

## **GUIDELINES FOR THE ASIL NOMINATING COMMITTEE**

### I. The ASIL Executive Council

The ASIL Executive Council appears to have two primary functions which must be kept in balance: (1) A reflecting function requiring its aggregate membership to represent the interests of the membership of the Society as a whole including the overriding interest of assuring the Society's proper place in the American and international legal community; and (2) A leadership function within the Society requiring its aggregate membership to have knowledge and experience in the activities of the Society. The first Guideline is intended to assure a representative capacity in the Executive Council and a breadth of personal and career experience outside the Society; the second, personal knowledge and experience in the activities of the Society; the third, contact between nominees for the Executive Council and the general membership of the Society; and the fourth, a degree of turn-over that will, it is hoped, improve the knowledge of the general membership regarding the workings of the Executive Council, and assure the ideas of the most active members of the Society are likely to be expressed in its highest policy making body.

1. a. Women, ethnic groups, and a wide variety of viewpoints should be appropriately represented on the Executive Council.
- b. Maximum efforts should be made to assure that any given moment the Executive Council includes at least one member under thirty-two years of age, two women, and one member of an ethnic minority group; at least two engaged in the corporate or private practice of law, two holding full time positions in the United States

Government or its independent agencies, two teaching full time, and one affiliated with an international organization; and at least three whose principal places of work are two or more normal travel hours from Washington, D.C.

- c. Maximum effort should be made to fill these categories with fourteen separate individuals.

Explanation: In addition to the need for diversity of sex, ethnic, and general political viewpoint, the need for some representation of younger members, and diversity in career and geographical focus of members of the Executive Council seems obvious if the Society is to remain a national, indeed international institution in which the common interests of all members are reflected in policy. Since our active members change careers and principal places of work with some frequency, no tighter guidelines than these seem appropriate. A birthday, change of job, or change of location which threatens the distribution set forth here as a minimum can be considered in nominations by the next year's Nominating Committee to assure that the imbalance is rectified. It should be noted that the Executive Council has 36 members including the titled officers of the Society and that these distributional requirements need not be met solely from the members of the Executive Council holding no other posts in the Society.

2. In considering persons for nomination to the Executive Council, maximum consideration should be given to those who have contributed to the activities of the Society in at least three of the following ways (two in the case of nominees under thirty years of age):
  - a. Published a lead article, comment, note, or book review in the American Journal of International Law or written a book in the field of international law or affairs, or published an article on international law or affairs in another leading journal;
  - b. Served actively on a Committee of the Society;

- c. Served actively in an Interest group of the Society, or the Editorial Advisory Committee of International Legal Materials;
- d. Participated actively in a Society research project;
- e. Organized or appeared on a panel at a regional meeting of the Society;
- f. Organized or appeared on the program at an Annual Meeting of the Society;
- g. Participated in official or representative capacity in the organization or judging of the Jessup Competition at any level.
- h. Represented an institution competing in the semi-final round of the Jessup Competition.

In those exceptional cases in which it is believed that the Executive Council needs a depth of knowledge in some particular aspect of the Society's activities greater than can be found among the many members with a breadth of experience, evidence of such depth of knowledge may replace the evidence of breadth of experience specified above.

Explanation: Since many members of the Society have done all of these things or all but the last, this guideline can scarcely be regarded as unduly restrictive. The two-unit activity requirement for nominees under 30 will permit outstanding younger people experienced in the Jessup efforts on both regional and national levels to qualify for the Executive Council. It would be expected that those people would be able to serve the Society in one of the other five ways before turning 32. Publication of a book, scholarly article in a major journal, or comment, note, or book review in the AJIL is not a major problem for those considered for the Executive Council in part on the evidence of their scholarly contributions to the science of International Law. Service on Committees of the Society is open to all; some Committees would attract practitioners and Government people more than teachers. Interest Groups are also open to all, but mere membership without active participation should not be taken into account. The Editorial Advisory Committee of ILM seems fully equivalent of a Study Panel and is predominantly non-

academic. Activity in the regional activities of the Society is open to all; where full time teachers may have more time to organize regional meetings, interested practitioners and Government people frequently serve on regional panels. Appearance on the program of the Annual Meeting would include commentators as well as scholars; ideally the program at the Annual Meeting includes active members of all branches of our discipline. The administration and judging of regional rounds of the Jessup Competition involves work of great importance to the future of the Society; that experience should be reflected in the membership of the Executive Council. Practitioners frequently serve as judges in regional rounds. Successful competition at the regional level leading to participation in the Washington rounds of the Jessup Competition introduces younger members into the activities of the Society significantly different from the experience of administering or judging regional rounds.

3. Each nominee to the Executive Council should have attended at least two of the three Annual Meetings preceding the nomination. Participation in the semi-final or final rounds of the Jessup Competition should be considered attendance at the Annual Meeting.

Explanation: The Annual Meeting is the only event on the Society's calendar at which all aspects of the Society's activities can be discussed by the entire active membership. It is difficult to understand how a member of the Executive Council can serve a representative function without attending the Annual Meeting. Conversely, in view of the international membership of the Society, presence at the Annual Meeting is the only way in which a member of the Society can experience the style, judgment, and accessibility of a nominee. It seems important for the morale and sense of community of the Society that the membership have an opportunity personally to contact prospective members of its highest policy-making body within the informal atmosphere of the Annual Meeting or at the Jessup Competition's Washington rounds. In this regard, it is a factor to be considered that a prospective

nominee be present at the general meeting and otherwise take an active part at the Annual Meetings attended.

4. The following persons should not be considered eligible for nomination to the 24 Executive Council positions:
  - a. Any current member of the Nominating Committee;
  - b. Any of the Executive Council members whose three-year term is due to expire upon the election of the new nominees, except up to three of those members who are completing their first term on the Executive Council.

Explanation: The delicate job of the Nominating Committee and the need to avoid the appearance of factionalism in the Society dictate the first restriction. As to the second, the Constitution of the Society currently provides for three-year overlapping terms for non-titled Executive Council members. The need for continuity is thus taken account of by having 16 members continue in the Executive Council in any one year. The need for a constant flow of talent, the infusion of new ideas, the representation of less articulate constituencies, and the opportunity for active members to rise to policy positions in the Society is difficult to meet when re-nominations of retiring Executive Council members occur. As we view the membership of the Society, there is no shortage of willing talent and no need to ask those who have just completed three years on the Executive Council to sacrifice their time and energy beyond that point. If any particular retiring members of the Executive Council are of such respected stature and sound view that their retention in the Council is highly desirable, that talent is best recognized by nomination to a named office which carries with it membership in the Executive Council. Members whose other commitments would permit activity in the Executive Council but not a named office should be encouraged, by this Guideline, to accept a recommendation of the Nominating Committee to devote the additional effort to the Society that their colleagues ask for, or to step aside and allow room for others to demonstrate their judgment in the Executive Council and fit themselves for higher office. The

exception for up to three members completing their first term on the Executive Council takes account of the possibility that some members of the Executive Council serving their first terms have difficulty playing a full role in the Council until they have had a year or two of direct experience there.

## II. The Named Officers

For many years the nominations for Treasurer and Secretary have not been discretionary in the Nominating Committee. Since those positions have responsibilities that require experience and time to discharge properly, it is not appropriate that they be rotated among the active membership.

The title of Vice President which goes with the office of Executive Director of the Society seems appropriate in view of the functions of that job. No change is recommended in that designation.

There remain the offices of Honorary President, President, President-Elect, three Honorary Vice Presidents and three Vice Presidents. Those are positions of high honor and responsibility and a great deal of leeway must be allowed to the Nominating Committee. Nonetheless, two guidelines seem appropriate:

1. Each nominee other than the Executive Director should have served at least one full three-year term on the Executive Council and meet the Guidelines for nomination to the Executive Council except Guideline 4(b).

Explanation: This guideline should not be controversial since the named officers are ex officio members of the Executive Council and should be at least as highly qualified in the activities of the Society as the other members.

2. At least one of the nominees should have been Program Chair or Co-Chair of the Annual Meeting of the Society; at least one should have served on the Editorial Board of the American Journal of International Law.

Explanation: Since it is a function of the Executive Council to pass on plans for the Annual Meeting each year, and to approve recommendations by the Editorial Board of the Journal with regard to the

appointment of new Editors, the insertion of expertise at the named officer level in both these areas seem appropriate. It would normally be expected that the named officer nominee with experience on the Editorial Board of the Journal not be a current member of the Editorial Board's nominating committee.

### III. Implementation

It is recommended that the Nominating Committee be required to report to the general membership of the Society at the Annual General Meeting on how the Guidelines have been implemented. With regard to the Executive Council, the report should state the number who are under thirty-two years of age, women, ethnic minority persons, following each of the major career lines mentioned in Guideline I.1.b, and the geographic regions represented. No individual's name need be mentioned in this part of the report. With regard to individual nominees, the report should specify the relevant activities of each nominee during the preceding three years or longer if necessary. The report may merely affirm in the name of the Nominating Committee that each nominee has attended at least two of the preceding three Annual Meetings as specified in Guideline I.3. The report should specify which, if any, of the new nominees are finishing current terms on the Executive Council. If it appears that any nominees do not meet the criteria set forth in the Guidelines or that the complete Executive Council does not incorporate the general distribution of experience outside the Society specified in the Guidelines, the Nominating Committee should be encouraged to add explanations to its report. Finally, the Nominating Committee should be encouraged to comment on the adequacy of the Guidelines and to make specific reasoned recommendations where its experience indicates the desirability of amending them.

Explanation: Such a report would not only assure appropriate attention to the Guidelines by the Nominating Committee and the Executive Council, but would also permit a greater participation in the nominating process by the general membership without actually changing the distribution of powers now contained in the Constitution and Regulations of the Society.

#### IV. Further Recommendations

The Ad Hoc guidelines Committee has no responsibility or authority to examine the functions, membership, or selection procedures for places in the program of the Annual Meeting or membership on the Committees, Interest Groups, projects or other of the Society's arms. However, it has become apparent during our deliberations that these guidelines represent only part of a review of the general management and organization of the Society that could now be undertaken. Arrangements should be considered to make it easier for interested members, particularly younger members, to satisfy the guidelines for individual qualification for nomination to the Executive Council and higher positions by participation in the work of the Committees, Interest Groups and projects, and the Annual Meeting. Records should be kept of the activities of the members of the Society so that those suited for selection to positions of responsibility are not overlooked through mere inadvertence. From a long-range perspective, it might be appropriate to appoint a Committee on Committees or Committee on Activities to supervise the keeping of those records and recommend further reforms in the process by which members are selected for active participation in the various activities of the Society. These are all matters which we believe should be faced now, and we commend the attention of the Executive Council to them.

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