

Order

Entered: February 3, 2004

ADM File No. 2003-15

Administrative Order No. 2004-01

State Bar of Michigan Activities

On order of the Court, notice of the proposed changes and an opportunity for comment in writing and at a public hearing having been provided, and consideration having been given to the comments received, Administrative Order 2004-01 is adopted, effective immediately. Administrative Order 1993-5 is rescinded, effective immediately.

I. Ideological Activities Generally.

The State Bar of Michigan shall not, except as provided in this order, use the dues of its members to fund the activities of an ideological nature that are not reasonably related to:

- (A) the regulation and discipline of attorneys;
- (B) the improvement of the functioning of the courts;
- (C) the availability of legal services to society;
- (D) the regulation of attorney trust accounts; and
- (E) the regulation of the legal profession, including the education, the ethics, the competency, and the integrity of the profession.

The State Bar of Michigan shall permanently post on its website, and annually publish in the Michigan Bar Journal, a notice advising members of these limitations on the use of dues and the State Bar budget.

II. Activities Intended to Influence Legislation.

- (A) The State Bar of Michigan may use the mandatory dues of all members to review and analyze pending legislation.

- (B) The State Bar of Michigan may use the mandatory dues of all members to provide content-neutral technical assistance to legislators, provided that;
- (1) a legislator requests the assistance;
 - (2) the executive director, in consultation with the president of the State Bar of Michigan, approves the request in a letter to the legislator stating that providing technical assistance does not imply either support for or opposition to the legislation; and
 - (3) the executive director of the State Bar of Michigan annually prepares and publishes in the Michigan Bar Journal a report summarizing all technical assistance provided during the preceding year.
- (C) No other activities intended to influence legislation may be funded with members' mandatory dues, unless the legislation in question is limited to matters within the scope of the ideological-activities requirements in Section I.
- (D) Neither the State Bar of Michigan nor any person acting as its representative shall take any action to support or oppose legislation unless the position has been approved by a two-thirds vote of the Board of Commissioners or Representative Assembly taken after all members were advised, by notice posted on the State Bar website at least 2 weeks prior to the Board or Assembly meeting, that the proposed legislation might be discussed at the meeting. The posted notice shall include a brief summary of the legislation, a link to the text and status of the pending legislation on the Michigan Legislature website, and a statement that members may express their opinion to the State Bar of Michigan at the meeting, electronically, or by written or telephonic communication. The webpage on which the notice is posted shall provide an opportunity for members to respond electronically, and the comments of members who wish to have their comments made public shall be accessible on the same webpage.
- (E) The results of all Board and Assembly votes on proposals to support or oppose legislation shall be posted on the State Bar website as soon as possible after the vote, and published in the next Michigan Bar Journal. When either body adopts a position on proposed legislation by a less-than-unanimous vote, a roll call vote shall be taken, and each commissioner's or assembly-person's vote shall be included in the published notice.

(F) Those sections of the State Bar of Michigan that are funded by the voluntary dues of their members are not subject to this order, and may engage in ideological activities on their own behalf. Whenever a section engages in ideological activities, it must include on the first page of each submission, before the text begins and in print larger than the statement's text, a disclosure indicating

(1) that the section is not the State Bar of Michigan but rather a section whose membership is voluntary,

(2) that the position expressed is that of the section only, and that the State Bar has no position on the matter, or, if the State Bar has a position on the matter, what that position is,

(3) the total membership of the section,

(4) the process used by the section to take an ideological position,

(5) the number of members in the decision-making body, and

(6) the number who voted in favor and opposed to the position.

If an ideological communication is made orally, the same information must be effectively communicated to the audience receiving the communication.

Although the bylaws of the State Bar of Michigan may not generally prohibit sections from engaging ideological activity, for a violation of this Administrative Order or the State Bar of Michigan's bylaws, the State Bar of Michigan may revoke the authority of a section to engage in ideological activities, or to use State Bar facilities or personnel in any fashion, by a majority vote of the Board of Commissioners. If the Board determines a violation occurred, the section shall, at a minimum, withdraw its submission and communicate the withdrawal in the same manner as the original communication occurred to the extent possible. The communication shall be at the section's own cost and shall acknowledge that the position was unauthorized.

III. Challenges Regarding State Bar Activities.

(A) A member who claims that the State Bar of Michigan is funding ideological activity in violation of this order may file a challenge by giving written notice, by e-mail or regular mail, to the executive director.

- (1) A challenge involving legislative advocacy must be filed with the State Bar by e-mail or regular mail within 60 days of the posting of notice of adoption of the challenged position on the State Bar of Michigan website; a challenge sent by regular mail must be postmarked on or before the last day of the month following the month in which notice of adoption of that legislative position is published in the Michigan Bar Journal pursuant to section II(E).
- (2) A challenge involving ideological activity appearing in the annual budget of the State Bar of Michigan must be postmarked or e-mailed on or before October 20 following the publication of the budget funding the challenged activity.
- (3) A challenge involving any other ideological activity must be postmarked or e-mailed on or before the last day of the month following the month in which disclosure of that ideological activity is published in the Michigan Bar Journal.

Failure to challenge within the time allotted shall constitute a waiver.

(B) After a written challenge has been received, the executive director shall place the item on the agenda of the next meeting of the Board of Commissioners, and shall make a report and recommendation to the Board concerning disposition of the challenge. In considering the challenge, the Board shall direct the executive director to take one or more of the following actions:

- (1) dismiss the challenge, with explanation;
- (2) discontinue the challenged activity;
- (3) revoke the challenged position, and publicize the revocation in the same manner and to the same extent as the position was communicated;

(4) arrange for reimbursement to the challenger of a pro rata share of the cost of the challenged activity; and

(5) arrange for reimbursement of all members requesting a pro rata share of the cost of the challenged activity in the next dues billing.

(C) A challenger or the State Bar of Michigan may seek review by this Court as to whether the challenged activity violates the limitations on State Bar ideological activities set forth in this order, and as to the appropriate remedy for a violation.

(D) A summary of the challenges filed under this section during a legislative term and their disposition shall be posted on the State Bar's website.

IV. Other State Bar Activities.

The State Bar of Michigan shall:

(A) annually publish in the Michigan Bar Journal a notice informing members that, upon request, their names will be removed from the mailing list that is used for commercial mailings, and

(B) annually publish in the Michigan Bar Journal a notice informing members of the Young Lawyers Section that, upon request, their membership in that section will be terminated.