

Supreme Court of Florida

No. SC2023-0007

IN RE: AMENDMENTS TO RULES REGULATING THE FLORIDA BAR – BYLAWS 2-3.6 AND 2-4.6.

June 1, 2023

PER CURIAM.

The Florida Bar has filed a Petition to Amend the Rules Regulating The Florida Bar, proposing amendments to two bylaws.¹ The Florida Bar’s Board of Governors unanimously approved the proposal, with an amendment to add “secret ballot” language to maintain the existing confidentiality of the voting process. The Bar previously published the proposed amendments for comment in *The Florida Bar News*, and no comments were received. Having considered the Bar’s petition, we hereby amend bylaws 2-3.6 (Election) and 2-4.6 (Election of President-Elect). The more significant changes are explained below.

1. We have jurisdiction. See art. V, § 15, Fla. Const.; R. Regulating Fla. Bar 1-12.1.

Bylaw 2-3.6 is amended to include new, titled subdivisions, and the provisions of the bylaw are reorganized into these new subdivisions. In addition, language throughout bylaw 2-3.6 is updated to conform with this Court's guidelines for rules submissions. *See In re Guidelines for Rules Submissions*, AOSC22-78 (Fla. 2022). Bylaw 2-4.6 is similarly amended to include titled subdivisions and conform with this Court's guidelines on rules submissions.

As for changes that affect the subject matter of the bylaws, bylaw 2-3.6 is amended to account for electronic voting during elections for positions on the Bar's Board of Governors, and the deadline for eligible members to submit ballots (by paper or electronically) is shortened from three to two weeks. Bylaw 2-4.6 is similarly amended to account for electronic voting in elections for the Bar's president-elect, and the deadline to submit ballots in such elections is shortened from three to two weeks.

While we approve the changes described above, we make certain minor modifications to the Bar's proposed amendments. *See R. Regulating Fla. Bar 1-11.3* ("This court may at any time

amend chapter 2 or modify amendments to chapter 2 adopted by the board of governors . . .”).

First, we modify bylaw 2-3.6(b) and bylaw 2-4.6(c) to include the “secret ballot” language the Board of Governors added when it adopted the Bar’s proposal. Specifically, we add the word “secret” to the titles of bylaws 2-3.6(b) and 2-4.6(c), and we add “Voting will be by secret ballot” to the beginning of those same subdivisions.

Second, it appears the Bar inadvertently left out a subdivision (d) when it created the new subdivisions for bylaw 2-3.6. We therefore redesignate proposed subdivisions (e) and (f) of bylaw 2-3.6 as subdivisions (d) and (e), respectively.

Finally, both bylaws 2-3.6 and 2-4.6, as amended, have subdivisions titled “Certification and Notice” that explain when election results will be certified by the executive director. However, as worded, both bylaws are missing information about the certification date for runoff elections. We therefore add the words “April 7” to redesignated bylaw 2-3.6(e) and bylaw 2-4.6(f).

Accordingly, we hereby amend the Rules Regulating The Florida Bar as reflected in the appendix to this opinion. New language is indicated by underscoring; deletions are indicated by

struck-through type. The amendments shall become effective immediately.

It is so ordered.

MUÑIZ, C.J., and CANADY, LABARGA, COURIEL, GROSSHANS, and FRANCIS, JJ., concur.
SASSO, J., did not participate.

THE FILING OF A MOTION FOR REHEARING SHALL NOT ALTER THE EFFECTIVE DATE OF THESE AMENDMENTS.

Original Proceeding – Florida Rules Regulating The Florida Bar

Joshua E. Doyle, Executive Director, Gary S. Lesser, President, F. Scott Westheimer, President-elect, and Elizabeth Clark Tarbert, Division Director, Lawyer Regulation, The Florida Bar, Tallahassee, Florida,

for Petitioner

APPENDIX

BYLAW 2-3.6. ELECTION

~~Voting shall be by secret ballot. The executive director shall prepare and cause to be printed a sufficient number of ballots for the election of nonresident board members and for each judicial circuit office for which an election is to be held. One of such ballots shall be mailed to each member of The Florida Bar in good standing in each of such judicial circuits and to each nonresident member of The Florida Bar in good standing in the case of election of a nonresident board member. The records of the executive director shall be conclusive in determining the members entitled to receive such ballots. When more than one office is to be filled, the offices shall be listed on the ballots in numerical order. The names of candidates on the ballots shall be listed alphabetically for each office. The ballots shall be mailed on or before March 1. Only voted ballots received by the executive director prior to midnight on March 21 shall be counted or tabulated. Immediately after March 21, the executive director shall canvass and tabulate the ballots received, certify the results of the election, and file such certificate with the clerk of the Supreme Court of Florida. Failure to make a nomination shall result in a vacancy to be filled in accordance with the provisions of bylaw 2-3.9. The candidate for an office receiving a majority of the votes cast for the office shall be declared elected. In the event no candidate receives such majority there shall be a runoff election between the 2 candidates receiving the highest number of votes. The ballots for the runoff shall be mailed on or before April 1 and the voted ballots shall be received by the executive director prior to midnight on April 22. The ballots shall be counted and the results certified as provided for the first election. In the event that only 1 candidate has been nominated for a particular office on the board of governors, such candidate shall be declared elected. Results of the election shall be furnished by the executive director to the officers, members of the board of governors, and all candidates and may be furnished to any other interested persons upon their request.~~

(a) Eligibility. Only Florida bar members in good standing whose record bar address is in the judicial circuit of the board position, or whose record bar address is outside Florida for nonresident board positions, are eligible to vote in the initial and any runoff election. The Florida Bar's records establish conclusively those members who are eligible to vote in board elections.

(b) Secret Ballots. Voting will be by secret ballot. The Florida Bar or its representative will mail paper ballots with the board positions in numeric order and the names of the candidates for each board position in alphabetical order by surname on or before March 1 to the record bar address of each eligible Florida bar member who has elected to vote by paper ballot. The Florida Bar or its representative will email the record bar email address of each eligible Florida bar member who has elected to vote electronically on or before March 1 that voting has opened with instructions on electronic voting. The electronic ballot will list the board positions in numeric order and the candidates for each board position in alphabetical order by surname.

(c) Ballot Count. The Florida Bar or its representative will count only those ballots received before 11:59 p.m., eastern time, March 15. The executive director will declare the candidate who receives the majority of the votes cast the board member for that board position.

(d) Runoff. The Florida Bar will hold a runoff election between the 2 candidates receiving the highest number of votes for each board position if no candidate for a board office receives a majority of votes cast. The Florida Bar or its representative will mail runoff election ballots or email runoff election instructions on or before March 21 to the record bar address of each eligible Florida bar member in accordance with that member's election of mail or electronic vote. The mail and electronic ballots will list the board positions in numeric order and the names of the runoff candidates for each board position in alphabetical order by surname. The Florida Bar or its representative will count only runoff ballots received before 11:59 p.m., eastern time, April 7. The executive director will declare the runoff candidate receiving a majority of the votes cast the board member for that board position.

(e) Certification and Notice. The executive director will certify the election results the first business day on or after March 15 for the election or the first business day on or after April 7 for a runoff. The executive director will provide the election results to the Supreme Court of Florida, officers and members of the board of governors of The Florida Bar, the candidates, and any other interested person who requests the results.

BYLAW 2-4.6. ELECTION OF PRESIDENT-ELECT

(a) Term. The members of The Florida Bar in good standing shall elect annually elect a president-elect, who shall becomes president for a 1-year term at the conclusion of the annual meeting following the 1-year term as president-elect.

(b) Eligibility. Only those members who are Florida bar members in good standing as of February 15 are eligible to vote in the initial election. If a runoff election is necessary, only those Only Florida bar members who are members in good standing as of March 15 are eligible to vote in the runoff election.

(c) Secret Ballots. Voting will be by secret ballot. The Florida Bar or its representative will mail paper bBallots for election of president-elect with the candidates' names printed in alphabetical order by surname shall be mailed on or before March 1 to the record bar address of each eligible Florida bar member of The Florida Bar who has elected to vote by paper ballot. Ballots shall be mailed to the member's record bar address. The names of the candidates for the office of president elect shall be printed on the ballot in alphabetical order. The Florida Bar or its representative will email the record bar email address of each eligible Florida bar member who has elected to vote electronically on or before March 1 that voting has opened with instructions on electronic voting. The electronic ballot will list the candidates in alphabetical order by surname.

(d) Ballot Count. Only those ballots received by The Florida Bar or its representative will count only those ballots received before 11:59 p.m. prior to midnight, eastern time, March 21 15 shall be counted.

~~Immediately after March 21, the executive director shall canvass and tabulate the ballots received prior to midnight, eastern time, March 21, certify the results of the election, and file such certificate with the clerk of the Supreme Court of Florida. The executive director will declare the candidate who receives the majority of the votes cast president-elect shall be declared elected.~~

(e) Runoff. ~~In the event no candidate receives a majority of the votes cast, The Florida Bar will hold a runoff election between the 2 candidates receiving the highest number of votes shall be held if no candidate receives a majority of votes cast. Ballots for the The Florida Bar or its representative will mail runoff election ballots or email runoff election instructions on or before March 21 shall be mailed on or before April 1 to the record bar address of each eligible Florida bar member of The Florida Bar in accordance with that member's election of mail or electronic vote. The runoff ballots shall be mailed to the member's record bar address. The mail and electronic ballots will list the names of the runoff candidates shall be printed on the ballot in alphabetical order by surname. Only ballots received by The Florida Bar or its representative will count only runoff ballots received before 11:59 p.m. prior to midnight, eastern time, April 7 shall be counted.~~

~~Immediately after April 22, the executive director shall canvass and tabulate the ballots received prior to midnight, eastern time, April 22, certify the results, and file such certificate with the clerk of the Supreme Court of Florida. The executive director will declare the runoff candidate receiving a majority of the votes cast shall be declared elected president-elect.~~

(f) Certification and Notice. ~~The executive director shall furnish will certify the election results the first business day on or after March 15 for the election or the first business day on or after April 7 for a runoff. The executive director will provide the election results of the election to the Supreme Court of Florida, officers and members of the board of governors of The Florida Bar, as well as to the candidates, and, upon request, to any other interested person who requests the results.~~