

## **The Connecticut Bar Association, Inc.**

### **LEGISLATIVE POLICY**

Association, Section or Committee positions with respect to state or federal legislation, agency regulations or rules governing, concerning or affecting the operation of the state or federal courts, litigation within those courts or before any agency, and the legal profession shall be authorized by a Governing Body of the Connecticut Bar Association in accordance with the procedures set forth below.

#### **1. Definitions**

- 1.1 Governing Body of the Connecticut Bar Association shall mean: the House of Delegates, the Board of Governors or, if between meetings of the House of Delegates or Board of Governors and during the legislative session, if necessary to respond to pending legislation or some other urgent matter on a “fast track” basis, by the Executive Committee, which shall consist of the President, the President-Elect, the Vice President and the Immediate Past President.
- 1.2 Fast Track shall mean: A “fast track” recommendation shall be submitted to a Governing Body as soon as possible, and is warranted when the LPRC concludes that further analysis and study is not necessary, and where there is legitimate time pressure to address pending legislation, regulations and rules.
- 1.3 Slow Track shall mean: A “slow track” recommendation is designed to address complex issues or circumstances where opposing viewpoints are expressed and cannot be rectified on an expedited basis, thereby warranting a more detailed analysis. A slow track recommendation anticipates that before being brought to the House of Delegates or the Board of Governors for consideration, the Section or Committee will further review the proposal with the Association’s legislative staff and with representatives of other impacted Sections or Committees and evaluate more closely the legal, policy and political issues raised by the proposed legislation. The LPRC shall designate a LPRC member to provide guidance to a Section(s) or Committee(s) with respect to the “slow track” process recommended for any particular proposal or position.
- 1.4 Legislative Staff shall mean: The CBA In-house lobbyist, an outside lobbyist approved by the CBA, the CBA Executive Director, the Chair of the Legislative Policy and Review Committee, and any other CBA staff assigned to legislative matters from time to time.

#### **2. Association, Section and Committee Positions**

- 2.1 The Association may support or oppose proposed legislation, or seek the introduction of legislation, by a majority vote of the House of Delegates or Board of Governors.
- 2.2 If the Executive Committee, a Section or Committee of the Association has developed a legislative proposal which it wants authorized, it shall submit the proposal to the CBA legislative staff preferably in draft statutory language form or minimally in concept form.
- 2.3 Position Request Form to be submitted to CBA Legislative Staff

For Association, Section or Committee authorization, a Position Request Form must be completed which includes a request for such a position, with a brief, plain-language summary and an explanation of the proposed position, the rationale for the proposed position, and the process by which the proposed position was approved.

Such approval may be received in person, electronically or through conference call by a majority vote of a quorum of the full Section or Committee, a majority vote of a quorum of a Section or Committee Executive Committee, or by a legislative subcommittee consisting of at least ten (10) members which subcommittee has been specifically charged by a majority vote of the full Section or Committee to act on its behalf for purposes of addressing legislation or regulations. For purposes of this paragraph a quorum of the full Section or Committee, or of an Executive Committee of a Section or Committee, must consist of no fewer than ten (10) members; in all events a voting majority must have at least ten members vote in favor of the measure. It *is* necessary to include the results of the Section and Committee vote, and the process used to obtain the authorization from the Section or Committee members. (See sub-section 2.5.3).

Any minority comments should be included when forwarding the Form to the CBA Legislative Staff. The request for authorization of the proposal for legislation shall then be forwarded to the LPRC for its review and recommendation in accordance with these policies. Sections and Committees are encouraged to be proactive and submit their proposals early rather than at the last minute.

- 2.4 Association Positions
  - 2.4.1 Association positions will be authorized only for matters of substantial importance affecting the legal profession in Connecticut as a whole. Such positions would affect the practice of law for most attorneys or their clients, such as mandatory *pro bono* or taxation upon legal services on attorneys, issues that would concern the administration of or access to justice or other issues concerning the Association's goals and mission. The position authorized should meet the overall goals and the mission of the Association. An issue sought to be authorized as an Association position will be scrutinized carefully. Compared to Section and Committee

positions, Association positions generally have a higher priority on the Association's legislative agenda, are fewer in number, carry more weight, and the Association may expend more political capital on them.

2.4.2 A position shall not be authorized as an Association position if such position is opposed by any Section. If an Association position is opposed by any Section, that Section must notify the Legislative Staff in writing of such opposition as soon as practicable prior to submission of the request for authorization to the CBA's House of Delegates or Board of Governors. Any such opposition is, however, subject to an override by an affirmative vote of a two-third majority of the members present and voting at the House of Delegates. The Executive Committee, any Section or Committee may seek to override opposition to a proposed Association position by making a written request to the Legislative Staff, setting forth a summary of the competing positions. The Section or Committee that initially sought approval for the Association position, and the Section that interposed opposition, will be given prompt notice and opportunity to be heard at the House of Delegates meeting. After adoption of any Association position, no Section may override an Association position.

## 2.5 Section or Committee Positions

2.5.1 If a Section or Committee of the Association wishes to support or oppose a legislative or regulatory position pursuant to Section 2.11, the Section or Committee should make that determination as soon as possible after the bill has been introduced and then forward its request for such a position in the above manner.

2.5.2 A Section or Committee of the Association which wishes to support or oppose proposed legislation, or which wishes to seek the introduction of legislation, *in the name of the particular Section or Committee*, shall seek authorization to do so from an Association Governing Body. A position shall not be authorized as a Section or Committee position if such position is opposed by any other Section. If a Section or Committee position is opposed by another Section, that Section must notify the Legislative Staff, in writing, as soon as practicable prior to submission of the request for authorization to the Governing Body of the Association. Any such opposition is, however, subject to an override by an affirmative vote of a two-third majority of the members present and voting at the House of Delegates. A Section or Committee may seek to override an opposition by another Section by making a written request to the Legislative Staff, setting forth a summary of the competing positions. The Section or Committee seeking to override, and the Section that interposed the opposition, will be given prompt notice and opportunity to be heard at the House of Delegates meeting. After authorization of any Section or Committee position, no Section or Committee may override the Association's decision of the approved position.

2.5.3 A Section or Committee position should represent the views of a broad cross-section of the Section or Committee. It is, therefore, important that the Section or

Committee report minority viewpoints of the Section to the LPRC and to the Governing Body of the Association being asked to consider any proposed Section or Committee position. In general, a Section or Committee position is a matter limited to attorneys who practice in a particular area of law or is somehow unique to the practice of law for members of the Section or Committee. Such positions should be limited to matters of importance to the members of a particular Section or Committee and relating to their area of practice and experience in order to preserve the Association's political capital. For example, a position concerning membership in limited liability companies likely would be limited to a Section position of the Business Law Section but not the Family Law Section.

- (a) A Section or Committee shall seek the approval of the position from its membership in accordance with its bylaws or, in the absence of a provision in its bylaws, the Section or Committee shall seek the approval of the position from its membership, advise the LPRC of the process used to obtain approval, and the results of the vote taken on the issue.
- (b) If a position is authorized by the Board of Governors or the CBA Executive Committee, following a recommendation by the LPRC, and the position is subsequently overridden by the House of Delegates at its next meeting, the following procedure shall be followed:
  - (i) If the Section or Committee supporting the position has previously submitted written or in-person testimony on behalf of its position, the position shall remain in effect until the end of the then current legislative session and will thereafter expire;
  - (ii) If the Section or Committee supporting the position has not submitted written or in-person testimony on behalf of its position, the Section or Committee shall terminate all lobbying activities on the legislation until such time as approval is received from the House of Delegates;
  - (iii) Nothing in this sub-section shall prevent the Section or Committee from revisiting position approval from the House of Delegates during a future legislative session; and
  - (iv) Nothing in this sub-section shall prevent attorneys from submitting individual testimony in accordance with sub-section 2.7.2.
- (c) A representative member of the section requesting authorization of a position may attend the upcoming House or Board meeting to provide answers to any questions that may arise from a delegate.

## 2.6 Dispute Resolution.

Since the House of Delegates is the policy making board of the CBA, any known disputes involving legislation, rules or regulations shall be heard by the House of Delegates.

## 2.7 Legislative Testimony and Lobbying Activities

### 2.7.1 Legislative Testimony and Lobbying on behalf of the Association, a Section or Committee

Association, Section or Committee positions advocated at the General Assembly (and to its members) will be advanced by the Association Legislative Staff.

### 2.7.2 Individual Testimony

At times, the legislature announces meetings rapidly, and if a section or committee and the LPRC cannot meet in a timely fashion, a section member can still testify as an individual, *but not in representative capacity for the Association or its Committees or Sections*. After authorization by an Association Governing Body is received, section or committee written testimony can be submitted and will be viewed by the legislature if timely.

### 2.7.3 Consultants

A Section or Committee may retain a consultant for the purpose of representing it before the General Assembly only where extraordinary circumstances warrant, such as an issue that would significantly impact the practice of law for most attorneys practicing in Connecticut and that would require substantial dedication of time and resources that the Association's Legislative Staff is not able to provide. The Section or Committee must first obtain authorization and approval from the House of Delegates, and then approval of a written consultant agreement by the Association's Executive Director, which must include a precise basis for calculation of the fees for such services. It is understood that the Association prefers not to engage outside consultants to support its legislative agenda. Approval by the House of Delegates of such engagements is required. Any such consultant agreement shall contain the following provision, as required by the House of Delegates on November 13, 2000:

*Consultant represents and warrants that consultant does not currently represent any organization or entity that is in conflict with any position on the legislative agenda or any policy of the Association or any of its Sections or Committees. Consultant agrees not to represent any organization or entity that is in conflict with any position on the legislative agenda or any policy of the Association or any of its Sections or Committees. Prior to execution of this agreement, and from time to time thereafter, the Association shall provide Consultant with the legislative policies of the Association and a current list of positions concerning legislation maintained by the Association.*

Under exigent circumstances, the conflict provision may be waived by a majority vote of the House of Delegates. Sections so authorized shall (1) use their own

funds to pay for the expenses of any consultant retained, (2) adhere to all state and federal requirements concerning lobbying, and (3) coordinate its lobbying activities with the Legislative Staff.

## 2.8 Legislative Amendments

An amendment offered to legislation sponsored, supported or opposed by the Association or a Section or Committee that does not substantially alter the intent of an Association Governing Body that approved the position and meets with the intent of the Section or Committee sponsoring, supporting or opposing the proposal, as the case may be, may be approved by the Legislative Staff after consultation with the Section or Committee. The Legislative Staff, with consent and after discussion with the chair of the LPRC, may authorize a request from a Section or Committee that is deemed technical, de minimis or non-substantive. If the Legislative Staff and LPRC chair are in doubt, have questions or cannot agree whether the requested position is technical, de minimis or non-substantive, the chair shall refer the request to the CBA President, who may direct the Executive Committee to act on the request or refer the issue to the LPRC for its recommendation to an Association Governing Body. The Legislative Staff may offer informal, non-binding opinions to legislators and others concerning the potential response of the Association to proposed legislation or other issues. The Legislative Staff and LPRC chair may adopt guidelines to implement and carry out the purposes of the legislative policies and procedures. The Legislative Staff shall, at least annually, inform Sections and Committees of the Association's legislative policies and procedures and any such guidelines adopted.

## 2.9 Procedure for a Section or Committee to Join a Previously Approved Section or Committee Position

Any Section or Committee seeking to join in a previously approved and still current Section or Committee position may do so by written request to and approval of the Legislative Staff and LPRC chair, provided such approval shall remain current only as long as the original approval.

## 2.10 Interim Approval of Legislative Positions during the Legislative Session.

(a) If between meetings of the House of Delegates or Board of Governors and during the legislative session, it is necessary to respond to pending legislation or some other urgent matter on a "fast track" basis, the Executive Committee, which shall consist of the President, the President-Elect, the Vice President and the Immediate Past President, shall review the position request and approve, hold and/or deny such request, as appropriate.

(b) The President shall report on any such action taken by the Executive Committee, or on any such authorization granted by the Legislative Staff after

consultation with the Chair of the Legislative Policy and Review Committee (LPRC) on matters they agree are technical, de minimis or non-substantive, to the Board of Governors or House of Delegates, as the case may be, at its next regularly scheduled meeting.

## 2.11 Approval Period for Association, Section or Committee Positions

### 2.11.1 State Legislative Positions

- (a) Except as noted below, positions approved by the House of Delegates shall remain current until amended or revoked by an Association Governing Body or the adjournment of the third regular session of the General Assembly following the legislative session for which the position was approved, whichever is earlier. If authorized during a legislative session, that session will count as the first such session.
- (b) Positions approved by the Board of Governors or the Executive Committee shall remain current through one legislative session.
- (c) After such one year approval, positions may be authorized for three years by the House of Delegates at its next meeting.

### 2.11.2 Positions Concerning Rules of the Superior Court and Federal Courts, Federal Legislation, and Federal and State Regulations and Agency Rules of Procedure.

- (a) Positions approved by the House of Delegates on issues concerning Rules of the Superior Court and Federal Courts, Federal legislation, Federal and State regulations or Agency Rules shall remain current until amended or revoked by an Association Governing Body for a period of three years from the date of authorization.
- (b) Positions approved by the Board of Governors or the Executive Committee on issues concerning Rules of the Superior Court and Federal Courts, Federal legislation, Federal and State regulations or Agency Rules shall remain current until amended or revoked by an Association Governing Body for a period of one year from the date of authorization.

## 3. **Legislative Policy and Review Committee (LPRC)**

### 3.1 Committee Membership

There shall be a Legislative Policy and Review Committee (LPRC) which shall consist of at least nine (9) members of the Association who shall be appointed by the President to staggered three-year terms. The President should seek diversity of Section representation from among the members appointed and in accordance with the Association's Diversity and Inclusion Policy. The LPRC shall be chaired

by the President-Elect. At least two-thirds of LPRC members shall be current members of the House of Delegates, the Board of Governors or the Executive Committee or shall have previously served in such capacity. The Legislative Staff shall be ex-officio LPRC members. The Chair may designate an LPRC member to serve as the acting Chair in the Chair's absence.

### 3.2 Duties of the LPRC

The duties of the LPRC shall include (1) the review of requested Section, Committee, and Association positions on proposed legislation, regulations and rules, and it shall make recommendations regarding the same to the House of Delegates and/or the Board of Governors and/or the Executive Committee in accordance with the Association's legislative policies; and (2) the review, revision, and monitoring of the Association's legislative policies.

### 3.3 Meeting and Recommendations by LPRC

#### 3.3.1 Meeting of LPRC.

Subject to subparagraph 3.3.1(a), the LPRC shall, following notice to section and committee chairs for a representative of the Section or Committee seeking authorization of a position to be heard, promptly convene an LPRC meeting, either in person, by phone or other electronic means, to review proposed legislation, regulations and rules and positions on requested positions concerning them. The LPRC shall make a recommendation to a Governing Body of the Association whether such proposals or positions should be authorized.

LPRC Action without Meeting. Any LPRC member may request that a position be placed for approval on consent with an electronic response within 72 hours of the scheduled meeting date. If a majority of members consent, and no one objects to the consent request, within 48 hours of the consent request, the position will be voted on by electronic means and the meeting cancelled.

#### 3.3.2 Position Request Form Required

In accordance with sub-section 2.3, a completed Position Request Form must be completed and submitted to the CBA Legislative Staff with any supplemental material prior to the LPRC meeting.

#### 3.3.3 Quorum Required.

A quorum of the Committee shall consist of five present Members. Abstention from votes at a meeting of the Committee shall not affect the establishment of a quorum.

#### 3.3.4 Scope of LPRC Review



While the LPRC shall be deferential to the Section or Committee seeking authorization on matters within their experience and expertise, the LPRC is expected to conduct a thorough and complete analysis of the stated purpose of the new legislation, rule or regulation, its impact on the Bar and the law, and whether the requested authorization is inconsistent with any other current legislative position being taken or having been taken by the Association or any of its Sections or Committees.

### 3.3.5 Recommendations by LPRC to the Governing Body of Association

The LPRC shall make one of the following three recommendations to the Governing Body of the Association: (i) the proposal or position be recommended for approval; (ii) the proposal or position receives no recommendation; or (iii) a recommendation that the request for authorization be denied.

Any recommendation can be made on a “fast track” or “slow track” basis. A “fast track” recommendation shall be submitted to a Governing Body as soon as possible, and is warranted when the LPRC concludes that further analysis and study is not necessary, and where there is legitimate time pressure to address pending legislation, regulations and rules.

A “slow track” recommendation is designed to address complex issues or circumstances where opposing viewpoints are expressed and cannot be rectified on an expedited basis, thereby warranting a more detailed analysis. A slow track recommendation anticipates that before being brought to the House of Delegates or the Board of Governors for consideration, the Section or Committee will further review the proposal with the Association’s Legislative Staff and with representatives of other impacted Sections or Committees and evaluate more closely the legal, policy and political issues raised by the proposed legislation. The LPRC shall designate a LPRC member to provide guidance to a Section(s) or Committee(s) with respect to the “slow track” process recommended for any particular proposal or position.

## 4. Miscellaneous Legislative Procedures

### 4.1 Distribution of Legislative Materials

The Legislative Staff, on each day during the legislative session, will obtain legislation filed and other material before the General Assembly and notify Sections and Committees of significant bills or file copies of bills that may affect their members and distribute to the chair and/or legislative liaisons of the Sections and Committees. The legislative liaisons of each Section or Committee should distribute pertinent information to their Section’s or Committee’s members to review and discuss potential support or opposition to legislation in a timely fashion.

4.2 Compendium of Association, Section and Committee Positions

The Legislative Staff shall maintain a compendium of all current Association, Section and Committee positions.

*Approved by the Connecticut Bar Association House of Delegates at its October 15, 2018 meeting.*

## **CBA LPRC POSITION REQUEST FORM**

The CBA \_\_\_\_\_ Law position request is as follows:

- 1) Proposed legislative concept:
  
- 2) Explanation and rationale for advancing this position:
  
  
  
- 3) Is draft legislation or a proposed bill included?
  
- 4) What is the date of any legislative hearing, if known?
  
- 5) Was this position previously approved by the CBA? If so, when does/did it expire?
  
- 6) Is the CBA section or committee seeking to join a previously approved CBA section or committee position?
  
- 7) Potential or actual CBA opposition from another CBA section or committee?
  
- 8) Strength of section position (including process and results of section vote taken on issue):
  
- 9) Fiscal impact (on the state):
  
  
- 10) Are you seeking “fast-track” approval?<sup>1</sup>

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<sup>1</sup> A “fast track” recommendation will be submitted to the House of Delegates (HOD) or Board of Governors (BOG) at its next scheduled meeting (or, if between meetings of the HOD or BOG and during the legislative session, to the Executive Committee), and is warranted only when the Legislative Policy & Review Committee concludes that further analysis and study is unnecessary and where there is legitimate time pressure to address pending legislation.