

CONSTITUTION OF THE PENN STATE LAW REVIEW

ARTICLE ONE

Name

The name of this association shall be the PENN STATE LAW REVIEW.

ARTICLE TWO

Purposes

The association's purposes are:

- A. To promote scholarship through publication of a scholarly journal.
- B. To provide the legal community with source material for legal research.
- C. To promote the educational purposes of The Dickinson School of Law at The Pennsylvania State University, hereinafter The Dickinson School of Law, by encouraging academic excellence.

ARTICLE THREE

Principal Offices

The offices of the association shall be at The Dickinson School of Law, Borough of Carlisle, Cumberland County, Commonwealth of Pennsylvania, and in the Borough of State College and College Township, Centre County, Commonwealth of Pennsylvania.

ARTICLE FOUR

Powers

In furtherance of the purposes described in Article Two, the association shall publish a scholarly legal journal four times each year and charge an annual subscription fee of such sum as is approved by the Faculty Law Review Committee. In addition, the association may solicit patrons at a financial rate approved by the Faculty Law Review Committee.

ARTICLE FIVE

Governance and Officers

The governance of the association shall be vested in an Editorial Board consisting of an Editor-in-Chief and not more than thirteen other officers. The members of the Editorial Board shall be selected in the manner provided in the Bylaws of the association, and their titles and respective duties shall be described in the Bylaws.

ARTICLE SIX

Selection of Members

- A. For purposes of the Constitution and Bylaws, the following terms apply:
 - (1) "Junior": any student who has completed within their first two (2) semesters of study, not including a summer, a minimum of twenty-eight (28) credits, but not more than thirty-three (33) credits, as of the commencement of the writing competition.

- (2) "Associate Editor": any second-year student who joined the Law Review through the grade-on or write-on process as outlined in the Bylaws.
 - (3) "Senior Editor": any student who completed two semesters as an Associate Editor on the Law Review and does not serve on the Editorial Board.
- B. The total number of members of the Law Review from any one class shall normally be limited to fifteen (15) percent of the total class membership. The Bylaws may provide for the occasional admission of additional or fewer members for specified, compelling reasons.
 - C. Juniors shall be invited to seek membership on the Law Review in the manner prescribed in the Bylaws.

ARTICLE SEVEN

Faculty Law Review Committee

There shall be a Faculty Law Review Committee consisting of three faculty members appointed by the Dean. After consultation with the Editor-in-Chief and Managing Editor, the Dean shall appoint one of the faculty members to serve as committee chair for a two-year term. The functions of the Faculty Law Review Committee shall include:

- A. Approval of amendments to the Constitution and Bylaws, as necessary for the committee to fulfill its coordinating and oversight functions of the law school's student-edited, scholarly journals. The Editor-in-Chief shall forward all proposed amendments to the Constitution or Bylaws to the committee chair, and shall designate the amendments as either (1) "structural" or (2) "operational."
 - 1. A "structural amendment" changes eligibility for membership, or alters the responsibilities and expectations of editors on the journal relating to the attainment of academic credit. The Committee shall consider and notify the Editor-in-Chief of their approval or disapproval of proposed structural amendments within ten (10) business days.
 - 2. An "operational amendment" concerns all other aspects of Law Review operations. The Committee shall consider and notify the Editor-in-Chief of their approval or disapproval of proposed operational amendments within three (3) business days. The Committee shall employ an abuse of discretion standard when reviewing those changes designated as "operational."
- B. Review of decisions regarding admission of members beyond the normal number.
- C. Review of budgets, finances, printing contracts, and other actions substantially affecting the budget of the Law Review.
- D. Review for gross improprieties of manuscripts submitted by persons other than Dickinson students and faculty, after receiving the recommendation of the Editor-in-Chief.

- E. Review of decisions of the staff regarding rejection of candidates for membership on the Law Review.
- F. Review of recommendation of the Editorial Board regarding members who have earned or not earned credit for any semester.
- G. Submission to the Dean's Office of names of members who have earned credit for each semester.

ARTICLE EIGHT

Academic Credit

- A. An Associate Editor shall receive two (2) non-graded credits upon successful completion of his or her responsibilities as outlined in the Bylaws.
- B. A Senior Editor shall receive two (2) non-graded credits upon the successful completion of his or her responsibilities as outlined in the Bylaws.
- C. An Editorial Board member shall receive four (4) non-graded credits upon the successful completion of his or her responsibilities as outlined in the Bylaws. If an Editorial Board member is impeached in accordance with the Bylaws, the member shall receive two (2) non-graded credits only if the member remains on the Law Review.

ARTICLE NINE

Meetings

- A. General Meetings. Meetings of the general membership of the Law Review shall be held when deemed necessary by the Editorial Board. At general meetings, a quorum shall consist of a majority of the membership.
- B. Editorial Board Selection Meetings. The Editorial Board shall be selected as specified in the Bylaws. Notice of Editorial Board selection meetings shall be given at least one (1) week in advance of the meeting in accordance with procedures prescribed in the Bylaws.

ARTICLE TEN

Finances

All disbursements of the Law Review shall be by check, subject to the approval of the Managing Editor and signed by the Business Manager of the Law School. A record shall be kept of the purpose of each disbursement. No funds shall inure to the benefit of any individual member. Audits shall be conducted as required by the Dean and the Business Manager of the Law School.

ARTICLE ELEVEN

Amendments to Constitution

Proposals for amendments to the Law Review Constitution may be made by the members of the Law Review. The members may propose an amendment by a two-thirds affirmative vote of all the members of the Law Review, expressed orally or in writing, at a general meeting, provided that notice setting forth the proposed amendment shall have been given at least ten (10) days prior to the general meeting. Final approval of amendments to the Law Review Constitution rests with the Faculty Law Review Committee. If the Faculty Law Review Committee proposes an amendment to the Constitution, then that amendment will be adopted upon a two-thirds majority vote of all the members of the Law Review.

ARTICLE TWELVE

Amendments to Bylaws

An initial set of Bylaws shall be adopted by the faculty. Bylaws will hereafter be amended by a majority affirmative vote of all Law Review members, taken at a general meeting, provided that notice setting forth the proposed amendment shall have been given at least ten (10) days prior to the general meeting. Amendments to the Bylaws are limited as provided in Article 7 of the Constitution.

ARTICLE THIRTEEN

Authorization

The Faculty Law Review Committee and members of the Law Review hereby approve the Constitution of the Penn State Law Review this 30th day of January 2013.

By: *Sl Kit Kinports*

Name: Kit Kinports
Title: Faculty Law Review Committee Chair

By: *Sl Mark A. McCormick-Goodhart*

Name: Mark A. McCormick-Goodhart
Title: Editor-in-Chief, Penn State Law Review

BYLAWS OF THE PENN STATE LAW REVIEW

BYLAW ONE Editorial Board

A. Members. The Editorial Board shall consist of the following: one (1) Editor-in-Chief; one (1) Managing Editor; one (1) Executive Articles Editor; four (4) Articles Editors; one (1) Executive Comments Editor; four (4) Comments Editors; one (1) Research Editor; and one (1) Penn Statim Executive Editor.

(1) The Editor-in-Chief shall:

- (a) Coordinate manuscript processing from the time of receipt until the time of publication.
- (b) Determine, subject to Board approval, the duties of each member for each semester in accordance with the Bylaws.
- (c) Coordinate the efforts of other members of the Board, the staff, and participants in the writing competition.
- (d) Exercise final authority regarding the publication of submitted manuscripts.
- (e) Consult with the Chair of the Faculty Law Review Committee before approving controversial manuscripts for editing.
- (f) Submit to the Faculty Law Review Committee, for abuse of discretion review only, comments submitted by Associate Editors if such manuscripts have been rejected as not publishable. The Editor-in-Chief shall write an opinion on behalf of the Law Review specifically stating the reason why the Associate Editor is not receiving academic credit.
- (g) Convene and preside over all meetings of the Editorial Board and of the general membership.
- (h) Submit to the Faculty Law Review Committee, for abuse of discretion review only, names of members whom the Board has designated to receive credit. This document shall include a formal explanation for the Board's action with regard to members not designated to receive credit.
- (i) Inform the Faculty Law Review Committee of amendments to the Constitution or Bylaws after they are approved by the membership.
- (j) Take any other actions, consistent with the Constitution and Bylaws, that are necessary in accomplishing the Law Review's purposes.

(2) The Managing Editor shall:

- (a) Serve as the principal assistant to the Editor-in-Chief with regard to the administrative functions of the Law Review.
- (b) Supervise the comment writing program and act as the final authority on all rules regarding the comment writing program. Whenever the Managing Editor answers a substantive question to a particular candidate, that question and answer shall be circulated to all candidates. The Managing Editor may also delegate

- responsibility for organizing and administering the program to the Comments Editors.
- (c) Ensure that the Law Review issues are printed according to the publication schedule by reminding the Editor-in-Chief of upcoming deadlines and, if necessary, assuming the Editor-in-Chief's publication responsibility for a delayed issue.
 - (d) Assume the functions of the Editor-in-Chief in his or her absence.
- (3) The Executive Articles Editor shall:
- (a) Exercise primary responsibility for organizing and coordinating the annual symposium, working in conjunction with the Editor-in-Chief, Penn Statim Executive Editor, and symposium adviser.
 - (b) Organize and coordinate any special academic programs sponsored by the Law Review.
 - (c) Oversee the initial review of manuscripts and advise the Editor-in-Chief in selecting manuscripts for publication.
 - (d) Participate in the editing of lead articles for the symposium issue.
 - (e) Make initial editing assignments for lead articles.
 - (f) Solicit topics for future symposia to be discussed by the Board.
 - (g) Create a publication schedule for the editing of lead articles and oversee the editing process to ensure compliance therewith.
 - (h) Assist the Editor-in-Chief to review all lead articles for compliance with the Law Review's publication standards.
 - (i) Work with the Penn Statim Executive Editor to explore new electronic publication and marketing opportunities for lead articles, symposia, and academic programs.
- (4) The Articles Editors shall:
- (a) Solicit and supervise the preparation of lead articles.
 - (b) Advise the Editor-in-Chief as to the publishability of lead articles.
 - (c) Exercise primary responsibility for editing lead articles.
 - (d) Assist with the solicitation of lead articles if there is a symposium issue.
- (5) The Executive Comments Editor shall:
- (a) Supervise and administer the Law Review's writing competition.
 - (b) Create the writing competition assignment.
 - (c) Equally share duties regarding the comment writing program with the Comments Editors.
- (6) The Comments Editors shall:
- (a) Organize and coordinate the comment writing program under the supervision and direction of the Managing Editor.
 - (b) Exercise primary responsibility for editing comments.
 - (c) Act as the final evaluators as to the publishability of comments pursuant to Bylaw 3.
 - (d) Advise the Editor-in-Chief as to the publishability of comments.

- (e) Serve as primary advisors for the comment writing program.
- (7) The Research Editor shall:
- (a) Collect topics for the comment writing program.
 - (b) Assist with the comment writing program.
 - (c) Oversee the Associate Editors' completion of a preclusion check for final approval by the Managing Editor.
 - (d) Serve as Bluebooking authority for the comment writing program.
 - (e) Manage the source-check process, including but not limited to, gathering the printed sources contained within the articles or comments and distributing the assignments.
 - (f) Maintain the Law Review Bluebooking citation guide.
- (8) The Penn Statim Executive Editor shall:
- (a) Maintain online content of the Law Review.
 - (b) In consultation with the Editor-in-Chief and Managing Editor, determine the scope of content provided in the online format, and the editorial processes for any and all online content.
 - (c) Solicit appropriate material for online publication.
 - (d) Supervise and/or conduct editorial processes for online content.
 - (e) Work with the Editor-in-Chief and the Managing Editor to ensure that online content meets the publishability and professional standards of the Law Review.

B. Selection Procedure of the Editorial Board

- (1) The entire Editorial Board will select the successive Editorial Board from among the Associate Editors eligible for consideration. All Editorial Board members will receive one vote during the selection process, and each Editorial Board member must vote on an Associate Editor's candidacy. If all Editorial Board members are unable to attend any interviews during the selection process, a satisfactory quorum shall be three-fourths of the Editorial Board.
- (2) All Associate Editors in good standing are eligible for membership on the Editorial Board. "Good standing" means having completed the comment writing process without any disciplinary probation or sanction, including for failure to meet requirements for membership on the Law Review.
- (3) The Editor-in-Chief will set a date upon which any Associate Editor interested in applying for a position on the successive Editorial Board must provide a written statement of interest in the position, a resume, and an editing sample. The written statement must include the Associate Editor's name, the position(s) in which he or she is interested, and a statement of why he or she is best suited for the particular position(s). If he or she expresses interest in more than one position, the Associate Editor must indicate the priority in which he or she wishes to be considered. The Editor-in-Chief will also supply each Associate Editor with a document, no longer than 2,000 words in length, which each Associate Editor must edit and submit with his or her application.

- (4) Any Associate Editor or Senior Editor may submit to the Editor-in-Chief and Managing Editor a statement either in support of or in opposition to any particular applicant for any position. The Managing Editor shall collect all submitted statements and distribute them to the Editorial Board at least twenty-four (24) hours prior to the applicant's interview. If an Associate Editor or Senior Editor requests that the submission remain anonymous, the Managing Editor shall redact the Associate Editor's or Senior Editor's name before circulating the statement to the Editorial Board.
- (5) After the period for notification has expired, the Editor-in-Chief will schedule interviews for those positions receiving a greater number of applications than positions available. The current Editorial Board will conduct the interviews, and the Editor-in-Chief will preside over the interview process.
- (6) The Editorial Board will select, by majority vote, the individual applicant who will fulfill a given position.

C. Term of Office of the Editorial Board

The Editorial Board shall take office on April 30th of the year of their election. Their duties shall continue until April 30th of the following year.

D. Permanent Vacancy

- (1) Vacancy of Editor-in-Chief Position. Should the position of Editor-in-Chief become vacant for any reason, the Managing Editor shall assume the duties of Editor-in-Chief. The Editorial Board shall appoint a member of the current Editorial Board or a Senior Editor to serve as Managing Editor.
- (2) Vacancy of other Editorial Board Positions. Should the positions of Managing Editor, Research Editor, Articles Editor, Comments Editor, Penn Statim Executive Editor, Executive Articles Editor, or Executive Comments Editor become vacant for any reason, the Editorial Board shall appoint a member of the current Editorial Board or a Senior Editor to fill the vacant position.
- (3) Procedure for Appointment. When an Editorial Board position becomes vacant, the Editor-in-Chief or Managing Editor shall immediately notify the Editorial Board, Senior Editors, and Associate Editors. Thereafter, the remaining Editorial Board members shall solicit candidates for the position and establish the procedure for selecting the candidate.

E. Impeachment Procedure for Editorial Board Members

- (1) An impeachment procedure for any member of the Editorial Board may be initiated by a petition signed by: (1) a simple majority of the Associate Editors, Senior Editors, and Editorial Board, or (2) two-thirds of the Editorial Board. The petition shall contain the reasons for initiating the process.
- (2) Once the petition has been submitted to the Editor-in-Chief, the Editor-in-Chief shall schedule a meeting with the Editorial Board and the individual. If

the individual is the Editor-in-Chief, the meeting shall be scheduled and run by the Managing Editor.

- (3) The individual shall be given the opportunity to respond to the signed petition, after which the Editorial Board shall vote by secret ballot. A two-thirds majority is necessary for impeaching an Editorial Board member.

BYLAW TWO

Senior Editor Membership

- A. Each Senior Editor shall: (1) assist in the administration of the comment writing program by serving as a secondary advisor; (2) read and evaluate written submissions for the write-on competition; and (3) participate in source checks at the request of the Research Editor.
- B. Two Senior Editors may be selected to serve as online administrators of the Law Review's website, the *Penn Statim*. If the Penn Statim Executive Editor believes administrators are required, he or she shall submit to the Editor-in-Chief the names of prospective Senior Editors to serve as administrators. The Editor-in-Chief shall make a decision as to the request and either appoint Senior Editors to the position or deny the request. Any Senior Editor serving as an online administrator shall forgo the assignments enumerated in Bylaw 2(A) until specifically instructed otherwise by the Editor-in-Chief or Managing Editor. Instead, the Senior Editors selected to serve as online administrators shall: (1) assist the Penn Statim Executive Editor in maintaining and editing content; (2) solicit topics and authors for online content; and (3) conceptualize new ways to improve the Law Review's online presence.
- C. Each Senior Editor must demonstrate a sincere, cooperative, and conscientious attitude toward furtherance of the Law Review's work.

BYLAW THREE

Associate Editor Membership

- A. Definition of Junior. For purposes of this section, the term "Junior" will retain its meaning as defined in Article 6 of the Constitution.
- B. Eligibility
 - (1) General. Juniors shall be invited to seek membership on the Law Review staff in the manner provided in Bylaw 3(I).
 - (a) To be admitted to membership, and at all times during membership on the Law Review, students shall not commit violations of the Honor Code. If a Law Review member commits an Honor Code violation, the Editor-in-Chief shall either expel the member or suspend the member for one complete semester. If the member is suspended for one semester, he or she shall not be entitled to refer to Law Review membership on his or her resume.

- (2) Returning and Transferring Second-Year Students. Students who have been readmitted to The Dickinson School of Law as second-year students after a period of absence, and students who transfer to The Dickinson School of Law as second-year students, will be eligible only for the writing competition described in Article 6 of the Constitution.
- (3) Third-Year Transfers. A student who transfers to the Dickinson School of Law for his or her third-year who was a member of a law review at his or her former law school shall be eligible for membership as a Senior Editor on the Law Review. Such eligibility shall have no impact on the admission process for Associate Editors, as outlined in Bylaw 3(I). If a third-year transfer student wrote a comment or its equivalent for his or her former law review, that person will be accepted for membership upon approval of a majority of the Editorial Board. Prior to a vote by the Editorial Board, the Editor-in-Chief shall assess the former law review's publishability standards and submit a report of his or her findings to the Editorial Board.

C. Requirements. An Associate Editor must satisfy the following requirements:

- (1) Complete editing assignments and verify the citations used by authors in forthcoming issues of the Law Review.
- (2) Prepare a publishable comment.
- (3) Demonstrate a sincere, cooperative, and conscientious attitude toward furtherance of the Law Review's work.
- (4) Willing and able to commit to four (4) consecutive semesters of Law Review membership. No student may be a member of the Law Review for more than four (4) academic semesters. Only spring and fall academic semesters during which the student is a resident at either Law School campus will satisfy this provision. Exceptions to this provision shall be made by the joint decision of the Editor-in-Chief and Managing Editor on a case-by-case basis.
- (5) Any member whose performance at any time fails to meet the requirements of Bylaw 3(C) shall be notified in writing by the Editor-in-Chief. Notification shall specify the areas of the member's performance that are lacking and shall permit the member to file a written response within five (5) days of the notification. A copy of the notification and responses shall be sent to the Chairman of the Faculty Law Review Committee.

D. "Publishability" Standard. In evaluating the "publishability" of a comment, the following factors will be considered:

- (1) Writing Quality. Writing quality shall include, but is not limited to: (a) Grammar, (b) Correct Punctuation, and (c) Style and Composition.
- (2) Research. Research shall include, but is not limited to: (a) thoroughness of study and (b) adequate documentation.

- (3) Analysis and Understanding of Issue. This factor shall include, but is not limited to, a unique and thoughtful commentary on the comment's topic.
- (4) Organization. Organization shall include, but is not limited to, the following: (a) Introduction, (b) Background, (c) Analysis, and (d) Conclusion.
- (5) Mechanical Considerations. Mechanical considerations shall include, but are not limited to: (a) correct Bluebooking, (b) correct spelling, (c) adequate page length, and (d) conformance to all formal requirements as provided in Bylaw 3(F)(2) for the final submission of the comment.

These five factors shall be incorporated into a checklist for evaluators. Failure to satisfy the checklist requirements may result in rejection of the comment. Evaluators will use this checklist in determining whether a comment is publishable. To complete this checklist, the evaluator, to the left of each item, will list a score from one (1) to five (5). The number one (1) denotes a poor performance; three (3), an average performance; and five (5), an excellent performance. Despite some unsatisfactory ratings, an evaluator may conclude that a comment meets the "publishability" standard if the evaluator concludes that the comment would be publishable with no more than a reasonable amount of editing. An evaluator may deem a comment unpublishable if the candidate's performance is egregiously unsatisfactory in one category.

E. Comment Writing Program. Comment stages include the following:

- (1) Topic Selection and Preclusion Check.
- (2) Outline submission.
- (3) Initial typed rough draft submission for review by primary advisors.
- (4) Submission of typed secondary rough draft for review by primary and secondary advisors and Managing Editor.
- (5) Submission of typed third draft for review by primary and secondary advisors.
- (6) Submission of typed final comment.

The Managing Editor and the Executive Comments Editors shall establish a schedule and deadlines for each stage of the comment writing program. This program will begin on the date that all candidates have been notified of their membership and shall extend to the final submission of all comments. An Associate Editor's failure to meet any deadline will result in disciplinary action pursuant to Bylaw 5(B). The waiver of an absolute deadline may be granted pursuant to Bylaw 5(B).

F. Guidelines for Comment Writing Program

- (1) A Law Review member should aspire to contribute substantially to knowledge by providing an original and creative analysis of a legal issue such as a recent judicial decision of significance and interest to the legal community. The proposed comment should be grounded on primary sources that may include, but are not limited to, case law, statutes, or scholarly literature from other fields such as government, economics, business, philosophy, science, or technology.
- (2) Formal requirements for the final submission of comments shall be adopted by the Editorial Board.
- (3) Comments shall be anonymously graded. The Managing Editor, after consultation with the Comments Editors and Editor-in-Chief, shall select the highest graded comments for publication. In no event shall more than twelve (12) comments be selected for publication in one volume.

G. Duties of Advisors

- (1) Primary and Secondary Advisors. The Managing Editor will appoint two advisors for each Associate Editor, which shall consist of a primary and secondary advisor. The primary advisor will be a Comments Editor from the Editorial Board, and the secondary advisor will be a Senior Editor. The Associate Editor shall know the identity of both advisors. The Managing Editor shall advise and instruct the primary and secondary advisors as to their responsibilities.
- (2) Goals of Advisors. Primary and secondary advisors shall supervise and communicate regularly with their Associate Editor throughout the comment writing process. Advisors shall be responsible for guiding the Associate Editor's substantive research and comment outline. In addition, advisors must thoroughly review the Associate Editor's drafts and, in accordance with the publishability checklist, return the drafts and a copy of the completed checklist to the Managing Editor and the Associate Editor. Advisors shall inform the Managing Editor if an Associate Editor's general comment writing effort is deficient or if an Associate Editor failed to meet requisite deadlines.
- (3) Advising Structure
 - (i) Each primary advisor shall be a Comments Editor from the Editorial Board and shall be principally responsible for supervising at least one Associate Editor throughout the comment writing process. In this role, the primary advisor must adhere to the duties and responsibilities set forth in the Constitution and Bylaws. The primary advisor must review all three drafts during the comment writing process in accordance with the publishability checklist and return a completed copy of the checklist to the Associate Editor and Managing Editor.

- (ii) Each secondary advisor shall be a Senior Editor and shall read and evaluate drafts of their respective Associate Editor. Secondary advisors shall diligently review the second and third drafts, provide comments on the drafts, and notify the primary advisor, advisee, and Managing Editor of material problems, unsupported propositions, or errors. The Managing Editor shall define the scope and responsibilities of each secondary advisor during the comment writing process.

(4) Outline Requirements

A complete and detailed outline greatly facilitates the actual writing of a comment and enables the Associate Editor to meet subsequent deadlines with adequate time for revision. An outline should meet the requirements set forth in the outline checklist.

(5) Substantive Research

- (a) Advisors shall direct advisees so as to properly exhaust all relevant sources and authorities.
- (b) Advisors shall explain that comments are principally based on primary sources and shall monitor the advisee's research accordingly.
- (c) Advisors shall ensure the advisee's research adequately substantiates the advisee's premises.

(6) Rough Drafts

- (a) By the time advisors read the first draft, they shall be familiar with the direction that the comment will take.
- (b) Advisors shall make sure that citations are proper and shall assist the advisee in proper Bluebook form.
- (c) In critiquing a rough draft, advisors shall inform the advisee of suggested improvements.
- (d) Advisors shall not substantially draft or correct the advisee's comment.
- (e) Advisors shall be as helpful as possible; however, they should not contribute substantially to the advisee's comment.
- (f) If material problems or errors exist, advisors shall notify the Managing Editor and the advisee in writing.

(7) General Duty

- (a) Primary and secondary advisors shall assist the Associate Editor as much as possible in their assigned capacities, but they shall not substantially draft or correct an advisee's comment.
- (a) Advisors shall be available as an informational source for Associate Editors seeking guidance throughout the comment writing process.
- (c) Associate Editors who have problems with their advisors shall notify the Managing Editor in writing.
- (d) The advisor who reads and scores an Associate Editor's rough draft and perceives a problem that could result in rejection of the comment for failure to meet a mandatory requirement shall note on the evaluation

sheet the perceived problem and notify in writing both the Managing Editor and the Associate Editor.

H. Evaluation of Comments

- (1) The successful completion of the comment writing process is a fundamental requirement of continuing membership. If an Associate Editor fails to submit a comment of publishable quality, the Associate Editor shall receive no credit for the Fall or Spring semesters. For purposes of Bylaw 3(H), the "Comments Editors" evaluating comments shall include the four (4) Comments Editors and the Executive Comments Editor.
- (2) The Comments Editors shall make the initial determination as to the publishability of the submitted comment.
 - (a) Each comment must be reviewed by at least four (4) Comments Editors, excluding any Comments Editor who served as primary advisor for the comment under consideration. The four (4) Comments Editors will then vote by secret ballot on the publishability of the comment.
 - (b) Each comment may receive no more than one (1) vote denying publishability to be considered satisfactory.
 - (c) Any comment that receives more than one (1) vote denying publishability will be deemed unsatisfactory and shall be returned to the Associate Editor with a written description of the problems that the Comments Editors have identified. The Associate Editor will then have ten (10) days to resubmit a corrected copy of the comment for reconsideration by the Comments Editors. A majority of the Comments Editors may vote to extend the period given for revision, but under no circumstances may the period exceed three (3) weeks.
 - (d) If, upon resubmission under the previous subparagraph (c), the Comments Editors, by secret ballot vote, still deem the comment to be unsatisfactory, then the Associate Editor will be temporarily suspended from membership pending review of his or her comment by a committee as set forth under Bylaw 3(H)(3).
 - (e) The author may seek review under Bylaw 3(H)(3) by filing a written request with the Editor-in-Chief. Should the Associate Editor fail to seek review under Bylaw 3(H)(3) within ten (10) days of the notification of the Comments Editors' decision, then removal from membership shall be deemed final subject only to the review by the Faculty Law Review Committee set forth under Bylaw 3(H)(4).
- (3) Any Associate Editor whose comment has been rejected after resubmission may seek review of the decision by a committee composed of the Editor-in-Chief, the Managing Editor, two (2) Articles Editors, the Executive Comments Editor, and two (2) Senior Editors. The Articles Editors and the Senior Editors shall be chosen by the Managing Editor. The purpose of the committee is to determine whether reasonable grounds exist to deem the

comment unpublishable. The committee's evaluation should be tailored to such purpose. The Associate Editor who wrote the comment and the Comments Editors who graded the comment may present their opinions to the committee. The committee shall then vote on the comment's publishability. To reverse the decision of the Comments Editors and accept the comment as publishable, at least five (5) members of the committee must vote in favor of publishability. Failure to receive five (5) votes in favor of publishability will result in permanent removal of the writer from membership.

- (4) A member whose comment has been rejected pursuant to Bylaw 3(H)(2) and Bylaw 3(H)(3) may appeal the decision to the Faculty Law Review Committee, who shall overturn the decision for abuse of discretion only. The appeal must provide a statement of reasons why the decision constituted an abuse of discretion. If such abuse is found, the Faculty Law Review Committee shall notify the Dean, and the removed member shall be reinstated to membership.

I. Admissions Process

- (1) Determination of Eligibility. No person whose Grade Point Average falls below 3.0 or whose class rank is below the top fifty (50) percent of the class at the conclusion of his or her Junior year shall be eligible for Law Review membership. This information shall be publicized at the Law Review Information Session to be held at both campuses in the late Spring and in all other communications relating to solicitation of members for the Law Review. The Executive Comments Editor shall consult with the Office of the Registrar to ensure both of these requirements are satisfied.
- (2) Number of Offers. The number of membership offers extended on the basis of grades and/or on the basis of scores from the write-on competition shall be determined annually at the discretion of the Editor-in-Chief, within reason, considering factors such as the present needs of the Law Review, the need to maintain prestige associated with Law Review membership, and the number of students obtained through the grade-on process in that particular year. One-half (1/2) of the total membership will be chosen on the basis of grades alone, and one-half (1/2) of the total membership will be chosen on the basis of their submission to the write-on competition.
- (3) Honor Code Certificate. No write-on competition submission shall be complete without an electronic certification that the Junior has not violated the appropriate provisions of the Honor Code, as provided in Bylaw 3(B)(1)(a).
- (4) Grade-On Membership. Immediately following the release of grades at the conclusion of the Spring Semester, and prior to July 1, the Editor-in-Chief and the Managing Editor shall formally invite half of the incoming membership, as determined in accordance with Bylaw 3(I)(2), to become members of the Law Review on the basis of grades. Invitees shall have one (1) week from the date of the invitation to respond by filling out an application for membership and commitment. A complete, affirmative response will confer membership on the invitee, which may be revoked if the invitee fails to attend the Law Review orientation. If an invited grade-on member declines, the next highest

ranked individual will be invited, until one-half of the membership is allocated on the basis of grades consistent with Bylaw 3(1)(2). Moreover, if a grade-on member accepts an invitation but proceeds to transfer to another institution at any time after write-on offers are extended, the membership quota of Bylaw 3(1)(2) for equal proportions of write-on and grade-on members will not apply. Instead, the vacant membership slot will not be filled.

(5) Write-On Membership

- (A) The Law Review shall participate in the write-on competition with the other legal journals at The Dickinson School of Law. The Law Review's participation shall be signified by the Editor-in-Chief's signature to the Unified Write-on Competition Agreement, or comparable compact, between the Law Review and other journals. However, the Law Review's Bylaws regarding membership criteria and selection shall supersede any contradictory provisions in the Unified Write-on Competition Agreement or comparable compact. At the time determined for the write-on competition, and consistent with these Bylaws, the Executive Comments Editor shall release the closed packet of research materials necessary to complete the write-on competition. Students will have ten (10) days to complete the write-on competition, at which time they must electronically submit the assignment via a platform selected by the Executive Comments Editor. No submission will be deemed complete without an electronic certification that the Junior has not violated the appropriate provisions of the Honor Code, as provided in Bylaw 3(B)(1)(a), and that the Junior's class rank and Grade Point Average at the conclusion of his or her Junior year is within the top fifty (50) percent of the class and above a 3.0, respectively.
- (B) Membership on the basis of the written submission shall be offered to the participants receiving the highest aggregate score, up to the membership limit established by the Editor-in-Chief pursuant to Bylaw 3(1)(2). This process shall be performed by the Executive Comments Editor, who shall certify the submissions qualifying for membership to the Editor-in-Chief and Managing Editor no later than two weeks before the scheduled incoming Associate Editor's orientation. The Editor-in-Chief and the Managing Editor shall formally invite those individuals to become members of the Law Review on the basis of superior performance on the written submission. Invitees shall have one (1) week from the date of the invitation to respond by filling out an application for membership and commitment. A complete, affirmative response will confer the invitee's membership. Membership may be revoked if the invitee fails to attend the mandatory Law Review orientation. Announcement of both grade-on and write-on members will be made concurrently in such a way that the basis for admission is not discernible from the announcement.

- (C) Each Senior Editor and Comments Editor shall evaluate the written submissions in the following manner:
- (a) Each participant shall electronically submit the written document as determined by the Executive Comments Editor.
 - (b) Upon receipt of the submissions, the Executive Comments Editor may assign each participant a random number only if the Junior's semester exam number is not already being used to ensure anonymity. The number shall be the only identifying mark placed on each submission during the evaluation process.
 - (c) Each written submission entered in the competition shall be evaluated by Senior Editors and Comments Editors. The Executive Comments Editor shall be responsible for the distribution of written submissions for evaluation and shall distribute them as evenly as possible among the graders.
 - (d) Each grader shall give every submission evaluated a numerical rating. The following criteria shall apply for assessing a numerical rating unless an alternative criterion is established by the Executive Comments Editor and approved by a majority vote of the Editorial Board:
 - (i) Mechanics – ten (10) percent of total score. Mechanics include proper citation form, proper typefaces, and conformance to all formatting requirements as determined by the Executive Comments Editor.
 - (ii) Writing Style – twenty (20) percent of total score. Writing style includes all factors affecting writing quality, which shall include, but are not limited to: proper grammar, punctuation, and spelling; complete and clear sentences; effective transitional phrases and sentences to introduce new ideas.
 - (iii) Organization – twenty (20) percent of total score. Organization includes such factors as whether ideas are presented in a logical format and whether thoughts flow between and within paragraphs.
 - (iv) Use of Authority – fifteen (15) percent of total score. Use of authority means that the writer has cited to proper authority where appropriate to support a proposition.

- (v) Analysis – thirty-five (35) percent of total score. Analysis refers to the writer’s grasp of the subject matter, resolution of relevant issues, assessment of the the case or issue in relation to past law and future ramifications, and use of original ideas.
- (e) Each Junior participant shall receive a total score from each grader. The highest and lowest total score of each participant shall be dropped, with the remaining scores totaled to arrive at the “participant’s competition score.”
- (f) In addition to the writing submission, which shall comprise seventy-five (75) percent of the participant’s final score, participants shall complete a mandatory citation quiz, which shall comprise twenty-five (25) percent of the participant’s final score.
- (g) The Executive Comments Editor shall oversee the grading process and, with the approval of the Editor-in-Chief, may redistribute the competition pieces for grading if any Senior Editor or Comments Editor is unable to complete the evaluations. The Executive Comments Editor shall also tabulate and announce the results of the competition.
- (h) In accordance with Article 6 of the Constitution, the following circumstances constitute reasons for admission of fewer members. This list is not exhaustive.
 - (i) Fewer than seventy (70) students or forty (40) percent of the Junior class, whichever number is greater, submit pieces for the write-on competition;
 - (ii) The Executive Comments Editor and Editor-in-Chief view the quality of submitted competition pieces as below the quality demanded by the Law Review; or
 - (iii) The mandatory minimum number of new members to the Law Review would have a detrimental impact on the Law School’s other journals by depleting the number of qualified Juniors participating in the write-on competition.

BYLAW FOUR
Exceptional Circumstances

An Associate Editor eligible to participate in the comment writing program may submit an excuse to the Managing Editor when, due to exceptional circumstances, he or she cannot, or could not reasonably be expected to, adhere to the prescribed schedule. If the Managing Editor determines that such an excuse is valid, the Managing Editor shall grant the Associate Editor additional time as is reasonable under the circumstances. If an Associate Editor submits a late comment draft or assignment, the Associate Editor may offer a statement to the Managing Editor as to why the draft or assignment was late. Thereafter, the Managing Editor must submit the statement to the Editorial Board. The Editorial Board, upon a majority vote, may excuse the late draft or assignment and remove the sanctions imposed under Bylaw 5(B).

BYLAW FIVE
Discipline

- A Late and Inadequate Editing Assignments. Every Law Review assignment shall set forth a date that the assignment is due. Unless previously stated otherwise in the Bylaws, the appropriate Editorial Board Member supervising the assignment may establish a corresponding due date with the following penalties for a late or inadequate assignment:
- (1) If a member submits one (1) assignment late in a semester, he or she shall receive an extra assignment for that semester as determined by the Editor-in-Chief.
 - (2) If a member submits two (2) assignments late in a semester, that member will be suspended from membership during that semester and shall not be allowed to refer to Law Review on his or her resume. The member, however, shall continue to receive assignments during the semester of suspension.
 - (3) If a member submits three (3) assignments late in a semester, that member will lose Law Review membership, retroactively effective the semester the assignments were submitted late. That member is prohibited from referring to Law Review membership for any purpose.
 - (4) If an Articles Editor or the Editor-in-Chief determines that an assignment is inadequately performed, the Editor-in-Chief or Managing Editor shall return the assignment to the member who performed the assignment and shall give the member forty-eight (48) hours to correct the deficiencies. Each inadequate assignment returned to a member is equivalent to one (1) late assignment under Bylaw 5(A).
 - (5) All action taken under Bylaw 5(A) may be appealed to the Faculty Law Review Committee for an abuse-of-discretion review.
 - (6) This provision shall not apply to the Associate Editor's submissions related to the comment writing program. The penalties applicable to the comment writing program are set forth in Bylaw 5(B).

- B. Late and Inadequate Comments. Unless otherwise specified, deadlines established under Bylaw 3(E) are firm deadlines, and drafts or final copies of the Associate Editor's comment are due on that date except as provided by Bylaw 4.
- (1) Late Drafts or Final Copies. Late submission of a draft or final copy of an Associate Editor's comment shall result in that member's suspension from membership for one complete semester, and the member shall not be entitled to refer to Law Review membership on his or her resume. A member may be granted an extension after notifying the Managing Editor of an extenuating circumstance, such as death in the family or documented illness. Unless exceptional circumstances prevent filing an extension request, the Associate Editor's excuse must be submitted to the Managing Editor at least one-hundred twenty (120) hours before the corresponding deadline. If a member misses a deadline, the member shall continue to receive editing assignments during the period of suspension and must promptly submit the late draft or final copy.
- (a) Failure to submit a late draft or final copy within seven (7) days of the deadline may result in permanent removal from membership. Such removal may be instituted by majority vote of the Editorial Board.
- (b) In the case of the submission of a late final copy of a comment that is subsequently deemed unpublishable, each day that the final draft is late shall be subtracted from any revision period granted under Bylaw 3(H).
- (2) Inadequate Drafts or Final Copies. If an Associate Editor submits an inadequate draft or final copy of a comment, the Associate Editor shall:
- (a) resubmit an adequate draft or final copy within ten (10) days; and
- (b) be assigned an extra editing assignment.
- A second inadequate draft may be deemed a late draft by the Editor-in-Chief and the Managing Editor.
- C. Plagiarism. Plagiarism is the most serious offense a Law Review member can commit. The rules, appeals process, and penalties for plagiarism under Bylaw 5(C) supersede any inconsistent provision in the Bylaws.
- (1) Plagiarism Committee. If suspected plagiarism in a submitted draft of a comment is brought to the attention of the Editor-in-Chief or the Managing Editor, they shall select a neutral Comments Editor. The selected Comments Editor, the Editor-in-Chief, and the Managing Editor shall act as a plagiarism committee to review the comment. The committee shall determine whether the comment contains plagiarism. If the comment is deemed to contain plagiarism, the committee shall then decide whether the plagiarism was (1) intentional or unintentional and (2) substantial or insubstantial.
- (a) Neutral Comments Editor. A neutral Comments Editor is a Comments Editor who did not serve as an advisor to the Associate Editor whose comment is under review. When possible, the neutral Comments Editor

should not be the Comments Editor who initially reported the alleged plagiarism.

- (b) Intentional or Substantial Plagiarism. If the plagiarism committee finds a comment to contain intentional or substantial plagiarism, the member who submitted the comment shall be permanently removed from the Law Review. The Editor-in-Chief or the Managing Editor shall notify the Honor Committee of the plagiarism committee's findings and actions.
- (c) Unintentional or Insubstantial Plagiarism. If the plagiarism committee finds a comment to contain unintentional plagiarism that is not substantial, the Associate Editor member shall:
 - (i) be notified in writing of the plagiarism; and
 - (ii) be given ten (10) days to resubmit a final draft which does not contain plagiarism.

The resubmitted final draft will be reviewed by the plagiarism committee. If the resubmitted final draft still contains plagiarism, the plagiarism will be deemed intentional. If the resubmitted final draft does not contain plagiarism, the draft will be graded in the normal grading process to determine publishability; however, the Plagiarism Committee shall impose an appropriate scoring deduction on the comment.

(d) Plagiarism shall be defined as it is defined in the Honor Code.

- (2) Appeal of Actions. Any action under Bylaw 5(C) may be appealed to the Faculty Law Review Committee for an abuse-of-discretion review only.

D. Mandatory Meetings. To encourage all members to participate in the decision-making process of the Law Review and to support the efforts of the Law Review, each member should attend all scheduled Law Review meetings. A member is permitted one (1) unexcused absence per semester. The Editor-in-Chief shall notify the member in writing that another unexcused absence in that semester will result in termination of membership. Thereafter, if a member is absent without excuse in that semester, that member will lose Law Review membership, effective immediately. Termination under Bylaw 5(D) may be appealed to the Faculty Law Review Committee for abuse-of-discretion review only.

BYLAW SIX
Resignation of Membership

A member may resign at any time for any reason. Upon resignation, the member must remove reference to Law Review membership from his or her resume. In addition, the Editor-in-Chief shall notify Career Services of the member's resignation. Board position vacancies will be filled pursuant to Bylaw 1(D).

BYLAW SEVEN
Publication Deadlines

- A. The Executive Articles Editor shall establish a publication schedule for the Law Review's four (4) printed issues prior to June 1 of the year he or she takes office. The publication schedule shall include deadlines for each of the four (4) issues to ensure that they are published during the Editorial Board's term of office and that each issue undergoes a comprehensive editing process prior to publication. The Executive Articles Editor shall submit the publication schedule to the Editor-in-Chief for final approval. Once the Editor-in-Chief approves the publication schedule, the Executive Articles Editor shall provide a copy to the Managing Editor.
- B. Subject to the approval of both the Managing Editor and Executive Articles Editor, the publication schedule of a forthcoming issue may be modified in appropriate circumstances. For purposes of Bylaw 7(B), a forthcoming issue means any issue that does not have a projected publication date within ninety (90) calendar days.
- C. The Editor-in-Chief shall be responsible for publishing the four (4) issues in accordance with the publication schedule.
- D. If any step in the publication process is delayed more than fifteen (15) calendar days, the Managing Editor shall temporarily assume publication responsibility for the delayed volume, subject to a majority vote of the Editorial Board. Prior to the vote, the Editor-in-Chief shall receive an opportunity to present his or her reasons why the Managing Editor should not assume publication responsibility for the delayed issue. Once the Managing Editor assumes publication responsibility for the delayed issue, the Editor-in-Chief shall begin preparing any remaining issues for publication in accordance with their respective deadlines.
- E. The outgoing Editor-in-Chief shall remit all manuscripts and documents related to the publication of the Law Review's four issues to the incoming Editor-in-Chief prior to the date of the outgoing Editor-in-Chief's commencement ceremony. If all manuscripts and documents are not relinquished, the outgoing Editor-in-Chief's name shall be removed from the Law Review's masthead on all forthcoming publications.

BYLAW EIGHT
Amendments

These Bylaws may be amended or repealed, in whole or in part, as provided in Article 12 of the Constitution.

BYLAW NINE
Authorization

The Faculty Law Review Committee and members of the Law Review hereby approve the Bylaws of the Penn State Law Review this 30th day of January 2013.

By: *S/ Kit Kinports*

Name: Kit Kinports
Title: Faculty Law Review Committee Chair

By: *S/ Mark A. McCormick-Goodhart*

Name: Mark A. McCormick-Goodhart
Title: Editor-in-Chief, Penn State Law Review