

ALBANY LAW REVIEW

2021–2022

Bylaws

Last Updated: August 22, 2021

ALBANY LAW REVIEW BYLAWS

ARTICLE I. ORGANIZATION

The *Albany Law Review* is an academic journal published by Albany Law School consisting of four issues per year, with the possibility of a special issue upon approval of the faculty advisor. The content of the *Albany Law Review* lies solely within the discretion of the Editorial Board, subject to the oversight of the *Albany Law Review* Faculty Advisor, who is appointed by the Dean of Albany Law School and who may impose limits on the amount of material published in a given academic year, as well as the advice of the faculty of Albany Law School in general. The *Albany Law Review* is subject to further fiscal control exercised by the Dean of Albany Law School.

ARTICLE II. EDITORIAL BOARD

A. Composition

1. The Editorial Board shall consist of fifteen positions including the perennial positions of Editor-in-Chief, one or more Managing Editors, four or more Executive Editors for Lead Articles, two or more Executive Editors for Notes and Comments, and one or more Executive Editor(s) for Symposium. The remaining positions within the total of fifteen positions shall be filled as necessary from year to year. Such positions and their precise responsibilities shall be laid out in detail in the Albany Law Review Manual. Regardless of the allocation of other responsibilities, all editorial board positions will include significant editing duties.
2. The Editorial Board shall meet prior to the election of the Editorial Board for the following year to evaluate the positions and responsibilities laid out in the Law Review Manual and make any necessary changes to the composition of the Editorial Board and the allocation of duties among positions for the following year. Any changes to the Manual adopted by the Editorial Board regarding the composition of the Editorial Board for the following year or the allocation of duties among positions must be approved by the Faculty Advisor.

B. Duties of the Perennial Positions

1. Editor-in-Chief: The Editor-in-Chief is responsible for the overall management of the *Law Review* and supervision of the members and board. The Editor-in-Chief is ultimately and principally responsible for all content published in the *Albany Law Review*. The Editor-in-Chief is also the *Law Review's* representative

to the Dean, Trustees, faculty, staff, and students of the Law School, as well as the outside community.

2. Managing Editor(s): The Managing Editor or Editors, in conjunction with the Editor-in-Chief, are responsible for overseeing the production and printing process, including interaction with the printing company and final approval of the form and accuracy of each issue. The Managing Editors are also responsible for ensuring the accuracy and consistency of bluebooking and other technical concerns. The Managing Editor or Editors shall share final editing responsibilities as determined by the Editor-in-Chief.
3. Executive Editors for Lead Articles: The Executive Editors for Lead Articles are responsible for the direct oversight of the four or more issues published annually. Each article editor is assigned to a particular issue. Accordingly, excepting the Executive Editors for Lead Articles assigned to the general issue(s), the Executive Editors for Lead Articles may also represent themselves as the Executive Editor for the name of the book to which they are assigned and will be so denominated on the masthead of the *Albany Law Review*. The Executive Editors for Lead Articles are to work together to solicit articles for publication, review submissions, and perform preemption checks. The Executive Editors for Lead Articles are also responsible for maintaining correspondence with authors, maintaining records, including publication contracts, and working with the Editor-in-Chief and Managing Editors to bring the volume to completion.

The Executive Editors for Lead Articles may also be responsible for particular duties connected to the issue with which they are associated. Such duties will be laid out in detail in the Albany Review Law Manual but may include: maintaining communication with any organization that has partnered with the *Albany Law Review* in the production of the issue with which they are associated, communicating with any professional board of editors for the issue with which they are associated, and planning and organizing any symposia or activities linked to the issue with which they are associated. The Executive Editors for Lead Articles shall share additional editing responsibility as determined by the Editor-in-Chief.

4. Executive Editor for Symposium: The Symposium Editor is responsible for planning and organizing the annual fall symposium, including selecting a topic for approval by the Editorial Board, developing the topic, soliciting articles, and scheduling all speakers for the event. The Symposium Editor is responsible for coordinating all aspects of the event. The Symposium Editor solicits articles related to the Symposium topic, and follows the progress of the articles through

to publication, drawing upon the assistance of the Executive Editors for Lead Articles as needed. The Symposium Editor shall share additional editing responsibility as determined by the Editor-in-Chief, including final editing of any issue or partial issue related to the Symposium.

5. Executive Editors for Notes & Comments: The Editors for Notes & Comments shall be responsible for advising individual members as assigned during the note or comment writing process, and reviewing their advisees' work at each stage. They shall also assist the Research and Writing Editor by ensuring that each member makes timely and appropriate writing progress. Note & Comment Editors are to provide guidance and feedback to first-year writers throughout the process. The Editors for Notes and Comments shall evaluate student submissions as assigned by the Coordinating Editor. They shall also make recommendations to the Executive Board concerning the publication of student articles. The Editors for Notes and Comments shall share editing responsibility as determined by the Editor-in-Chief.

C. Selection of the Editorial Board

The Editorial Board for the successive volume shall be elected during the spring semester of each year by the current Editorial Board in accordance with the following provisions:

1. The quorum required for a meeting at which the election of any Editorial Board member is to take place shall consist of three-quarters of the Editorial Board members who are eligible to vote in that election. There shall be no voting by proxy. Only Editorial Board members eligible to vote may attend such a meeting. The withdrawal of any voting member from an election meeting prior to the completion of the election process shall have no effect on the validity of the quorum.
2. A candidate shall be elected to an Editorial Board position only upon an affirmative vote of the necessary number of those board members present and eligible to vote indicated in section 3(b) below. Abstention shall not be considered an affirmative vote. The withdrawal of any voting member from an election meeting prior to the completion of the election process shall not change the number of votes necessary to achieve an affirmative three-quarters vote.
3. Voting shall take place by secret ballot according to the following procedures, except that the secret ballot requirement may be dispensed with by unanimous agreement of those present.

- (a) Each position shall be elected separately, beginning with the Editor-in-Chief.
- (b) For each available position, an initial ballot shall be taken, during which each voting member shall indicate his or her choice of the candidates under consideration for that position, or shall abstain from voting. If one candidate receives affirmative votes from three-quarters of the quorum, that candidate is elected to the position and the balloting for that position is complete. If no candidate receives an affirmative three-quarters vote, the candidate with the least votes is removed from the list of candidates to be considered and another ballot is taken. This process is repeated until one candidate receives an affirmative three-quarters vote of those board members present and eligible to vote or only two candidates remain. Where only two candidates remain, a final ballot is taken and the candidate receiving an affirmative vote of a simple majority of those board members present and eligible to vote shall be elected to the position.
 - i. No Editorial Board member may be present during deliberations regarding a person within one degree of consanguinity or member of their household. The related Board member may vote for positions where the family member is a candidate and submit a written comment on the candidate for consideration by the other Board members during deliberations.
- (c) Election of a candidate to an Editorial Board position is not final until the entire Editorial Board is filled according to section (b) above and approved as a whole by an affirmative majority vote of those board members present and eligible to vote.

4. Criteria for selection shall include:

- (a) overall quality of work performed, including excellent performance on subediting assignments and satisfactory progress toward writing a publishable note or comment;
- (b) experience relevant to a particular position;
- (c) aptitude or talent for a particular position;
- (d) the confidential, written recommendations of fellow *Law Review* members. These recommendations shall be destroyed by the outgoing Editor-in-Chief immediately upon the selection of the new Editorial Board.
- (e) information obtained during interviews of Editorial Board candidates;
- (f) demonstrated commitment to the success of the *Albany Law Review*.

D. Vacancies, Term of Office

If a vacancy occurs in an editorial position other than Editor-in-Chief, the Editor-in-Chief, with approval of three-quarters of the Editorial Board, may appoint any second-year member to fill that position. If the office of Editor-in-Chief becomes vacant, the Editorial Board, by a vote of three-quarters of its members, shall elect a new Editor-in-Chief from among the Executive Editors.

An Editorial Board member's term commences upon graduation of the preceding Editorial Board. The outgoing editors are relieved of their duties at that time. Incoming Editorial Board members are expected to actively participate in Editorial Board duties upon their election, in addition to normal responsibilities.

Article III. MEMBERSHIP

A. Selection of New Members

1. *Selection Based on Grades.* The following rules govern which students shall be invited to the *Albany Law Review* based on their grades (i.e., "grade on"):
 - a. *Students in a three-year J.D. program or four-year joint-degree program who matriculate in August* may grade on if (1) they have a minimum of two years (four semesters) remaining during which they will be eligible to participate in journal work; and (2) their cumulative GPA at the end of their completed first-year curriculum places them in the top 10% of the class of three-year and four-year students currently eligible to grade on to the *Albany Law Review*.
 - b. *Students in a three-year J.D. program or four-year joint-degree program who matriculate in January* may grade on if (1) they have a minimum of two years (four semesters) remaining during which they will be eligible to participate in journal work; and (2) their cumulative GPA at the end of their second semester is at least as high as the GPA of the lowest-scoring student who received an offer to join the journal in the immediately preceding grade-on selection.
 - c. *Students in a four-year J.D. program* may grade on if (1) they have a minimum of two years (four semesters) remaining during which they will

be eligible to participate in journal work; and (2) their cumulative GPA at the end of their completed first-year curriculum is at least as high as the GPA of the lowest-scoring student in the top 10% of the class of three-year and four-year students currently eligible to grade on to the *Albany Law Review*.

- d. *Two-Year Accelerated J.D. Students* are eligible to grade on if (1) they have a minimum of one year (two semesters) remaining during which they will be eligible to participate in journal work; and (2) their cumulative GPA at the end of their second semester is at least as high as the GPA of the lowest-scoring student in the top 10% of the class of three-year and four-year students currently eligible to grade on to the *Albany Law Review*.
- e. *Special Circumstances*: In the case of a student otherwise qualified by first-year grades to be invited to membership, but ineligible solely because of some unusual circumstance, the Editor-in-Chief, in consultation with the Faculty Advisor, may allow the student to apply to grade on. An invitation to membership under such circumstances will be extended only after a Faculty Advisor has approved.

2. *Selection Based on Writing Competition*. Students may also be invited to join the *Albany Law Review* after participation in a Writing Competition.

- a. *Eligibility*. Students in good academic standing who do not meet the above criteria may elect to take part in a Writing Competition if they meet any one of the following qualifications:
 - 1. *J.D. students who matriculated in August and have completed their first year* (whether in the three-year J.D. program or the four-year joint-degree program) are eligible to participate in a Writing Competition if (1) they have at least two years (four semesters) remaining during which the student will be eligible to participate in journal work, and (2) their cumulative GPA after their first-year curriculum is at least 2.5.
 - 2. *Students in the four-year J.D. program who matriculated in August and have completed their first year* are eligible to participate in a Writing Competition if (1) they have at least two years (four semesters) remaining during which they will be eligible to participate in journal work; and (2) either their

cumulative GPA is at least 2.5 at the time of the Writing Competition, or they choose to participate in the Writing Competition on the understanding that they will not be able to join the journal if their cumulative GPA at the time they seek to join the journal is lower than 2.5.

3. *Students in a three-year J.D. program or four-year joint-degree program who matriculated in January* are eligible to participate in a Writing Competition if (1) they have a minimum of two years (four semesters) remaining during which they will be eligible to participate in journal work; and (2) either their cumulative GPA is at least 2.5 at the time of the Writing Competition, or they choose to participate in the Writing Competition on the understanding that they will not be able to join the journal if their cumulative GPA after the completion of the first-year curriculum is lower than 2.5.
4. *J.D. students who have completed their second year* in the three-year program or four-year joint degree program are eligible to participate in a Writing Competition if (1) they have at least one year (two semesters) remaining during which the student will be eligible to participate in journal work; (2) their cumulative GPA is 2.5 or above after completion of the second-year curriculum at Albany Law School, even if the student's cumulative GPA after their first-year curriculum was below 2.5; and (3) they were ineligible to participate in a Writing Competition at the end of their first year (for example, because their GPA at the end of the first year was below the required threshold).
5. *Accelerated J.D. Students:* Students who are enrolled in the two-year accelerated J.D. program at Albany Law School are conditionally eligible to participate in a Writing Competition if (1) they have at least one year (two semesters) remaining during which they will be eligible to participate in journal work; and (2) either their cumulative GPA is at least 2.5 at the time of the Writing Competition, or they choose to participate in the Writing Competition on the understanding that they will not be able to join the journal if their cumulative GPA after the completion of the first-year curriculum is lower than 2.5. There is no requirement that the student begin in the Fall semester;

however, completion of two semesters of subediting, as well as completion of the Note and Comment by the end of the second semester, is required for membership.

6. *Students accepted as transfers to Albany Law School* are eligible to participate in a Writing Competition if (1) they have completed the first-year courses of study at the law school from which they are transferring; (2) they participate in the first Writing Competition in which it is possible to enroll after their transfer to Albany Law School.
7. *Students in the LL.M. program* are conditionally eligible to participate in the Transfer Writing Competition in the year that they enter their curriculum at Albany Law School if (1) they have at least one year (two semesters) remaining during which they will be eligible to participate in journal work; have the equivalent of a cumulative 2.5 GPA earned at the law school where they obtained their J.D.
8. No student may participate in the writing competition more than once. Failure to participate in the writing competition when first eligible precludes eligibility to participate in subsequent years, except that joint-degree students may participate in the competition after their second semester or their fourth semester (but not both).
9. In the case of special circumstances, the Editor-in-Chief, in consultation with the Faculty Advisor(s), may allow an otherwise ineligible student to participate.

The number of new *Albany Law Review* members shall be between 27–28 members.

All accepted students (except those selected on the basis of a Transfer Competition) are required to participate in the summer orientation and training program as a condition of membership.

B. Duties of members

1. Each member must write a publishable note or comment on a topic approved by his or her faculty advisor and note and comment editor. The article shall be

approved by a faculty member from whom academic credit must be received. This note or comment must be completed and approved for academic credit by June 1 following the member's first year as a member.

2. Each member must satisfactorily complete editing, technical, and administrative duties assigned by the Editor-in-Chief and Article Editors during the period of membership.
3. Each member must attend *Law Review* symposia and events and aid in the production of such events as requested by the Editor-in-Chief, Executive Editor for Symposium, and the Executive Editor for *State Constitutional Commentary*.

C. Duties of Associate Editors

1. Associate Editors must satisfactorily complete editing, technical, and administrative duties assigned by the Editor-in-Chief and Article Editors during their second year of *Law Review* membership.

Article IV. REMOVAL OR RESIGNATION OF MEMBERS OR EDITORS

A. Grounds

A member or editor shall be subject to removal from the *Law Review* or from an Editorial Board position if:

1. there is a failure, without reasonable excuse, to meet reasonable deadlines for drafts of any article necessary to fulfill the writing requirement of Art. III(B)(1);
or
2. there is a substantial failure to perform technical and editing assignments satisfactorily; or
3. in the case of removal from an Editorial Board position, there is a substantial failure to perform administrative, editing, and other designated duties satisfactorily; or
4. there is a failure to maintain good academic standing (2.5 GPA); or
5. there is a substantial violation of *Law Review* Policy or the *Law Review* Bylaws.

Neither employment nor extracurricular activities may be deemed a “reasonable excuse” within the meaning of Art. IV (A)(1).

B. Procedure

1. Any member of the *Law Review* or the faculty may submit a written complaint that there is ground for removal of any member from membership on the *Law Review*, or of any member from a position on the Editorial Board. Such complaint shall be submitted in writing to the Editor-in-Chief or, if the Editor-in-Chief is the accused member, the *Law Review* Faculty Advisor. Upon receipt of such complaint, the Editor-in-Chief shall consult with the Faculty Advisor. The accused member shall immediately thereafter be notified of the substance of the complaint. The Editor-in-Chief, or faculty advisor if the Editor-in-Chief is the accused member, shall then appoint a member of the Editorial Board to investigate the matters alleged. The appointed Editorial Board member shall report his or her findings to the Editor-in-Chief or to the Faculty Advisor if the Editor-in-Chief is the accused member.
2. Upon recommendation of the Editor-in-Chief or of the *Law Review* Faculty Advisor, the Editorial Board shall meet to consider whether removal is warranted. Quorum for such meeting shall be attendance by three-quarters of the Editorial Board's membership.
3. Prior to such meeting, the accused member shall be served with a written complaint stating the alleged violation and shall have the opportunity to meet with the Editor-in-Chief or with the *Law Review* Faculty Advisor to discuss the complaint, investigation, and recommendation of the investigating Editorial Board member.
4. The investigating Editorial Board member shall present his or her findings to the Editorial Board at the meeting, including her or his recommendations. The accused member and complainant shall have the opportunity to appear at the meeting to make a statement and to present evidence concerning the alleged violation.
5. Following the presentation of findings and evidence, the Editorial Board, excluding the investigating Editorial Board Member, complainant, and member, shall sequester itself to vote.
6. A record shall be kept of the above proceedings.
7. A member or editor may be removed by a two-thirds vote of those members of the quorum not excluded from the voting process. Any removal shall be reported to the *Law Review* Faculty Advisor without unnecessary delay.

8. Any member or editor who is removed by vote of the Editorial Board or pursuant to Article IV(C) may appeal the removal to the Faculty. The removed member or editor, the Editor-in-Chief, or investigating Editorial Board member if the Editor-in-Chief is the accused member, and any other persons deemed by the faculty as necessary to the review process, shall have the right to appear before the Faculty before a vote is taken. A majority vote of the Faculty shall be required to override a removal.

C. Mandatory Writing Deadline

General Rule:

1. Each member must complete one note or comment and receive academic writing credit by the completion of their first year of membership (June 1). Any member who fails to complete a note or comment and obtain academic credit by that date shall immediately be notified by the Editor-in-Chief of his or her removal from the *Law Review*. Such removal shall be effective June 30 of that year unless prior to that date the member demonstrates to the satisfaction of the Editorial Board, according to the procedures in subsection C(4) of this article, that reinstatement is appropriate due to extenuating circumstances that justify failure to meet the deadline and that the member will obtain academic credit within a reasonable time. The deadline for receiving academic credit may be waived by the Editor-in-Chief if the note or comment is complete.
2. For the purpose of this section, a note or comment is deemed to be complete when academic credit has been granted or upon demonstration to the Editor-in-Chief in consultation with the faculty advisor, that the note or comment requirement has otherwise been satisfactorily fulfilled.
3. Any member who is removed pursuant to this section may appeal to the Editorial Board for reinstatement.
 - (a) Such member must inform the Editor-in-Chief of his/her intention to appeal within two weeks after the June 1 deadline.
 - (b) The incoming Editor-in-Chief shall convene a meeting of the Editorial Board within four weeks after the June 1 deadline to consider appeals made pursuant to this section.

- (c) The member seeking reinstatement shall be afforded an opportunity to present his/her grounds for reinstatement to the Editorial Board so convened.
- (d) Such member shall be reinstated only by a vote of two-thirds of the Editorial Board.
- (e) For purposes of this section, there shall be a quorum requirement of three-quarters of the incoming Editorial Board members.
- (f) The procedures outlined in this section shall also govern appeals from denials of editing credit by the Editorial Board or the Editor-in-Chief, as provided in Art. V (A). A member or editor must notify the Editor-in-Chief of his/her intention to appeal within two weeks after notice of the denial of credit is given.

D. Resignation or Removal

1. Any member or editor of the *Law Review* may resign from the *Law Review*. Resignation due to exigent circumstances shall not preclude later reappointment to the *Law Review* by the Editorial Board.
2. All members of *Albany Law Review* must serve for two years to fulfill the requirements of membership. Should a member resign before two years of service, the member shall lose all *Albany Law Review* privileges, including the ability to hold himself or herself as having fulfilled the requirements of membership.
 - (a) Students who become eligible for membership with only one year remaining in law school are exempt from the two-year requirement.
3. Any member who has been removed prior to the completion of the full specified term of *Law Review* membership may not hold himself or herself out as having fulfilled all the requirements of membership on the *Law Review*.
4. Any member of the Editorial Board who has resigned or has been removed from her or his position may not hold himself or herself out as having satisfactorily served as a member of the Editorial Board. In the event of extenuating circumstances the Editor-in-Chief together with the *Law Review* Faculty Advisor shall have the discretion to permit that member or Editorial Board member to hold himself or herself out as having held such a position. Denial of such permission may be appealed to the faculty.

Article V. CREDIT

Law Review members shall be awarded academic credit in accordance with the following:

A. First-Year Law Review Members

First-year *Law Review* members who receive both faculty approval to satisfy their writing requirement and Editorial Board approval to satisfy their editing requirement receive two academic credits. Any member who satisfies only one of these requirements shall receive only one academic credit until the other requirement is satisfied.

The Editor-in-Chief after consultation with the Faculty Advisor shall advise any members by April 1 if they have not fulfilled their editing responsibilities. The Editor-in-Chief or the Faculty Advisor shall report to the Registrar prior to the completion of the spring semester which members have completed the requirements for academic credit.

Any first-year member who is denied editing credit may appeal the Executive Board's determination pursuant to the provisions contained in Article IV(C)(4) of these Bylaws.

B. Associate Editors and Editorial Board Members

The Editor-in-Chief, by December 15, shall apprise every second-year editor and member of his or her substantial compliance with the requirements for obtaining credit. Associate Editors who meet the requirements will receive one academic credit; Editorial Board members who meet the requirements will receive two academic credits. The determination that editing responsibilities have been completed satisfactorily by Associate Editors and Editorial Board members shall be made by the Editor-in-Chief in consultation with the Faculty Advisor before academic credit is granted. The Editor-in-Chief or the Faculty Advisor shall report to the Registrar prior to the completion of the spring semester whether each second-year member or editor has completed or failed to complete the requirements for academic credit.

Article VI. AMENDMENT

The *Law Review* Bylaws may be amended upon a majority vote of the Editorial Board and approval of the Faculty Advisor, who shall thereafter seek approval of the Faculty. Such amendments will only become effective after faculty approval.