(c) Entities which offer products or services as part of ISBA member benefits programs and who wish to advertise these products or services are entitled to a 50% discount on display advertising rates for the first two advertisements placed within six months of the commencement of their original contract with the Association.

(d) The Lawyer's Assistance Program may publish a one-third page ad free of charge in every issue of the Illinois Bar Journal on a space available basis.

9. If an advertisement offers the sale of a product by mail order, ISBA reserves the right to examine the product a purchaser will receive, but ISBA is not obliged to do so. Examination of the product or publication of the advertisement does not constitute a guarantee or warranty of said product nor the endorsement, recommendation, support or approval of the product by ISBA.

10. ISBA reserves the right to request full or partial payment before publishing any advertisement and to cease publishing ordered advertisements when payment for previous advertising is more than 60 days overdue.