

Report of the Ethics & Elections Committee—January-June 2012

The Ethics and Elections Committee received two requests during the first half of 2012. The first was for access to filed nominating petitions; the second was to disqualify the candidacy of an amateur for Section Manager.

Access to election petitions

In early June, E&E received a request from an unsuccessful candidate in last fall's election for copies of the nomination forms for each of the candidates in that election. The past practice of the Ethics and Elections Committee has been to share the names and call signs of petition signers on request, but not copies of the actual petitions, during the campaign period.

This request had two features that E&E had to consider:

1. The election occurred months ago, and the period for an appeal had long since expired.
2. Two of the signatures on the petition submitted for the candidate requesting the copies are crossed out, both with staff notation that the signatures had been withdrawn as a result of a phone call.

In addition, the candidate did not actually challenge any of the petitions, nor identify any particular flaw that was to be examined.

E&E denied the request, primarily in view of the late challenge but also because no specific reason was cited. In addition, E&E created a guideline for itself and future committees, and this is included here as Appendix 1.

Request to disqualify candidate for Section Manager

E&E received a request to disqualify a candidate in the upcoming WNY Section Manager election. Since this was in one of his sections, Director Edgar recused himself from this discussion. Based on the information received by the committee, it declined to disqualify the candidate. Appendix 2 recounts this logic.

The candidate who requested disqualification then requested a review of E&E's decision by the Board, per Bylaw 41 on June 27. The vote terminated on June 28, by a 9 to 6 vote to uphold E&E's finding.

Here is a quote from Director Ahrens' e-mail on the subject (27 June):

According to Mr. Sumner's email, the E&E Committee "agreed that the election should proceed, i.e. that Mr. Mueller should not be disqualified as a candidate at this time." As I understand it, our review under Bylaw 41 is limited to the materials submitted to the E&E committee. After reviewing those materials, I believe the E&E's decision was supported by the evidence and information available to it and I don't find sufficient basis in those materials to overturn the E&E decision.

Observation on the Board vote on WNY

The ARRL Bylaws provide a method of appealing the decisions of the E&E Committee.

From Bylaw 41:

"Decisions of the Ethics and Elections Committee may be reviewed by the Board of Directors upon the written request of any candidate for that office or five or more Directors. *Review shall be limited to the materials submitted to the Ethics and Elections Committee.* [Italics added.] A majority of the Board of Directors is required to change any decision of the Ethics and Elections Committee."

In the event of future appeals, we encourage Directors to remember to restrict our consideration to materials supplied to E&E, as required in Bylaw 41. This Bylaw contemplates Board review, rather than a new or "de novo" consideration of additional evidence and materials. Certainly Directors have the right to draw different conclusions from the materials than the conclusions reached by the E&E Committee. But when the review is limited to the materials, Directors should not look beyond those materials for additional evidence and facts about the matter.

Respectfully submitted:

2012 Ethics and Elections Committee

Mr. Edgar
Mr. Vallio
Mr. Widin, Chairman

Appendix 1.

Considerations about nominating petitions for ARRL office.

Nominating petitions have long been a part of ARRL's election process. As in all elections, there is a delicate balance between those wishing to assure a fair and open process, and those participating in elections, whose choice of or support for a candidate is a matter of personal privacy.

In all ARRL elections, staff and the Ethics and Elections Committee are responsible for verifying eligibility of candidates and nominators alike. When an individual is found ineligible, the basis for that finding need not be published.

For these reasons, requests to see submitted nominating petitions will not be granted summarily. Making these petitions available in toto could easily support a "fishing expedition," for supposed difficulties with a particular nomination.

No access to nominating petitions will be permitted more than 5 days after the relevant election.

Once a petition has been submitted, no signatures will be permitted to be "recalled," even by the signer. If this were permitted, a candidate in good faith could be disqualified without recourse to any remedy. This causes no hardship, since a signer is not limited in the number of petitions that can be signed.

In all other questions regarding nominating petitions, the Ethics and Elections Committee must be guided by seeking appropriate balance among electoral transparency, individual privacy, and the interests of the ARRL membership in creating a smooth-running process and organization of the League's activities. The League's Bylaws provide the process to be used to appeal any decision of the Ethics and Elections Committee.

Appendix 2:

Statement concerning election for Western New York Section Manager, June 2012

Steve Ryan, K2ITF, submitted a request to disqualify his opponent, John Mueller, K2BT, in the election for Western New York Section Manager. Essentially, Ryan submitted material that alleged that Mueller refused to turn over records of ARES members, which Mueller contended that he no longer had. On the strength of this, Ryan alleged that Mueller did not meet the test of character required to participate in an ARRL election.

The Ethics and Elections Committee (minus recused Atlantic Division Director Bill Edgar) reviewed the information submitted by Ryan along with records from Chris Imlay, who had unsuccessfully sought to obtain these ARES records from Mueller. None of this material was sufficiently conclusive to convince Bob Vallio and me that Mueller was truly unfit for office. It was obvious that Mueller is a difficult personality, but that is not adequate reason to declare him ineligible to run for election. We concluded that the electorate in WNY probably knew a great deal more than what we had seen about the situation, and had a right to vote, rather than having the election snatched out from under them. Accordingly, we declined to reject Mueller, which would instead allow the election to proceed with two candidates. Here is the statement I sent to Mr. Sumner summarizing our decision:

In brief, it appears to us that there is not adequate information at this time to support holding back the WNY election from normal elections. And since the process for that election is due to kick off next week, there isn't adequate time to raise our level of information to a point where a reasonable judgment can be made.

Moreover, we are agreed that the electorate in the WNY Section is ultimately the group which must exercise its discretion to determine whether they want Mr. Mueller to represent them. Accordingly, E&E declines to alter the election process in WNY.

Ryan appealed this decision of E&E to the Board through the process provided in our ByLaws. The Board voted by e-mail on the appeal of the E&E committee.

On 28 June, Mr. Sumner posted this summary:

All Directors having been heard from, there were nine votes to affirm the decision of the Ethics and Elections Committee and six opposed. Accordingly, the decision is affirmed.