

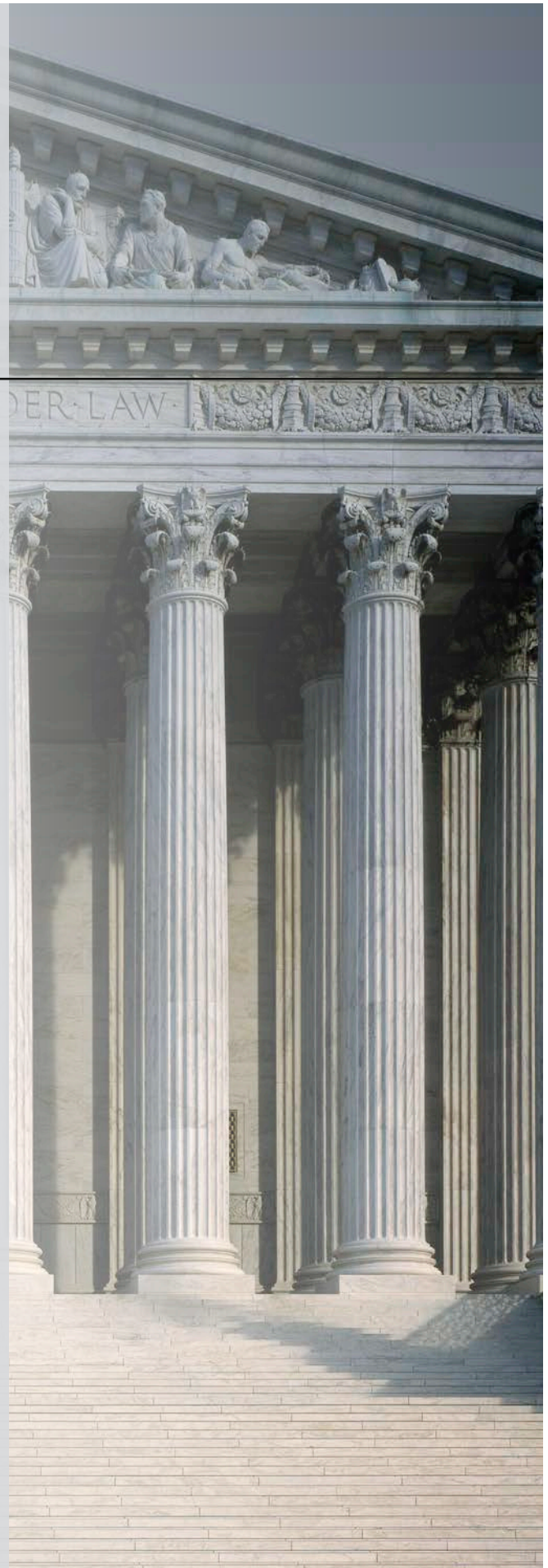


Mandatory State Bar Associations

Managing Keller

The following information regarding mandatory bars and how they manage Keller related activities was compiled by State Bar of Michigan between February 2014 and May 2014. This was a significant research initiative to support the Michigan Supreme Court Task Force on the Role of the State Bar of Michigan. As information was gathered, executive directors from several state bars expressed an interest in receiving this compilation of material. We are pleased to share this information with those who find it useful. Please note that the State Bar of Michigan does not update this compilation as policies and statutes change in various states. Users are encouraged to check with the state bars directly to learn of any relevant changes.

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[EXCERPT FROM HAWAII STATE BAR ASSOCIATION BOARD POLICY]

7.2 LEGISLATIVE POSITIONS AND ACTIVITIES UNDERTAKEN OR FUNDED BY HSBA AS A WHOLE [Board originally adopted 2/20/92; amended 2/18/99]

- A. **Application of Policy.** This policy applies to activities undertaken or funded by HSBA, or positions taken or proposed to be taken by the Board of Directors on actual or proposed legislation or resolutions ("Legislation").
- B. **Keller Policy.** HSBA will not use mandatory dues, engage in activities, permit the use of its name in relationship with, or take positions on, political or ideological issues unless the HSBA Board:
1. determines to a reasonable certainty, that the issue is germane to the purposes of the unified bar ("germane" under Keller means "regulating the legal profession" or "improving the quality of legal services available to the people of the State"); and
 2. believes that such activities or position taken by the HSBA generally would be supported by its members.
- C. **Procedures.**
1. **Keller Determination and Initial Screening.**
 - a. The initial screening of requests for the Board to engage in any activity or take a position on Legislation shall be performed by the Executive Director, President, or the Executive Committee. Such screening shall include an analysis of whether the Legislation satisfies the requirements of Keller.
 - b. If it is not clear whether the Legislation satisfies the requirements of Keller, the Executive Committee can make the determination or bring the issue to the Board.
 - c. The Executive Director is to keep, for a period of not less than six months, a copy of each request to the Board to take a position on Legislation, which any Board member may review at any time during office hours.
 - d. If a request for the Board to take a position on Legislation does not pass the initial screening, any person may send the request to Board members directly.
 2. **Obtaining and Disseminating Information.**
 - a. A party requesting the Board to take a position on Legislation shall be asked to provide an outline supporting the position of such party and to also identify a person or group from whom an opposing view can be obtained. The HSBA staff will invite comments from the opponent.
 - b. Time permitting, an attempt will be made to refer the subject Legislation to the

appropriate Section of the HSBA with a request that the Section submit the Legislation to its members or Board and recommend a position or suggest that no position be taken, in either case providing to the Board a summary of the pros and cons of the Legislation, including an analysis of whether the Legislation satisfies the Keller requirements. The Sections are encouraged to obtain input from as much of their membership as practical and, in any event, shall advise the Board of the source of the position given to the Board (i.e., the membership, directors and/or officers of the Section).

- c. From time to time, the various Sections shall be requested to produce, if practical, general statements of position on timely, basic issues, including an analysis of whether the subject matter satisfies the Keller requirements and the various opposing views regarding the issue.
- d. Time permitting, requests for comments to the Legislation shall be published in an HSBA publication.
- e. Every effort is to be made to provide Board members with as much information as possible in a concise format and with as much advance notice as reasonably possible.
- f. If the Board has inadequate information or inadequate time to review the available information, the Board is encouraged to decline to take a position.

3. Voting

- a. With respect to Legislation brought to the Board which does not satisfy the Keller requirements, the Board shall first vote on whether to take a position and, if the vote is in the affirmative, shall then vote on the merits of the Legislation.
- b. Where action by the Board cannot be reasonably delayed until a Board meeting, polling of the Board members in writing or by personal contact shall be permissible.
- c. As a general rule, input from, and the vote of, all Board members is to be solicited. The HSBA staff will attempt to contact Board members who do not respond to an initial request. The President or Executive Committee may take action in exigent circumstances when it is impractical to obtain input from the full Board, in which case notice of the action taken will be sent to all Board members as soon thereafter as reasonably practical.

4. Submission by the HSBA.

All written testimony or comment approved by the Board and submitted on behalf of the HSBA as a whole shall be on official Hawaii State Bar Association letterhead; and no section or committee shall use such letterhead for submission of its testimony or comment unless previously reviewed and approved by the Board for adoption as the position of the HSBA.