

**THE NORTH CAROLINA BAR ASSOCIATION  
LEGISLATIVE POLICIES AND PROCEDURES**

**I. CORE VALUES**

The North Carolina Bar Association is the indispensable, unified voice for the legal profession in North Carolina. Our mission is to serve the public and the legal profession by promoting the administration of justice and encouraging the highest standards of integrity, competence, civility and well-being of all members of the profession.

In order to advance our mission, the Office of Governmental Affairs (“Office”) advocates for the highest ideals of the legal profession, including the independence of the judiciary and access to justice for all persons and opposes legislation that undermines these ideals.

**II. STATEMENT OF POLICY**

- A. In furtherance of its core values, the NCBA may support or take action on legislation that (subject, in all respects to Section B):
  - 1. Upholds or enhances the ability of the Judicial Branch to carry out its constitutional and statutory responsibilities.
  - 2. Promotes substantive law reform in the interest of the public.
  - 3. Supports lawyers in carrying out their duties consistent with the North Carolina Rules of Professional Responsibility.
- B. In order to preserve resources to further its core values, the NCBA will not take a position on legislation, the primary effect of which is:
  - 1. To advance divisive social policies;
  - 2. To alienate NCBA members in a substantial way; or
  - 3. To diminish, over the short or long terms, the NCBA’s ability to further its core values.

**III. LEGISLATIVE ADVISORY COMMITTEE**

**A. Purpose**

A Legislative Advisory Committee (“Committee”) shall be appointed by the President-elect. The Committee shall advise the Board of Governors, the officers of the Association, Association’s lobbyist and the Executive Director on matters relating to the Association’s legislative package and the administration of NC BARPAC. The Committee’s recommendations are intended to give the Board of Governors (“Board”) a high level of confidence that legislation has been carefully studied, not only by Association sections, divisions and committees requesting the Board’s approval, but by an independent committee. The Committee shall among other things:

- (1) Provide recommendations as to the strategy for promoting the Association's legislative package prior to each legislative session. The Committee will make its recommendations based upon the core values outlined above;
- (2) Provide recommendations on prioritizing specific legislation prior to and during each legislative session;
- (3) Provide recommendations on allocating Association resources to accomplish the Association's legislative objectives; and
- (4) Provide recommendations concerning specific legislation or policy matters to promote the Association's core values.

**B. Members**

There shall be up to 15 members of the Committee (including the Chair) who shall be appointed by the President-elect. The President-elect shall seek to select members who reflect the diversity of the Association; reflect a reasonable balance of political affiliations; and have held leadership positions in the Association.

**C. Meetings**

The Committee shall meet at least twice annually, and on call of the Chair at other times, to consider matters within the scope of its charge. In order to address legislative issues as they arise during session, a small team of the Committee and Association leadership will serve as a rapid response team. The President, President-elect, Committee Chair, Executive Director, Association's lobbyist and External Affairs and Communications Director shall comprise this team. The group will meet regularly during session to assess legislation and make real time decisions as needed.

**IV. STATEMENT OF PROCEDURES**

The legislative procedures of the Association govern the adoption of legislative positions and the appearance of Association members before governmental bodies. These procedures apply to any representation of any organization or individual that is identified as the legislative position of the Association. The implementation and management of these procedures is the responsibility of the Director of Governmental Affairs and Policy.

**A. ASSOCIATION LEGISLATIVE PACKAGE AGENDA**

"Association legislation" includes legislative proposals developed by one or more of the Association's sections or committees or by a member of the Association acting through a section, division or committee and approved by the Board, after recommendation by the Committee.

Legislation developed by a section, division or committee is eligible for consideration as Association legislation only after a majority of a section council, division council or a committee proposing such legislation to the Board has voted affirmatively to seek the approval and sponsorship of the Association for such legislation. Absent a majority vote in the section council, division council or committee, legislation is not eligible to be considered by the Board for sponsorship.

**1. Procedure for Association Legislation:**

- a) After securing a majority vote by its section council, division council or committee members, the section, division or committee shall send a draft of its proposed legislation via e-mail to the Director of Governmental Affairs and Policy ***by the first Friday in October of each even-numbered year***. This draft shall include and be accompanied by each of the following in order to be eligible for consideration by the Board:
  - i) A copy of the proposed legislation in bill form;
  - ii) A “talking points” memorandum no more than 2 pages in length that provides the main points and changes to the existing law associated with the proposed legislation;
  - iii) A comprehensive explanatory statement describing the need or condition to which the proposed legislation is addressed, the manner in which the proposed legislation would revise and improve current law, whether or not it poses any constitutional problems, whether or not the Association has taken a previous position on the issues raised by the proposal and any change the proposal would make to the previous position, and its possible impact on other areas of law;
  - iv) A clear explanation as to how the legislative proposal was studied and vetted within the council itself and whether it was a unanimous vote by the council to advance this legislation;
  - v) A list of the names, addresses and telephone numbers of the members of the committee or subcommittee that drafted the proposed legislation;
  - vi) A list of all groups outside the Association likely to be interested in this proposal and a brief indication of their support or opposition (and likely reasons for the same); and
  - vii) In the event that the section, division or committee is seeking approval and sponsorship of more than one bill, a preferred prioritization of its legislation, including the reasons therefore.
- b) The Director of Governmental Affairs and Policy shall compile all proposals received and circulate the proposals to the Chair and Legislative Chair of every section, division and committee within the Association and to the Association’s lobbyist. The Chair or Legislative Chair of each section, division or committee shall have the responsibility of assuring that the section, division or committee is fully informed as to any legislative proposal of interest to the body and that the section, division or committee has an opportunity to comment upon any such legislative proposal.
- c) All comments on proposed legislation from sections, divisions or committees shall be sent in writing by the Chair of the section, division or committee to the Director of Governmental Affairs and Policy who shall then forward those comments to the Committee prior to its initial review of the proposed legislation. The Director of Governmental Affairs and Policy shall inform those sections, divisions or committees that raise concerns about or oppose a proposed legislative position as well as the proponents of that position that either

side can present their views orally to the Committee if they so desire, and the Director of Governmental Affairs and Policy shall coordinate any such presentation.

- d) The Committee shall review all legislative proposals at its November meeting during each even-numbered year. Any section, division and/or committee that offered legislative proposals will be offered an opportunity to provide a brief presentation to the Committee at this meeting that explains what the proposal seeks to accomplish and how it meets the Association's core values. With regard to each legislative proposal submitted, before recommending any legislation, the Committee shall determine each of the following:
- i) That adequate notice and opportunity have been afforded for the presentation of opposing views and opinions and that the proposal fully complies with the requirements of this legislative policy as to the submission of legislative proposals; and
  - ii) By an affirmative majority vote of those present that it recommends that the Board vote to sponsor the proposed legislation.

Upon review of all specific legislative proposals, the Committee will determine the best, most comprehensive legislative package to recommend to the Board. If the Committee votes to recommend sponsorship of a legislative proposal to the Board, the Director of Governmental Affairs and Policy shall notify the Chair and Legislative Chair of the sponsoring section, division or committee, as well as the Chair and Legislative Chair of any opposing section, division or committee, and inform them of any recommendations or comments made by the Committee in reaching its decision on the proposed legislation. If the Committee votes not to recommend sponsorship of a legislative proposal to the Board, the Director of Governmental Affairs and Policy shall notify the Chair and Legislative Chair of the sponsoring section, division or committee, as well as the Chair and Legislative Chair of any opposing section, division or committee, and inform them of the reasons given for that decision. If the Committee determines that there may be an opportunity to make modifications to the proposal in order to meet the concerns from another section, division or committee or in order to address its own concerns, it has the authority to set up a formal facilitation session with the interested parties when time permits.

If the Committee votes not to recommend sponsorship of a particular legislative proposal to the Board for a given bar year, but concludes that such proposal may be a better fit for inclusion in a subsequent Association legislative package, the proposal will automatically remain in the "pool" of proposals for consideration for future legislative sessions. The originating section, division or committee does not need to re-submit such a proposal; however, it will need to notify the Committee that the proposal remains a priority for the section in subsequent legislative sessions. If the proposal remains in the Committee's "pool" for more than two legislative sessions (4 years) it will no longer be considered a viable proposal for future consideration.

As opportunities arise during the short session, the Association's lobbyist will advise the Committee and work with the applicable sections, divisions and committees to address such opportunities and determine engagement.

- e) After the Committee has approved the legislative package, the Office will host a biannual legislative conference during which representatives from sections, divisions and committees will discuss the legislative package previously approved by the Committee and strategize for the coming session as a collective group.
- f) The Committee shall submit its approved legislative package along with outcomes from the legislative conference to the Board for approval at its January meeting during each odd-numbered year. The Board may amend or remove proposed items at its discretion. Upon Board approval, the Director of Governmental Affairs and Policy shall notify the Chair and Legislative Chair of each section, division or committee of any changes or comments made by the Board in reaching its decision on the proposed legislative package.

## **2. Legislative Committees**

Any section, division or committee involved in legislative matters shall establish a legislative committee or subcommittee for the purpose of developing legislative proposals and making legislative recommendations to the Director of Governmental Affairs and Policy and the Board in a timely manner. Each section, division or committee shall also appoint a legislative chair/liaison to serve a minimum two-year term that covers the full legislative biennium. These committees are encouraged to begin work on prospective legislative proposals early in the fall of each odd-numbered year so that these proposals will be available for submission to the Board in accordance with this policy. These committees shall at all times be available to form reactive positions in response to legislation proposed by other groups and to notify the Director of Governmental Affairs and Policy of legislation the section, division or committee wishes the Director of Governmental Affairs and Policy to track for informational purposes on behalf of the body.

## **3. Section, Division, and Committee Appearances**

Consistent with the decisions made by the Board, no member of the Association shall appear as a section, division or committee representative before a governmental body or individually on behalf of any Association legislation unless requested by the Executive Director or the Association's lobbyist. Nothing in this policy is intended to prevent any individual member of the Association from presenting personal views on any legislation pending before any governmental body or individual, provided that the legislative view presented is not attributed in any way to the Association or any subdivision, committee or section thereof.

## **4. Association Legislation Not Enacted**

Any Association legislation that is not enacted during the regular session of the General Assembly shall not be sponsored again the following session unless the section, division or committee resubmits the legislation to the Committee, and the Board reconfirms its initial sponsorship by approving the legislation for reintroduction during the next legislative session.

## **B. LEGISLATION SPONSORED BY GROUPS OTHER THAN THE ASSOCIATION**

The Office will continue to serve as an information provider to sections, divisions and committees through its bill tracking system. However, the decision to take action on any item of legislation sponsored by groups other than the Association shall be made in accordance with the following procedures:

1. **Bill Section and Review**

The Director of Governmental Affairs and Policy shall, together with the Association's Lobbyist, have initial responsibility for reviewing all bills pending before the General Assembly and identifying those bills in which a section, division or committee may have an interest. A summary of the substance of all identified bills shall be sent by the Director of Governmental Affairs and Policy to the Chair and Legislative Chair of the appropriate section, division or committee.

2. **Review and Recommendation by Sections and Committees**

The legislative committee or subcommittee appointed by each section, division or committee having an interest in legislation sponsored by groups other than the Association shall have the responsibility of reviewing and commenting upon legislation which falls within its particular area of expertise and that meets the guiding principles for that section, division or committee. The legislative committee or subcommittee shall also create a Rapid Response Team consisting of 2-5 members that shall review and comment in the most expeditious manner possible, including telephone polls and conference calls when necessary. The Chair or Legislative Chair of each section, division or committee, to whom the Director of Governmental Affairs and Policy has forwarded an identified bill of interest, shall report the body's recommendation with regard to that bill to the Director of Governmental Affairs and Policy with due diligence.

The nature of the committee or subcommittee's recommendation shall be to track, support, oppose, or amend the identified piece of legislation. All recommendations to support, oppose or amend a bill shall be accompanied by reasons therefore. If the section or committee does not respond to an identified bill within a reasonable time, then the Director of Governmental Affairs and Policy shall assume that the section, division or committee has no further interest in that bill and will recommend action to the Committee as appropriate based upon the Association's core values and consideration of that bill's impact on the entirety of the organization's legislative package.

3. **Action on Section, Division and Committee Recommendations**

If a section, division or committee's recommendation is to support, oppose or amend a particular piece of legislation sponsored by groups other than the Association, the Director of Governmental Affairs and Policy shall forward a copy of the legislation in question, the recommendation of the section, division or committee with regard to that legislation and the reasons therefore to the Committee. The Committee shall determine the most efficient manner in which to handle the recommendation given the time constraints imposed upon a response by the legislative process. If it is at all timely and possible, the recommendation regarding a particular piece of legislation shall go to the Board and be handled in the same manner and following the same procedure as Association legislation.

During legislative sessions, if the Board will not meet again in time to deal appropriately with the recommendation, the President or Executive Director shall convene the rapid response team of the Committee which will recommend to the Executive Director what action, if any, to take as an Association. Any action so taken by the rapid response team of the Committee shall be reported to the Board at its next meeting, and, upon motion of any member thereof, the Board may reconsider such action as to any particular piece of legislation of interest or concern.

**C. EMERGENCY POSITIONS**

When an immediate response is required regarding a particular piece of legislation it is within the discretion of the Executive Director to act in a manner consistent with the Association's overarching core values and statements of policy. If time allows, the Executive Director shall consult with the Committee for additional guidance. Any action so taken shall be reported at the next Board meeting.

**D. FEDERAL LEGISLATIVE ACTIVITY**

**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 American Bar Association's Governmental Relations Office in Washington, D.C. That office performs the same screening process as is done by the Association's lobbyist and Director of Governmental Affairs and Policy with bills introduced in the North Carolina General Assembly. The ABA's Director for State Legislation typically informs the Director of Governmental Affairs and Policy of federal bills of interest. The Director of Governmental Affairs and Policy shall then circulate the selected bills to the sections, divisions or committees concerned and solicit recommendations regarding those bills.

**2. Association Positions**

All recommendations made by a section, division or committee with regard to a selected federal bill shall be forwarded to the Committee for recommendation to the Board. When recommendations are received, they shall be placed on the agenda for the next Board meeting. The Committee and the Board shall treat all such recommendations in the same manner and fashion as they would treat any recommendation regarding legislation introduced in the North Carolina General Assembly. Once the Committee and the Board have finalized a policy position on the selected federal bill, the Director of Governmental Affairs and Policy shall convey that position to the North Carolina congressional delegation, the ABA's Governmental Relations Office and, depending on the bill and the Association's recommendation regarding it, the bill sponsor's office and the appropriate committee counsel.