



Federal Bar Association

Policy No. 1-15: Endorsements, Determination of FBA National Policy, and Advocacy of Public Policy Positions by FBA Entities

Approved By: Board of Directors

Date Approved: March 20, 2019

Date Effective: March 20, 2019

Policy:

The FBA is non-partisan in its policies and relationships with lawmakers and other officials. The FBA's nonpartisanship and its emphasis upon issues addressing federal jurisprudence and legal practice contribute to the Association's respect and credibility in the three branches of government and throughout the nation.

For purposes of this policy:

"FBA Entity" refers to a Division, Section, and Professional Chapter of the FBA.

"Public policy position" refers to oral or written positions, statements, reports, briefs and similar pronouncements advocated by an FBA Entity.

"FBA National Policy" includes the FBA Issues Agenda, public statements of the Board of Directors, testimony, briefs, correspondence and similar expressions reflecting the best interests of the national Federal Bar Association.

Endorsements

The FBA does not endorse, oppose, or contribute to political candidates, nor does it maintain or contribute to a political action committee. Similarly, the FBA does not endorse or oppose candidates or applicants to the federal bench or federal office. This policy does not limit or restrict the right of any individual, or group of individuals, to support in their own personal capacity candidates or applicants to the federal bench or federal office. In so doing, the individual may not identify themselves in any way affiliated with the FBA, including by current or former title or office or in any written material supporting the nominee.

Determination of FBA National Policy

The Government Relations Committee (GRC) is responsible for coordinating and advancing the Association's issues agenda and public policy positions as adopted by the Board of Directors. Proposals for adding a public policy position to the FBA Issues Agenda may be submitted at any time to the GRC by a governing board of an FBA Entity if it generally reflects the views of the FBA Entity's membership or by a group of no fewer than twenty-five (25) members in good standing. Although the GRC endeavors to review and vet proposals within 60 days of receipt, the studying of some issues may require additional time. After careful consideration, the GRC will submit its recommendation to the Board of Directors. If adopted, the issue will be considered an FBA National Policy,

Advocacy of Public Policy Positions by FBA Entities

An FBA Entity may advocate a public policy position only if it is not inconsistent with FBA National Policy and the Entity adheres to the process set forth in the Constitution and the guidelines of this policy. A Law School Student Chapter—in the name of the Law School Student Chapter—may advocate a public policy position only with the prior written approval of the supervising Professional Chapter. A Standing or Special Committee may not advocate a public policy position; however, it may make recommendations or submit public policy positions for consideration to the Board of Directors.

Procedures:

A. With the prior approval of the Board of Directors, an FBA Entity may—in the name of the Association—advocate a public policy position.

B. Alternatively, subject to paragraphs C, D and E of this policy, an FBA Entity may advocate a public policy position without the prior approval of the Board of Directors, but only if it: (1) is not inconsistent with FBA National Policy; (2) generally reflects the views of the Entity's membership; and (3) includes a disclaimer that the public policy position is in the name only of the Entity and not that of the National Association.

C. Before taking an action described in paragraph B, an FBA Entity should provide at least 10 business days' advance notice of the public policy position to the Executive Director to facilitate review for consistency with FBA National Policy.

If the Entity ultimately advocates the public policy position, the Entity shall report that action immediately to the Board of Directors and the Executive Director.

D. To assure that the public policy position as referenced in paragraph B generally reflects the views of the Entity's membership, the public policy position should: (1) be approved by the Entity's governing board and (2) take into account feedback solicited from the Entity's membership.

E. The disclaimer required under paragraph B must clearly state that the public policy position does not necessarily reflect the views of the National Association. In addition, it may be advisable to disclaim that the public policy position does not necessarily represent the views of any judicial member of the Association, or any other member of the Association whose identification with the public policy position would conflict with their official responsibilities. Also, it may be advisable to disclaim that Board members of the [name of Entity] affiliated with judicial and other governmental positions did not participate in the issuance of the statement or amicus brief.

If an FBA Entity issues a public policy position under paragraph B, the disclaimer should state: “The [name of Entity] of the Federal Bar Association has issued this statement in its name only and not that of the national Federal Bar Association.” It also may be advisable to state: “The public policy position does not necessarily reflect the views of members of the association who are judicial officers or occupy government positions whose identification with the public policy position would conflict with their official responsibilities. Board members of the [name of Entity] who hold judicial and other governmental positions did not participate in the issuance of this statement.”

If an FBA Entity joins in an *amicus curiae* brief, the disclaimer should state: “The [name of Entity] of the Federal Bar Association joins this brief in its name only and not that of the national Federal Bar Association. Neither this brief nor the decision to join it should be interpreted to reflect the views of the national Federal Bar Association, nor of any member of the Association (including any member of the [name of Entity]) who is a judicial officer or is employed by or represents a party or other amicus in the case. This brief was not circulated to any such member prior to filing, and no inference should be drawn that any such member has participated in the adoption of or endorsement of any position advocated in this brief.”

F. A Law School Student Chapter—in the name of the Law School Student Chapter—may issue reports, make public announcements, and publicly advocate positions on issues of concern only with the prior, written approval of the supervising Professional Chapter. The public policy position shall include a disclaimer that states that the Law School Student Chapter is taking the public policy position in the name of the Law School Student Chapter alone. If the Law School Student Chapter issues a public policy position, the Professional Chapter shall report that action immediately to the Board of Directors in the same manner as its own public policy positions under the Constitution and this policy. A Professional Chapter on behalf of the Law School Student Chapter may make recommendations or submit public policy positions for consideration to the Board of Directors. No report or public policy position may be inconsistent with FBA National Policy.

Purpose:

This policy addresses the processes established by the Constitution and the Board of Directors for the advocacy of public policy positions by FBA Entities.

Sources of Authority:

FBA Constitution Article 8, Section 2. Public Positions Taken by Divisions

FBA Constitution Article 9, Section 2. Public Positions Taken by Sections or Committees

FBA Constitution Article 10, Section 4. Public Positions Taken by Chapters

FBA Bylaws Article 11. Public Positions by Association Entities

FBA Policy No. 9-8: Law Student Chapters

Change Notice: Amended 3/25/2023 (added determination of FBA national policy section); Amended 6/11/2021 (renamed policy to “Endorsements and Advocacy ...” and added language prohibiting endorsement or opposition of candidates or applicants to the federal bench or federal office); Amended 06/12/2020 (added new sample disclaimer language)