

Ohio State Law Journal

CONSTITUTION

The mission of the *Ohio State Law Journal* is to serve as a national forum for legal scholarship and a tool for training students in research, writing, and leadership.*

The Ohio State Law Journal shall be governed in accordance with this new Constitution, as ratified by the membership of the *Ohio State Law Journal* on February 6, 1995, and as it may be amended from time to time, and by the bylaws passed by the Managing Board pursuant to this Constitution.

Article I - Membership

Section 1 - Definitions

For the purposes of this Constitution, *Journal* members shall be described as follows:

- (a) The “Managing Board” consists of the Editor in Chief and all persons so appointed to the Managing Board pursuant to this Constitution.
- (b) “Associate Editors” refers to all third-year law students who are in their second year with the *Journal* and who are not members of the Managing Board.
- (c) “First Year Staff” refers to all *Journal* members in their first year with the *Journal*.

Section 2 - Eligibility

- (a) Except as otherwise provided in this Constitution or in the bylaws, all persons who are currently enrolled at the Ohio State University Moritz College of Law and who hold the rank of second or third-year law students shall be eligible for membership. The term of membership is for two years for second-year law students and one year for third-year law students.
- (b) No *Journal* member who declines an invitation to join the *Journal*, who resigns from the *Journal*, who is terminated from the *Journal*, or who is denied academic credit for work on the *Journal* shall be eligible thereafter

for membership, except that a student who has declined an invitation to join the *Journal* may participate in a subsequent writing competition to receive another invitation.

- (c) Any student who would have been entitled to receive a *Journal* invitation will be entitled to join upon return from military service, family leave, or participation in a dual degree program, or other excused absence from the law school with the approval of the Editor in Chief.
- (d) Membership on the *Journal* is precluded by membership on another journal or law review at the Moritz College of Law, unless determined otherwise by a two-thirds vote of the Managing Board, exceptions to be determined under the Multiple Membership By-Law.
- (e) This organization and its members shall not discriminate against any individual(s) for reasons of age, color, disability, gender identity or expression, national origin, race, religion, sex, sexual orientation, or veteran status.

Section 3 - Selection

- (a) **Grades.** Invitations to join the *Journal* shall be extended to any student who, upon completing the first year of law school, ranks among the top ten percent of the class.¹ If any of these students decline or defer *Journal* membership, additional invitations, in order of class rank, shall be extended until twenty acceptances are received.
- (b) **Writing Competition**
 - (1) Invitations to join the *Journal* staff shall be extended to students pursuant to a writing competition.
 - (2) Selection shall be based entirely on the quality of the submitted writing, except that there may be a distinction between the papers of students who will be second-year law students and the papers of students who will be third-year law students, but only pursuant to a bylaw and only for the purpose of insuring that there will be a minimum number of second-year law students that are *Journal* members. During the writing competition, the identities of the authors shall remain anonymous and all selections shall be based solely on merit.

¹ By special election on January 23, 2002, the Constitution was amended to change the “grade on” admission threshold from the top twenty places to the top ten percent to reflect our actual practice over the last few years.

- (3) No person may compete in the Writing Competition more than twice.
- (c) Transfer students shall be eligible for *Journal* membership according to the Transfer Student Bylaw.

Section 4 - Powers

- (a) Any decision or action of the Editor in Chief may be reversed, and the Editor in Chief may be compelled to act, by a vote of seventy-five percent of all the members, not including the Editor in Chief. However, when the Bylaws provide for the concurrence of the Editor in Chief, the members shall have no power to compel the Editor in Chief's approval.
- (b) This power includes the power to reverse any disciplinary action and reinstate any *Journal* member who has been terminated and any academic credit that has been denied, except that the Editor in Chief and the disciplined *Journal* member shall not be considered in counting votes regarding a vote to reverse disciplinary action.
- (c) The members shall have the power to remove the Editor in Chief by a two-thirds vote of the full body, not including the Editor in Chief.

Section 5 - Responsibilities

All *Journal* members, whether first or second-year members, are subject to the same standards and requirements of work. The division of labor and enforcement of this provision are subject to the corresponding bylaw.

ARTICLE II - EDITOR IN CHIEF

Section 1 - Powers

- (a) **Generally.** Except as otherwise provided in this Constitution, the Editor in Chief shall have the power to make all decisions regarding the operation of the *Journal*.
- (b) **Power to Discipline Journal Members.**
 - (1) Except as otherwise provided in this Constitution, the general power of the Editor in Chief includes the power to discipline

Journal members for neglect of duty. Disciplinary measures include, but are not limited to, the following:

- (A) Termination of *Journal* membership, subject to the approval of the Faculty Advisor.
 - (B) Denial of full or partial academic credit, subject to the approval of the Faculty Advisor.
 - (C) Demotion from the Managing Board or any other office.
- (2) No disciplinary action defined in Section 1(b)(1) of this Article shall be taken against any *Journal* member until that member has been given
- (A) access to all written evaluations concerning that member's performance;
 - (B) the opportunity to address the Managing Board; and
 - (C) the opportunity to address the Faculty Advisor, if the disciplinary action requires the approval of the Faculty Advisor.
 - (D) Notwithstanding any other provision of this Constitution, the Managing Board must approve the above specified disciplinary action by a two-thirds vote.
- (c) Except as provided otherwise in this Constitution, the Editor in Chief will have the power to decide when proxy votes, both for the Managing Board and the full membership, are appropriate.

Section 2 - Selection

- (a) ***Date of Election.*** No later than the fifth week of the second semester of each academic year, on a day in which classes are in session, selected by the Editor in Chief, an election shall be held for the purpose of selecting a new Editor in Chief.
- (b) ***Eligibility.*** To appear on the ballot, first-year staff members must declare candidacy no later than five business days prior to the first day of voting. Write-in candidates are not eligible.

- (c) ***Electors.*** All persons who are *Journal* members as of the day of voting shall be eligible to vote that day. No votes shall be cast by proxy.
- (d) An open forum for candidates shall be held not more than five business days and not less than two business days prior to the first day of voting.
- (e) The winner shall receive a majority of the votes cast on one day of voting. If no candidate receives a majority of the votes cast on the first day of voting, a second round of voting shall be held the following day in which classes are in session, between the top finishers from the prior day's voting. The group of candidates eligible on the second ballot shall be the smallest group of candidates who, in combination, received more than half of the votes cast during the prior day's voting. This procedure shall be repeated until one candidate receives a majority of the votes cast on one day.

Section 3 - Incapacity

- (a) ***Incapacity prior to the naming of the new Managing Board.*** If, prior to the approval of all of the new Managing Board by the outgoing Managing Board, the outgoing Managing Board determines that the Editor in Chief will be unable to assume office, any appointments to the new Managing Board shall be void, and the outgoing Editor in Chief shall call a new election for the purpose of selecting a new Editor in Chief. All first-year staff members shall be eligible for election. The new election shall be conducted pursuant to this Article, except that the outgoing Managing Board may establish shorter time intervals.
- (b) ***Incapacity following the naming of the new Managing Board.*** If, following the approval of all of the new Managing Board by the outgoing Managing Board, the new Managing Board determines by a vote of two-thirds of its members that the new Editor in Chief is unable to discharge the duties of office, the Executive Editor shall succeed to the office of Editor in Chief. The new Editor in Chief shall select a new Executive Editor and any subsequent vacant Managing Board positions.

ARTICLE III - MANAGING BOARD

Section 1 - Membership

The Managing Board shall consist of:

- (1) the Editor in Chief;
- (2) one Executive Editor;
- (3) one Note Editor;
- (4) one Business Editor;
- (5) one or more Article Editors;
- (6) one or more Managing Editors; and
- (7) other positions, at the discretion of the Editor in Chief-Elect and subject to the approval of the outgoing Managing Board or the Editor in Chief and subject to the approval of the current Managing Board.

Section 2 - Selection

- (a) **Nomination.** The Editor in Chief-Elect, as soon as practicable but no later than thirty days after the election, shall present to the outgoing Editor in Chief nominations to the new Managing Board.
- (b) **Approval.** Within ten calendar days after the outgoing Editor in Chief receives the nominations, the outgoing Editor in Chief shall convene a meeting of the outgoing Managing Board, at which time the Board shall vote on the nominations. The nominations must be approved in whole by a majority of the votes cast. A quorum for the purpose of approving the new Managing Board shall be seventy-five percent.

Section 3 - Powers

- (a) Any decision or action of the Editor in Chief may be reversed, and the Editor in Chief may be compelled to act, by a vote of sixty percent of all the Managing Board, not including the Editor in Chief. However, when the bylaws provide for the concurrence of the Editor in Chief, the Managing Board shall have no power to compel concurrence.

- (b) The Managing Board shall have the power to remove the Editor in Chief by a two-thirds vote of all its members, not including the Editor in Chief.
- (c) The Managing Board shall have the power to appoint and remove the Faculty Advisor by a two-thirds vote of all its members.
- (d) The Managing Board shall have the power to approve, amend and repeal bylaws that are consistent with this Constitution by a majority of all its members.
- (e) During the period of overlap following the selection and approval of the new Managing Board and prior to the end of the academic year, the outgoing Managing Board retains the power of decision for the *Journal*.
- (f) Except as otherwise provided in this Constitution, for the purpose of voting on matters before the Managing Board, a quorum shall consist of two-thirds of the Managing Board Members. Once a quorum has been established, a majority of those voting is required for passage.

Section 4 - Meetings

- (a) Except as otherwise provided in this Constitution, meetings of the Managing Board shall be open to all *Journal* members and the Faculty Advisor. Other persons shall be present only after an invitation from the Editor in Chief or a majority of the Managing Board present in person or by proxy.
- (b) By a majority vote of the Managing Board members present in person or by proxy, the Managing Board may meet in executive session and thereby have the power to exclude from the meeting all persons who are not members of the Managing Board as defined in Section 1 of this Article.

ARTICLE IV - FIRST-YEAR STAFF

Section 1 - Representation to the Managing Board

- (a) No later than six weeks after the beginning of the fall semester, the members of the first-year staff shall elect two of its members to serve as representatives to the Managing Board. The representatives shall attend all Managing Board meetings, except executive sessions.
- (b) Each of the two first-year staff representatives shall have a vote and shall be considered for purposes of counting votes, except to the extent that, because of the issue to be voted upon, their votes would be clearly self-serving. Such instances shall be determined by a simple majority vote of the Managing Board, excluding the staff representatives. This Subpart does not alter the Article III, Section 4, Subpart (a) power of the Managing Board to meet in executive sessions, thereby granting the Managing Board the power to exclude all persons not members of the Managing Board as defined by Article III, Section 1, Subpart (a). Staff representatives are not members of the Managing Board for constitutional purposes.

Section 2 - Writing Requirement

The *Journal* shall conduct a Writing Program for first-year staff administered by the Note Editor according to the Writing Program Bylaw.

ARTICLE V - FACULTY ADVISOR

Section 1 - Appointment

The Managing Board shall have the power to appoint and remove the Faculty Advisor pursuant to Article III.

Section 2 - Powers and Duties

- (a) The Faculty Advisor shall represent the *Journal's* interests before the law school faculty and approve or disapprove the recommendations of the Editor in Chief regarding termination of or the denial of academic credit to any *Journal* member.
- (b) The Faculty Advisor shall have only those powers expressly granted by this Constitution.

ARTICLE VI - INTERPRETATION; PUBLICATION; AMENDMENT; BYLAWS

Section 1 - Interpretation

The Managing Board shall be the final arbiter of disputes regarding the interpretation of the *Journal* Constitution or Bylaws.

Section 2 - Publication of this Constitution

- (a) A copy of this Constitution shall be kept on reserve at the Moritz College of Law Library.
- (b) A copy of this Constitution shall be posted in the *Journal* office.
- (b) Knowledge of this Constitution and Bylaws by *Journal* members shall be conclusively presumed.

Section 3 - Amendment

This Constitution may be amended only by both a three-quarters vote of all members of the Managing Board by secret ballot and a majority vote by all *Journal* members by secret ballot.

Section 4 - Bylaws

- (a) Bylaws shall be passed, amended, and repealed by a majority vote of all members of the Managing Board.
- (b) When a bylaw is mentioned specifically in this Constitution, an appropriate bylaw shall be presented to the Managing Board by the Editor in Chief. Any proposal regarding bylaws may be presented to the Managing Board by any *Journal* member.

* Historical Note: The *Ohio State Law Journal* founded in 1935 as the "Law Journal of the Student Bar Association," was originally a "section" of the Student Bar Association and funded by student contributions. During 1934–35, the SBA, Moot Court, Legal Aid and the SBA Bookstore were founded. *See* 1 OHIO ST. L.J. 15–23, 45–46, 211–13 (1935). The *Journal* remained an SBA section until Volume 8, Number 3, in June, 1942, when publication ceased because of the Second World War. Publication resumed with Volume 9, Number 1 (1948), when the *Ohio State Law Journal* became the official publication of the College of Law. *See* 9 OHIO ST. L.J. 119–20 (1948). The *Law Journal* has built a national reputation for excellence, frequently ranking as one of the top twenty journals in the country based on frequency of citation. *See, e.g.*, Colleen M. Cullen & S. Randall Kalberg, Chicago-Kent Law Review Faculty *Scholarship Survey*, 70 CHI-KENT L. REV.1445, 1452 tbl.1 (1995)

(nineteenth); Executive Board, Chicago-Kent Law Review, Chicago-Kent Law Review *Faculty Scholarship Survey*, 65 CHI-KENT L. REV. 195, 204, tbl.1 (1989) (twelfth); Janet M. Gumm, Chicago-Kent Law Review *Faculty Scholarship Survey*, 66 CHI-KENT L. REV. 509, 517 tbl.1 (1990) (twenty-fourth); Olavi Maru, *Measuring the Impact of Legal Periodicals*, 1976 AM. B. FOUND. RES. J. 227, 234 tbl.1 (1976) (thirty-sixth). For an early history of the College of Law, see generally 1 OHIO ST. L.J. 15 (1935).