

VIRGINIA:

**IN THE SUPREME COURT OF VIRGINIA
AT RICHMOND**

**IN THE MATTER OF
PARAGRAPH 4
GOVERNING VOTING PRACTICES FOR
PRESIDENT-ELECT**

PETITION OF THE VIRGINIA STATE BAR

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**IN THE SUPREME COURT OF VIRGINIA
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**IN THE MATTER OF
SUPREME COURT RULES, PART 6, § IV
PARAGRAPH 4**

PETITION

TO THE HONORABLE CHIEF JUSTICE AND THE JUSTICES OF THE
SUPREME COURT OF VIRGINIA:

NOW COMES the Virginia State Bar (VSB), by its president and executive director, pursuant to Part 6, § IV of the Rules of this Court, and requests review and approval of the proposed amendments to Paragraph 4 Part 6, § IV of the Rules of Court governing the Organization and Government of the VSB, as set forth below. The proposed amendments were approved by unanimous vote of the Council of the VSB on February 27, 2021.

I. Overview of the Issues

The changes addressed in Paragraph 4 deal with the president-elect election process. They eliminate references to the new president assuming office at the conclusion of the Annual Meeting. Instead a time certain is set for the new president to start, i.e., July 1. Another change deals with the

issue of succession if a president were unable to complete his or her term of office. In that case, the president-elect becomes president. If there is a vacancy in the president-elect position, for whatever reason, then an election is required to be held as soon as possible. If a vacancy occurs in the immediate past president position, the vacancy remains until a new president qualifies as immediate past president.

II. Proposed Rule Changes

The new language proposed in Paragraph 4 is indicated by underlining and deletion by strikethroughs:

4. Officers—

The officers of the Virginia State Bar shall be a President, a President-elect, an Immediate Past President and a Secretary-Treasurer. The President-elect shall be elected annually for a term to commence on July 1~~immediately upon the adjournment of the Annual Meeting of the Virginia State Bar~~ and to continue until the next president-elect assumes the presidency or the president-elect otherwise vacates office~~adjournment of the next Annual Meeting of the Virginia State Bar, at which time he or she shall take office as President. The former President shall continue in office until adjournment of the next Annual Meeting, at which time he or she then~~ shall become the Immediate Past-President until the following July 1~~adjournment of the following Annual Meeting.~~

To be eligible for nomination as President-elect, the candidate must, at the time of nomination, have been an active member of the Virginia State Bar for a period of seven years and must have served on the Council for a minimum of two years within the five-year period next preceding his or her election.

The method of election of the President-elect shall be in the manner prescribed by the Bylaws of the Council.

If the President were unable to complete his or her term of office, the President-elect shall become President. Should a vacancy occur in the President-elect position, for whatever reason, an election shall be held as soon as possible to fill the vacancy pursuant to the election procedures set forth in the bylaws. Vacancies in the office of President or President-elect shall be filled by the Council. Should a vacancy occur in the Immediate Past President position, the vacancy will remain until a new President qualifies as Immediate Past President.

The President, the President-elect and the Immediate Past President shall be ex officio members of the Council; the President shall preside over the Council. In the absence of the President, the President-elect shall preside.

The Secretary-Treasurer shall also bear the title of Executive Director and Chief Operating Officer. In the event of a vacancy, ~~the~~ Council shall recommend its nominee as Secretary-Treasurer to the Supreme Court of Virginia which shall approve or reject the Council's recommendation. If the Supreme Court rejects Council's recommendation, Council shall submit another recommendation to the Court for its consideration. The Secretary-Treasurer shall keep all records of the Council and the Virginia State Bar. ~~Accounts of the Secretary-Treasurer shall be audited annually.~~

The Secretary-Treasurer may be removed from office by the Council with the approval of the Supreme Court or by the Supreme Court, acting sua sponte.

There were also bylaw changes that had to be made to accompany the Paragraph 4 changes. Council unanimously approved those changes.

There is no requirement in the Rules of the Supreme Court of Virginia that

the Court approve Council's bylaw changes. The bylaw changes made are as follows (new language is denoted by underlining; deletions by strikethroughs):

PART I — BYLAWS OF THE VIRGINIA STATE BAR¹

ARTICLE I

Members

The Virginia State Bar is comprised of all attorneys licensed to practice law in Virginia.

ARTICLE II

Officers

The officers of the Virginia State Bar shall be a President, a President-Elect, an Immediate Past President and a Secretary-Treasurer. The term "Secretary-Treasurer," "executive director," and "Executive Director" refer interchangeably to the same position throughout these bylaws.

ARTICLE III

Election of President-Elect

Sec. 1. Nominations. In order to qualify for election to the office of president-elect for the ensuing bar year, a candidate must be duly qualified as set forth in Paragraph 4 of the Rules of Court, Part Six, Section IV and must file a nominating petition with the executive director.

Sec. 2. Petition. The nominating petition shall be signed by at least 50 members of the Virginia State Bar and shall be signed by the candidate, who shall certify that he or she is qualified to run for the office. The nominating petition must be received by the executive director on or before March 15~~October 1~~ of each year.

Sec. 3. Method of Election. In the event only one nominating petition is received by the executive director on or before March 15~~October 1~~ of any

¹ The complete text of the VSB bylaws can be found by searching for "bylaws" in the search bar on the VSB website.

year, the election for the office of president-elect shall be held at the next annual meeting in accordance with the provisions of Article IV, below.

In the event two or more nominating petitions are received by the executive director on or before ~~March 15~~ October 1 of any year, the election of the president-elect will be in accordance with the provisions of Sections 4 and 5, below.

Sec. 4. Ballots. In the event nominating petitions for two or more candidates are received by the executive director, then:

(a) The executive director shall prepare a ballot which shall list in alphabetical order the names of those persons nominated to the office of president-elect.

(b) ~~The~~ president-elect ballot shall be distributed ~~by mail or made available by~~ electronic means to all members on or before ~~April 15~~ November 5. The form of the ballot and the procedure for distribution, collection and tabulation of ballots shall be determined by the executive director.

~~(c) If any member fails to receive a ballot within ten (10) days of distribution, or by November 15, whichever is later, the intended recipient shall be given a replacement ballot upon executing an affidavit, in a form to be prescribed by the Executive Committee, averring (i) that no ballot has been received and (ii) that in the event the original ballot is subsequently received, it will promptly be returned unmarked to the executive director. The affidavit and request for a replacement ballot must be received by the executive director not later than November 22, and the replacement ballot must be returned to the executive director by December 1.~~

~~(d) If any member receives more than one ballot, he or she shall return the excess ballot or ballots, unmarked, to the executive director in the same envelope provided for return of his or her marked ballot.~~

Sec. 5. Ballot Elections. The ballots shall be collected and counted in a manner which assures the confidentiality of the members' votes. A plurality of the votes cast by all members shall elect. No ballot received by the executive director after ~~May 1~~ December 1 shall be counted. Write-in votes shall be permitted, but the executive director may exclude illegible write-in

votes and shall exclude write-in votes for any candidate ineligible to serve pursuant to these bylaws, if elected.

Sec. 6. General Provisions. The following provisions shall be applicable to any election of the president-elect under this Article III.

(a) For purposes of these provisions, a "member" is an active member in good standing of the Virginia State Bar. Only such person may nominate, be nominated, vote or be elected in any election for the office of president-elect.

(b) Records maintained by the executive director as to membership and good-standing status shall be controlling.

(c) The failure to comply with the dates designated for the occurrence or completion of certain acts shall not invalidate any election, unless substantial prejudice can be shown to have resulted therefrom.

(d) For purposes of determining voter and candidate eligibility, the membership list maintained by the executive director as of March 15~~October 4~~ shall be controlling. Except to correct clerical errors in records maintained as of that date, no revisions or additions to the membership list for purposes of the election shall be made after March 15~~October 4~~.

(e) The executive director shall announce to the bar the results of the election for the office of president-elect.

(f) Any responsibility assigned herein to be discharged by the executive director may be assumed and discharged by the Executive Committee, at its discretion.

(g) Any challenge to an election shall be resolved by a committee which shall be chaired by the president and shall include the president-elect, the immediate past president and two members of Council appointed by the president who shall not be current members of the Executive Committee.

....

III. Approved Rule Change Language

If approved by the Supreme Court of Virginia, the language in Paragraph 4 would read as follows:

4. Officers—

The officers of the Virginia State Bar shall be a President, a President-elect, an Immediate Past President and a Secretary-Treasurer. The President-elect shall be elected annually for a term to commence on July 1 and to continue until the next president-elect assumes the presidency or the president-elect otherwise vacates office. The former President then shall become the Immediate Past-President until the following July 1.

To be eligible for nomination as President-elect, the candidate must, at the time of nomination, have been an active member of the Virginia State Bar for a period of seven years and must have served on the Council for a minimum of two years within the five-year period next preceding his or her election.

The method of election of the President-elect shall be in the manner prescribed by the Bylaws of the Council.

If the President were unable to complete his or her term of office, the President-elect shall become President. Should a vacancy occur in the President-elect position, for whatever reason, an election shall be held as soon as possible to fill the vacancy pursuant to the election procedures set forth in the bylaws. Should a vacancy occur in the Immediate Past President position, the vacancy will remain until a new President qualifies as Immediate Past President.

The President, the President-elect and the Immediate Past President shall be ex officio members of the Council; the President shall preside over the Council. In the absence of the President, the President-elect shall preside.

The Secretary-Treasurer shall also bear the title of Executive Director and Chief Operating Officer. In the event of a vacancy, the Council shall recommend its nominee as Secretary-Treasurer to the Supreme Court of Virginia which shall approve or reject the Council's recommendation. If the Supreme Court rejects Council's recommendation, Council shall submit another recommendation to the Court for its consideration. The Secretary-Treasurer shall keep all records of the Council and the Virginia State Bar.


The Secretary-Treasurer may be removed from office by the Council with the approval of the Supreme Court or by the Supreme Court, acting sua sponte.

IV. Conclusion

The Supreme Court of Virginia is authorized to regulate the practice of law in the Commonwealth of Virginia.

THEREFORE, the Virginia State Bar requests that the Court approve the proposed changes to Paragraph 4 of Part Six, § IV of the Rules of the Supreme Court of Virginia for the reasons stated above.

Respectfully submitted,
VIRGINIA STATE BAR



Brian L. Buniva, President



Karen A. Gould, Executive Director

Dated this 8th day of March, 2021.