

SOUTH CAROLINA LAW REVIEW

BYLAWS

August 27, 1982

As amended September 28, 2020

ARTICLE I. NATURE AND PURPOSE

The *South Carolina Law Review* (hereinafter “*Law Review*”) is an organization under the auspices of the University of South Carolina School of Law. Authority for its actions is generally derivative of this sponsorship, except that *Law Review* shall have sole authority in its exercise of editorial policy and other matters addressed by these Bylaws. For the advancement of legal scholarship and as a service to the bench and bar, *Law Review* publishes one volume composed of at least four issues each calendar year.

ARTICLE II. NATIONAL CONFERENCE OF LAW REVIEWS

Law Review shall maintain membership in the National Conference of Law Reviews. *Law Review* abides by the values and rules set forth in the National Conference of Law Reviews Model Code of Ethics to the extent that the National Conference of Law Reviews Model Code of Ethics is consistent with these Bylaws.

ARTICLE III. MEMBERSHIP

Law Review membership shall be composed of those students enrolled in the University of South Carolina School of Law who have been selected in accordance with these Bylaws.

ARTICLE IV. OFFICERS OF THE *LAW REVIEW*

Section 1. Editor-in-Chief. The Editor-in-Chief shall be elected for a one-year term by a majority vote of the *Law Review* membership present and voting. The election shall be conducted by secret ballot. Any second-year member of *Law Review* is eligible to run for Editor-in-Chief subject to the restrictions in these Bylaws.

The Editor-in-Chief shall set a day by which candidates’ resumes and position statements must be submitted in order to be eligible for election. Although it is customary for candidates to meet with *Law Review* members in the process of campaigning for election, candidates shall avoid any appearance of impropriety, including but not limited to receiving or giving things of monetary value, making promises of positions in exchange for votes, and the like. If at any point a *Law Review* member or candidate is concerned about certain behavior related to campaigning, such member or candidate shall consult with the then-serving Editor-in-Chief and Managing Editor. If the then-serving Editor-in-Chief and Managing Editor determine that a candidate violated the provisions of this section, the candidate may be disqualified.

The election date shall be set by the Editor-in-Chief but shall be held no later than February 15, unless an exception applies under this section, with the term of office to commence on April 1. Notice of the election shall be posted by the Editor-in-Chief two weeks prior to the election date. If at any time leading up to the election, there is only one candidate running for Editor-in-Chief position:

- (a) In the event the election is seven days or more from the day in which there ceases to be more than one candidate, the Editor-in-Chief shall reopen the period for submission of resumes and position statements for four days to allow other potential candidates to apply. In this event, the election shall still be held on the date originally set by the Editor-in-Chief.
- (b) In the event the election is less than seven days from the day in which there ceases to be more than one candidate, the Editor-in-Chief shall reopen the period for submission of resumes and position statements for four days to allow other potential candidates to apply. In this event, the date of the election shall be held one week from the date originally set by the Editor-in-Chief.

If at the expiration of any of the extensions described in paragraph (a) or (b) there remains only one candidate, that candidate is deemed to have won the election.

The Editor-in-Chief bears ultimate responsibility for the implementation of all policy decisions, including the suitability of material for publication and the determination of deadlines. The Editor-in-Chief may be removed by no less than a vote of a majority of *Law Review* members. A meeting may be called to consider the removal of the Editor-in-Chief only by a majority of the members of the Editorial Board. Upon resignation or removal of the Editor-in-Chief, the Editor-in-Chief Designate, as selected pursuant to Section 2 of this Article, shall become acting Editor-in-Chief and shall call a meeting of the membership within fourteen days for the purpose of electing a new Editor-in-Chief to serve the remainder of the term.

Section 2. Editor-in-Chief Designate. The Editor-in-Chief-Elect shall select a member of the Editorial Board to be Editor-in-Chief Designate by April 15. The Editor-in-Chief Designate will act as interim Editor-in-Chief in the Editor-in-Chief's absence, and in the event of the Editor-in-Chief's removal or resignation, the Editor-in-Chief Designate shall become acting Editor-in-Chief as provided in these Bylaws. If the Editor-in-Chief Designate becomes unable to fulfill the duties defined in this Article, the Editor-in-Chief shall select a replacement from the members of the Editorial Board.

Section 3. Editorial Board. The Editorial Board shall be composed of second-year members. The persons and offices constituting the Board, their number, titles, and duties shall be determined by the Editor-in-Chief-Elect with the advice of the then-serving Editorial Board members.

ARTICLE V. MEMBER SELECTION

Section 1. Selection Procedures. Only first-year students and transfer students who will complete at least two years at the University of South Carolina School of Law are eligible to become members. The selection procedure will be as follows:

- (a) The Editor-in-Chief may choose to extend invitations to first-year students regardless of whether they participate in the writing competition, provided that the sole selection criteria is class rank. However, at least 20% of the membership of each incoming class must be selected through the writing competition.
- (b) The Editor-in-Chief shall designate at least one member of *Law Review* to participate in the design and the administration of the writing competition. In the discretion of the Editor-in-Chief, *Law Review* may participate in a joint journal writing competition with other journals at the University of South Carolina School of Law.
- (c) The writing competition shall be graded wholly anonymously. Any participant who is at fault in compromising anonymity shall be disqualified from *Law Review* membership. A participant whose anonymity is compromised through no fault of that participant shall have their work graded as if they were anonymous. The Editor-in-Chief, in their discretion, may require the

- participant to complete some or all of the writing competition requirements again. The Editor-in-Chief shall determine whether a participant was at fault in compromising anonymity.
- (d) The Editor-in-Chief or their designee shall appoint at least three persons to grade each writing competition entry. The scores assigned to an entry by each grader shall be considered in calculating the participant's writing competition entry score. The graders' identities may not be revealed to non-members of *Law Review* until after the list of new members has been posted.
 - (e) A participant's overall writing competition score shall be determined by weighing the participant's GPA at 50% and the participant's writing competition entry score at 50%.
 - (f) The Editor-in-Chief shall determine how many members are needed for each incoming membership class.
 - (g) No person shall be selected for membership who (1) is not in the top 50% of his class; (2) has been convicted of an Honor Code violation; (3) has been convicted of a felony; or (4) refuses to provide a release of confidentiality related to felony convictions and to grades and academic disciplinary actions at all post-secondary learning institutions attended.
 - (h) The Editor-in-Chief will invite the participants with the highest overall writing competition scores to join *Law Review*. However, each invitation to join *Law Review* must be conditioned on the invitee certifying in writing that the invitee has not been found guilty of a felony, an Honor Code violation, or conduct which would qualify as a University of South Carolina School of Law Honor Code violation at any other post-secondary learning institution, and on the invitee signing the release of confidentiality required by these Bylaws. The Editor-in-Chief shall revoke the invitation if the invitee fails to comply with these conditions.
 - (i) The Editor-in-Chief may invite one participant to join *Law Review* based solely on the participant's performance in the writing competition without regard to that participant's GPA, so long as that invitee is in the top 50% of his class.

Section 2. Transfer Students. Transfer students will be considered for membership on *Law Review* according to the following procedure:

- (a) All students transferring into the first semester, second year class will be invited, upon their acceptance to the University of South Carolina School of Law, to enter a writing competition to be held after the beginning of the fall semester.
- (b) Only those transfer students who plan to spend at least four full semesters in attendance at the University of South Carolina School of Law will be allowed to participate in the writing competition for transfer students.
- (c) The writing competition scores will be determined in the same manner as for first year students. The GPA to be averaged with the writing competition score to determine the student's overall average will be the average of the following:
 - (1) The transfer student's first year GPA at the former school; and
 - (2) The GPA determined by taking the transfer student's class rank at the former school and determining what that student's GPA would have been at the University of South Carolina School of Law.
- (d) Transfer students with overall competition scores equal to or greater than the minimum qualifying score of the previous regular competition may be invited to join *Law Review* in the discretion of the Editor-in-Chief.

Section 3. Joint Degree Candidates. Students who are participating in a joint degree program must participate in the regular writing competition during their first year of law school, unless they are to be selected solely based on their grades in accordance with these Bylaws. Joint degree students should notify the Editor-in-Chief of their status in a joint degree program. Joint degree students shall fulfill all obligations customarily performed by first year members in their first year in law school after selection. Joint degree students who wish to serve as Editor-in-Chief may do so only in the year immediately following their service as first year members and only if attending law school classes in both semesters.

- (a) Such students should participate in the spring competition with the rest of the first year class and should make no mark on their papers that would identify them as participants in a joint degree program.
- (b) Upon being accepted to *Law Review*, the students should notify the Editor-in-Chief of their status in a joint degree program. *Law Review* shall, upon the student's request, delay that student's active participation for one year. Joint degree students accepted to *Law Review* may choose to join *Law Review* immediately and fulfill their membership obligations while in their first year of pursuing their other degree.

Section 4. Illness and Other Circumstances. In the event of extenuating circumstances affecting a prospective competition participant, the Editor-in-Chief-Elect, in consultation with members of the incoming Board, may make reasonable modifications to the selection process with respect to the prospective competition participant.

Section 5. Release Requirement. Every invitee must sign a release that waives the invitee's right to privacy and confidentiality to any information or proceedings, including Honor Council proceedings, felony convictions, and other academic disciplinary proceedings at post-secondary learning institutions. The release must give the Editor-in-Chief the right to obtain any information about these matters whenever necessary.

ARTICLE VI. MEMBERSHIP OBLIGATIONS

Section 1. Writing Requirement. Each *Law Review* member, during the first year of membership on *Law Review*, must draft a publishable student work according to guidelines promulgated by the Editor-in-Chief. A "publishable student work" is one applicable to the South Carolina legal community and conforms to *Law Review* standards and the rules contained in the Bluebook. The Editor-in-Chief makes the final determination on whether a student work is publishable. The Editor-in-Chief, with the consent of the Editorial Board, may exempt any member from this requirement if the exemption is justified. The unexcused failure to draft a publishable student work by the end of the first year of membership shall result in dismissal. The Victor A. Michalewitz Award for Excellence in Legal Writing shall be awarded to the second-year student who submits the most outstanding student work as determined by the Editor-in-Chief and the Executive Student Works Editor.

Section 2. Editing Assignments. All members, including second-year members who do not have a position on the Editorial Board, shall be given editing assignments to be performed in a timely and adequate fashion as determined by the production schedule and the Managing Editor. Adequacy shall be determined in accordance with guidelines promulgated by the Editor-in-Chief.

Section 3. Meeting Attendance. Each member must attend all meetings of the *Law Review* unless the member provides an excuse to the Managing Editor.

Section 4. Editorial Board. Members of the Editorial Board shall perform such obligations as assigned by the Editor-in-Chief.

Section 5. Other Obligations. Members must perform such other obligations as assigned by the Editor-in-Chief.

ARTICLE VII. DISMISSAL

Section 1. Grounds. No member of *Law Review* shall be dismissed except for good cause.

Section 2. Definitions.

(a) “Good cause” shall arise from conduct detrimental to *Law Review* or Law School and may include, but is not limited to, the following:

- (1) A violation of the Law School Honor Code;
- (2) Dismissal or suspension from the Law School for disciplinary or academic reasons;
- (3) Failure to perform membership obligations;
- (4) A felony conviction.

(b) “Being informed” as used in Section 3 of this Article includes but is not limited to:

- (1) The member fulfilling his duty to inform as described in these Bylaws, and
- (2) The Editor-in-Chief obtaining knowledge pursuant to the release required by these Bylaws.

Section 3. Dismissal Procedures.

(a) The Editor-in-Chief shall dismiss a member from *Law Review* upon the Editor-in-Chief being informed that the member:

- (1) Has been dismissed or suspended from the Law School for academic or disciplinary reasons;
- (2) Has been convicted of a felony;
- (3) Has been convicted of an Honor Code violation; or
- (4) Has violated the *Law Review* Code of Conduct in a manner of which demands dismissal.

(b) If the Editor-in-Chief finds reason to dismiss a member under subsections (a)(1)–(4), the Editor-in-Chief shall inform the member personally and by certified mail, return receipt requested, that:

- (1) The member’s dismissal will be moved at the next regularly scheduled general membership meeting, or at a special general membership meeting, to be called by the Editor-in-Chief within ten days, unless the member raises a defense of mistake, misunderstanding, or excuse as set out in these Bylaws; and
- (2) The member has the right to appear at the meeting and raise any defense. The member is not required to appear, however, and such nonappearance shall not be taken into account. The member has the right to be represented by counsel of his choice, whether the member chooses to appear at the meeting or not.

- (c) A supervising member of the Editorial Board shall notify the Managing Editor of a member's failure to fulfill membership obligations unless the Managing Editor grants an extension. However, no extension or excuse shall be granted if it will adversely impact *Law Review*.
- (1) Upon notification to the Managing Editor that a member has failed to fulfill membership obligations, the Managing Editor shall consider the validity of the complaint. If the complaint is deemed valid, the Managing Editor shall:
 - (i) Enter the complaint into the file of the member;
 - (ii) Report the complaint to the Editor-in-Chief; and
 - (iii) Inform the member of their violation under the *Law Review* Code of Conduct.
- (d) The member's dismissal will be moved at the next regularly scheduled general membership meeting, or at a special general membership meeting, to be called by the Editor-in-Chief within ten days, unless the member raises a defense of mistake, misunderstanding, or excuse as set out in these Bylaws.
- (1) The member has the right to appear at the meeting and raise any defense. The member is not required to appear, however, and such nonappearance shall not be taken into account. The member has the right to be represented by counsel of his choice, whether the member chooses to appear at the meeting or not.
 - (2) At the beginning of the meeting called to consider the dismissal of the member, the Editor-in-Chief shall announce that the member is to be judged solely on the issue of technical competency and not on the issue of character. Subsequent to this announcement:
 - (i) The Managing Editor shall move for the member's dismissal; and
 - (ii) One of the editors who was involved in the circumstances of the letters shall second the motion.
 - (3) During the discussion of the motion, the letters themselves are to be used in an evidentiary fashion and to be of their own weight. Neither the sending of the letters nor the proving of the truth of the letters shall necessarily justify dismissal.
 - (4) Other evidence, either in mitigation or in aggravation, concerning the member's performance on *Law Review* along with any defense presented by the member or the member's counsel shall be allowed.
 - (5) No evidence of character, either favorable or unfavorable to the member concerned, shall be admissible. As presiding officer, the Editor-in-Chief shall be the sole judge of admissibility.
- (e) Dismissal shall result from no less than a vote of two-thirds of the *Law Review* membership. Voting shall be by secret ballot out of the presence of the concerned member, although the member may vote against dismissal. Should the vote fall short of the required two-thirds, the member shall continue as a member in good standing of the *Law Review*.
- (f) A member's disciplinary record may be maintained and used as long as necessary and need only be expunged upon graduation from the South Carolina School of Law.
- (g) For the purposes of this Article, the academic year runs from August 1 to July 31 of the next year.

Section 4. Duty to Inform. Members have an affirmative duty to inform the Editor-in-Chief in writing when the Law School Honor Council has made a final determination that the member has violated

the Honor Code, when the member has been dismissed or suspended from the Law School for disciplinary or academic reasons, or when the member has been convicted of a felony.

Section 5. Resignation. If a member should desire to resign at any time during that member's tenure, the resignation shall be effective when the member gives written notice to the Editor-in-Chief. The resigned member shall inform any employers or potential employers or anyone else relying on a representation concerning participation or status on the *Law Review* no more than one week after the effective date of resignation.

ARTICLE VIII. MEETINGS

Meetings of the Editorial Board or general membership may be called by the Editor-in-Chief. A quorum shall be required for the transaction of business, this requirement being met during general membership meetings by the presence of a majority of the members of the *Law Review* and during Editorial Board meetings by the presence of a majority of the members of the Editorial Board. For quorum purposes, all editors and the Editor-in-Chief shall be counted as *Law Review* members at general membership meetings, and the Editor-in-Chief shall be counted as an Editorial Board member at Editorial Board meetings.

Membership meetings may also be called by a petition signed by one-third of *Law Review* members stating the date, time, place, and purpose of the proposed meeting.

ARTICLE IX. CERTIFICATE OF MEMBERSHIP

A *Law Review* Certificate of Membership shall be awarded to members in good standing upon completion of their responsibilities as of the last semester of their third year. Any person who, through lack of compliance with the requirements and responsibilities of *Law Review*, does not receive a Certificate of Membership shall not in any manner, including a listing in the Martindale-Hubbell Law Directory, make mention of his or her past *Law Review* affiliation.

ARTICLE X. WORK RESTRICTIONS OF EDITOR-IN-CHIEF

The Editor-in-Chief shall not engage in other paid employment.

ARTICLE XI. QUESTIONS

Questions as to the interpretation of these Bylaws shall be resolved by a majority vote of the Editorial Board constituting a quorum, and such interpretation shall be set forth in an appropriate Resolution. Additionally, in order to effectuate the purposes of *Law Review* and to establish policy, the Editorial Board may from time to time pass Resolutions as the Board may deem appropriate, provided, however, that the Resolutions shall not be inconsistent with these Bylaws.

ARTICLE XII. MEETING PROCEDURES

Section 1. All meetings of the general membership of the *South Carolina Law Review* shall be conducted in accordance with the formal rules governing the methods of procedure, discussion, and debate as set forth in Robert's Rules of Order Revised, except as provided in Section 2 of this Article.

Section 2. The requirement that all meetings of the general membership be conducted in accordance with Robert's Rules of Order Revised may be suspended at the commencement of any meeting by the vote of a simple majority of the members present. However, such requirement may be reinstated by the vote of a simple majority of the members present.

ARTICLE XIII. AMENDMENTS

These Bylaws may be amended by a majority vote of the *Law Review* membership. The membership shall be given one week's notice of any proposed amendment.

ARTICLE XIV. ACADEMIC CREDIT FOR EDITORIAL STAFF POSITIONS

Students may obtain two (2) hours credit on a pass/fail basis in the spring semester for serving on the Editorial Board. No credit may be given without the approval of a faculty advisor to *Law Review* or the Associate Dean for Academic Affairs. In awarding credit, the faculty advisor or the Associate Dean may rely on a certification from the Editor-in-Chief of the *Law Review* that a Board member has substantially fulfilled the duties of his position.

ARTICLE XV. ANNUAL REVIEW

The Editor-in-Chief and Managing Editor shall conduct an annual review of these Bylaws to ensure they are still commensurate with *Law Review's* needs. Upon determination that amendment is the appropriate course of action, the Editor-in-Chief and Managing Editor shall coordinate and propose suggested amendments for implementation in accordance with Article XIII.