

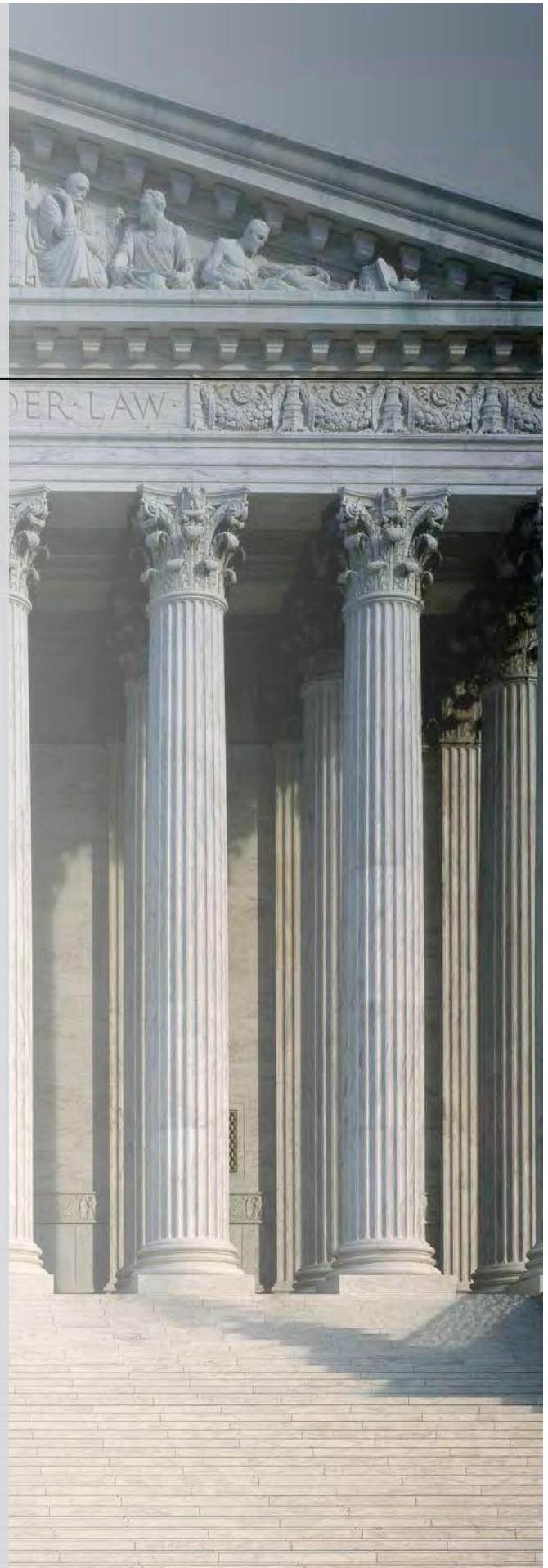


Mandatory State Bar Associations

# 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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**State Bar of Nevada**

**Policies**

**Bylaws of the Board of Governors**

**Policy 1: CONFLICT OF INTEREST**

1.1 The Board of Governors of the State Bar of Nevada (State Bar), its officers, employees, committee members and section officers must act at all times in the best interests of the State Bar and not for personal or third-party gain or financial enrichment. When encountering potential conflicts of interest, Board members shall identify the potential conflict and as required, remove themselves from all discussion and voting on the matter. Specifically, members of the Board of Governors and those mentioned above shall:

- (a) avoid placing (and avoid the appearance of placing) one's own self-interest or any third-party interest above that of the State Bar; while the receipt of incidental personal or third-party benefit may necessarily flow from certain State Bar activities, such benefit must be merely incidental to the primary benefit to the State Bar and its purposes;
- (b) not abuse their position by improperly using their position on the Board to direct staff of the State Bar, or use State Bar, services, equipment, materials, resources, or property for their personal third-party gain or pleasure, and shall not represent to third parties that their authority as a Board member extends any further than that which it actually extends;
- (c) not engage in any outside business, professional or other activities that would directly, or indirectly, materially adversely affect the State Bar;
- (d) not engage in or facilitate any discriminatory or harassing behavior directed toward the State Bar staff, members, officers, directors, meeting attendees, exhibitors, advertisers, sponsors, suppliers, contractors, or others in the context of activities relating to the State Bar;
- (e) not solicit or accept gifts, gratuities, free trips, honoraria, personal property, or any other item of value from any person or entity as a direct or indirect inducement to provide special treatment to such donor with respect to matters pertaining to the State Bar without fully disclosing such items to the Board of Governors;
- (f) provide goods or services to the State Bar as a paid vendor to the State Bar only after full disclosure to, and advance approval by, the Board, and pursuant to any related procedures adopted by the Board;
- (g) not persuade or attempt to persuade any member, exhibitor, advertiser, sponsor, subscriber, supplier, contractor, or any other person or entity with an actual or potential relationship to or with the State Bar to terminate, curtail or not enter into its relationship to or with the State Bar, or to in any way reduce the monetary or other benefits to the State Bar of such relationship;
- (h) disclose, in writing, if the Board member is related to another Board member or any staff member by blood, marriage or domestic partnership; and
- (i) disclose, in writing, if the Board member is involved in any business or other professional relationship with any staff member.
- (j) not represent anyone with adverse action to any administrative interests of the State Bar.

- 1.2 This policy shall apply not only to all members of the Board of Governors, but also shall apply to all members of State Bar committees, task forces, and others in the State Bar governance structure, as well as to all State Bar employees. All references herein to the Board of Governors shall be construed also to refer to these additional individuals.
- 1.3 The Executive Committee of the Board of Governors shall operate as a compliance committee to insure the proper application and implementation of this policy.

### **Policy 2: ABA HOUSE OF DELEGATES**

- 2.1 *Selection* Nominations for the House of Delegates for the American Bar Association (ABA) must be in writing. The applicants must file a volunteer application with the Executive Director. Election of an ABA delegate must be conducted by vote of the Board of Governors. The ABA delegates will be elected from the state at large and the term of office is two years. ABA delegates must be in-state active members of the Bar. The Board must fill a vacancy in the office of ABA delegate due to a delegate's resignation, death or any other reason in the same manner as provided for board members.
- 2.2 *Voting* Each delegate to the ABA House of Delegates, as a condition of election, must vote substantially consistent with any position or direction of the Board of Governors.
- 2.3 *Expenses* The State Bar of Nevada will reimburse State Bar delegates to the ABA House of Delegates their individual expenses in attending the ABA annual and mid-year meetings. Expenses subject to reimbursement under this section do not include those reimbursed by the ABA to individual delegates, and are limited to an amount established by the Board of Governors. Bar reimbursement of delegate expenses must not exceed each delegate's proportionate share of the total amount established by the Board of Governors each year.

### **Policy 3: MEDIA RELATIONS**

- 3.1 The Bar will be responsive to the needs of the media and will identify persons to speak for the Bar. All statements made to the media, whether oral or by news release, must be informational in nature and must avoid statements of personal opinion or positions not considered or adopted by the Board. The President is the official chief spokesperson for the Bar. The President may also designate a spokesperson for the State Bar. If public appearances or statements by the chairperson or other officer or member of any bar committee are deemed necessary, prior authority must be obtained in advance from the President.

### **Policy 4: COMMUNICATIONS**

- 4.1 *General Policy* Communications of the Bar and its constituent groups and entities, including printed material and electronic communications, should be germane to the law, lawyers, the practice of law, the courts and the judicial system, legal education and the Bar in its role as a mandatory membership organization. Communications, other than permitted advertisements, should advance public understanding of the law, legal ethics and the professionalism and collegiality of the bench and Bar.
- 4.2 *Editorial Policy* The Board of Governors may approve editorial standards for Bar communications submitted by the Nevada Lawyer Editorial Board or the Publications Committee and material

permitted by the Bar to be included in its communications concerning such matters as advertising, political communication, profanity and obscenity, letters to the editor, use of artwork, photographs and illustrations, story placement, headlines and scheduling, advertising content and rates and similar topics.

4.3 *Campaign Advertisements* Judicial candidates and candidates for the Board of Governors may advertise at standard charges in *Nevada Lawyer*, but partisan political advertising is not allowed. Partisan political announcements or endorsements will not be accepted for publication as letters to the editor or feature articles.

4.4 *Membership Surveys and Questionnaires*

- (a) A survey to specific groups of the membership from bar staff, sections or others must have the prior approval of the Executive Director.
- (b) A section may survey its own membership without prior approval.

4.5 *Directed Communication with Constituency* - Board members may communicate directly with members of their constituencies. Communications may be disseminated in any media form. Mailing lists will be provided at no cost to the Board member for such communications.

- (a) Communications shall include the following statement at the beginning of the document in no smaller than a 10 point font, "Message from Your Board of Governor. This message is sent to you as a personal opinion from your representative Board of Governor and may not represent the positions or views of the State Bar of Nevada Board of Governors."
- (b) Communication that express personal opinion must clearly state the collective decision of the Board of Governors, if there is one, in addition to the opinion. In this instance, the communication must include a disclaimer stating, "The content of this communication is the personal opinion of the author and not that of the Board of Governors."
- (c) Communications may not include decisions reached or opinions expressed during executive session.
- (d) A copy of any communication sent to members by Board members will be kept by the Executive Director of the State Bar of Nevada.

*This addition to the communications policy was approved and added to the policies by the Board of Governors on December 7, 2011.*

#### **Policy 5: SECTIONS**

5.1 *Purpose* Sections are an integral and important part of the Bar. Sections are intended to provide Bar members who share particular interests an opportunity to develop and improve skills and to provide a forum for communication and action in matters of common interest.

5.2 *Formation* At least five active members may make written application to the Board of Governors to form a section. The application shall:

- (a) identify at least 20 persons who are active members of the State Bar of Nevada and in good standing who are willing to join and become members of the proposed section;
- (b) designate with specificity the practice constituency area or field of law for which formation of the section is being proposed;
- (c) state the immediate and long-range goals of the proposed section, including any goals with respect to providing continuing legal education;
- (d) have attached a copy of the proposed bylaws for the governance of the section;
- (e) identify the persons who are proposed to serve as initial officers of the section.

- 5.3 *Bylaws* Sections are governed by the Bylaws adopted by the Board. Sections may propose and the Board may approve, modified bylaws commensurate with the section's needs.
- 5.4 *Finances* The Bar will assess and collect section dues at the same time that bar membership dues are collected. The Board must approve the dues for each section. Each section should set dues at an appropriate level to pay for programs and activities. No section may maintain a separate bank account. Each section's receipts and expenditures are handled by the Bar and accounted for in the section's monthly financial statement provided by the Bar. Interest on section accounts accrues to the Bar's General Fund and is used to offset the administration for the sections. Section programs that utilize additional staff time for programs or services (i.e. CLE or administration) shall be charged an additional fee as set forth by the Board of Directors.
- 5.5 *Donations* Sections may make donations to charitable causes only with the prior approval of the Executive Director. The Executive Director will allow such donations only on a showing by the prospective donor that the donation of section funds to the charitable entity is related to the purposes for which the section exists as set forth in the section's bylaws.
- 5.6 *Administrative Services* Special services of the Bar, such as publications or product development, may be made available at cost to sections upon notification to the Bar.
- 5.7 *Continuing Legal Education Activities* The Bar is the informational clearinghouse for the CLE activities of each section. Each section should advise the Bar's CLE Department of any proposed CLE activities at the earliest possible date and in accordance with timelines established by the CLE Committee.
- 5.8 *CLE Event Co-sponsorship with Bar* If a section decides to seek co-sponsorship for a CLE event, it is encouraged to first contact the Bar's CLE Department. If the CLE Department is unavailable to co-sponsor the seminar event, the section then may seek co-sponsorship with other organizations. The CLE Committee, with approval of the Board of Directors, will establish policies for Bar co-sponsorship of section CLE events. These policies will address issues such as event revenues and expenses, topic, speakers, date and location.

#### **Policy 6: COMMITTEES**

- 6.1 *Standing and Special Committees* Standing or special committees of the Bar or officer of those committees may be appointed or discharged by the President or the Board.
- 6.2 *Committee Responsibilities* Committees are established so that members can study issues within the committees' charge and make recommendations to the Board. This charge outlines the committee's ongoing general activities as well as specific issues to be considered for the year. Committees may also recommend issues to the Board to be included in the charge at any time.
- 6.3 *Membership* All members of standing committees must be active or inactive members of the Bar. The Board shall appoint or reappoint members to a committee. The Board will solicit member preference for serving on committees throughout the year. The Board appoints members to fill vacancies that occur throughout the year. These vacancies occur because members resign or are unable to participate fully in the committee. Nominations for committee appointment must be submitted using the committee volunteer form. The Board will appoint the chair and vice-chair of the committee in consultation with the committee. Term limits vary from committee to committee.

## **Policy 7: FINANCIAL MATTERS**

7.1 *General Policy* All funds paid to the Bar will be received by the Executive Director acting for and on behalf of the Bar in a checking account or accounts with a commercial bank or financial institution. The Executive Director will make all disbursements from such accounts. The Board's Budget Committee and the Investment Committee will adopt the policy governing the investment, reinvestment, sale, conversion or other disposition of funds of the Bar, subject to the approval of the Board.

7.2 *Audits* The books of account of the Bar must be audited at least annually, unless otherwise directed by the Board.

### 7.3 *Borrowing*

- (a) The President and the Executive Director acting for and on behalf of the Bar, are authorized and empowered:
- (1) To borrow from any bank, or other lending agency, on the terms agreed on between the officer and the lender and approved by the Board, a sum deemed prudent and necessary to effectuate the mission of the Bar.
  - (2) To execute and deliver to any lender or other depository, the promissory note or notes or renewals thereof of the Bar at rates of interest and on terms as may be agreed on.
  - (3) To mortgage, pledge or encumber and deliver to the lender, as security for the payment of loans, any savings of the Bar, regardless of form, on deposit with the lender.
  - (4) To execute and deliver to any lender any financing statements, security agreements or other instruments in writing, of any kind or nature, that may be necessary to complete a financial transaction.
  - (5) To draw on or endorse to any lender the savings on deposit or to dispose of the proceeds there from as may be deemed advisable.
  - (6) To perform other acts and to execute and deliver to any lender other documents as may be deemed reasonable, necessary or proper.
- (b) The President and the Executive Director, acting for and on behalf of the Bar, are also authorized and empowered to execute and deliver documents to any lender to memorialize or otherwise complete any borrowing or other financial transaction that has been previously authorized by the Board of Governors.

7.4 *Check Signatures* Cash disbursements of \$2,000 or more require two signatures. The Executive Director and officers are authorized signatories on State Bar accounts.

7.5 *Contractual Contracts* The Executive Director is authorized to execute contracts on behalf of the State Bar consistent with the approved budget for obligations less than \$10,000.00. Contracts obligating the State Bar to amounts greater than \$10,000.00 or in excess of one year will require the approval of the Board of Governors. *This policy was approved and added to the policies by the Board of Governors on August 18, 2009.*

7.6 *Annual Budget* The Executive Director will develop a draft annual budget for review and approval by the Budget Committee. The Budget Committee will submit its recommendation for final approval to the Board.

7.7 *Approval by Board of Governors* After the annual budget is adopted, the Board must approve a substantive programmatic change not anticipated or included in the budget.

7.8 *Operating Account* The Operating Account will maintain cash sufficient to assure fulfillment of obligations to the membership. The account will be used to sustain an acceptable level of operation and continue service to the membership if the standard level of operations is interrupted by unforeseen events. It is also used to offset the effects of an operational reversal until expenditures can be adjusted and to fund specific future capital enhancements and improvements in the operation of the Bar.

7.9 *Reserve Funds* Separate reserve funds will be established and maintained as Board-authorized reserve funds, defined as follows:

- (a) *Operating Reserve Fund* Established and maintained within the annual budget to assure continued operation of the Bar in the event of a non-dues revenue reversal or a catastrophic event. Operating reserves are set at 10% of annual operating expenses.
- (b) *Building Reserve Fund* established as a fund to set aside capital for the eventual purchase of Las Vegas facilities. Building reserves have been set as a \$500,000 annual contribution.
- (c) *LRIS Restricted Fund* Contributions to this fund come from the LRIS program. Annual contributions come from the revenues less expenses. LRIS restricted funds are used to grant monies in the Public Service Pro Bono Grant Program. Annual grant formula is set at 5% of restricted LRIS funds from previous years plus 50% of LRIS revenues less expenses for the prior calendar year.
- (d) *Dues Reserve* Planning for the most recent dues increase, which took effect on January 1, 2006, incorporated the concept of a five year dues cycle. The amount of the dues increase was set in anticipation of increasing cash flow sufficient to cover anticipated growing expenses from January 1, 2006, through December 31, 2011. It was anticipated that the State Bar would be in a revenue neutral position year end 2008 and begin drawing on reserves in the last years of the 5 year cycle. Revenues are projected and expenses are budgeted consistent with this five year dues cycle concept.

During the earlier years of the dues cycle, the amount by which annual revenues exceed annual expenses are accumulated in a "Dues Reserve." Funds in the Dues Reserve are available during the later years of the dues cycle, when it may be necessary to budget annual expenses in excess of annual revenues. Allocating funds to the Dues Reserve provides: (1) documentation of how well the bar is doing in budgeting and (2) a measure of its financial performance, with the goal of not raising dues for at least five years from January 1, 2006.

7.10 *Investment Policy* This statement of the investment policy has been adopted by the Board of Governors of the State Bar of Nevada to provide guidelines for the investment of funds held by the organization.

This policy is set forth for purposes of managing investment risk and to optimize investment returns and maintenance of liquidity. The investment policy shall be managed within the parameters outlined by Supreme Court Rule 86.11. This Policy and any amendments to it must be authorized by action of the Board of Governors.

- (a) *Investment Committee* The Investment Committee is involved in the management of State Bar of Nevada investment funds. Members of the Investment Committee include two members of the Board of Governors appointed by the President of the State Bar, the chair of the Budget and Finance Committee as a liaison, and one at-large committee member.
- (b) *Reviews* On a semiannual basis, or as deemed necessary, the Investment Committee will review the mix of investments for surplus funds to ensure the funds are managed in a fiscally sound manner and to achieve the highest return on investments within the parameters set forth by the Board of Governors. The Investment Committee shall report to the Board of Governors quarterly.
- (c) *In-house Management/Investment Manager* The Board of Governors, through the Investment Committee, may charge State Bar staff to invest funds according to the investment plan set forth by the State Bar Investment Policy. Or the Investment Committee may, with approval by the



Board of Governors, contract with an investment manager for professional investment services. The selection of the investment manager shall be the subject of a request for proposal procedure every three years. The investment manager will monitor the various investment alternatives and select securities which best meet the State Bar's overall, long-term goals.

- (d) *Investment Criteria* Investment funds may be placed in:
- (1) Commercial banking or savings accounts
  - (2) Certificates of deposit
  - (3) Bonds and debentures of the United States, the maturity dates of which shall not extend more than 10 years from the date of purchase
  - (4) Bills and Notes of the United States Treasury, the maturity date of which is not more than 10 years from date of purchase
  - (5) Obligations of the United States Postal Service or the Federal National Mortgage Association, the maturity date of which is not more than 10 years from the date of purchase;
  - (6) Bonds of federal agencies, where underwritten by or payment is guaranteed by the United States.

7.11 *Investment Management* The Executive Director is authorized and directed to deposit, sell, convert or withdraw cash on deposit in excess of that required for current operations and to invest those funds in accordance with the Bar's reserve and investment policy using expert advice and assistance as he or she may require. The Investment Committee will review the investment portfolio at least annually, using expert advice and assistance as it may require.

7.12 *Expense Reimbursements* Bar employees and members of the Board of Governors or any other special task force or committees named by the Board of Governors will be reimbursed for their expenses in accordance with this policy when acting in their official capacities. Expenses of spouses or guests will not be reimbursed except as specifically approved by the Board of Governors. The Bar must receive requests for expense reimbursement no later than 5 days after the expense has been incurred. If an expense reimbursement form is not submitted within 5 days after the meeting, it must be submitted not later than 45 days after year-end and include justification as to why it was not timely submitted. If these two requirements are not met, reimbursement will not be paid. Supporting documentation in the form of original receipts or copies of original receipts must be submitted with all requests for reimbursement of expenses while acting on official bar business.

7.13 *Eligible Expenses* Eligible reimbursable expenses while on official business include the following:

- (a) *Out-of-State Travel* Out-of-state travel for Board members will be reimbursed for those persons and meetings set forth in the Bar's annual budget or as otherwise approved by the Board of Governors. Employees must obtain prior approval of the Executive Director prior to traveling out-of-state.
- (b) *Board of Governors Travel* Board members will be reimbursed for expenses incurred for attendance at Board meetings, including the Board meeting held during the annual meeting as set forth in the Bar's annual budget.
- (c) *Transportation* Use of a personal automobile is reimbursed at the allowable IRS rate. Airfare is reimbursed at the actual cost of coach fare. Actual cost of taxi, bus or other public transportation is reimbursable. Actual cost of car rental at economy car rate when other transportation is not readily available.
- (d) *Lodging* Actual cost for a moderately priced, double-occupancy room, except when the location of the meeting or conference requires other arrangements. Receipts for lodging must be attached to the reimbursement form.
- (e) *Meals* Reimbursement for meals will be made at actual cost of the meal provided that it meets the standard of reasonableness. Meals purchased for members of the Bar or other persons in the course of official bar business will be reimbursed at actual cost with submission of receipts and

an explanation provided it meets the standard of reasonableness. Official dinners, meetings or banquets of the Bar which eligible persons and their spouses or guests are expected to attend will be paid for by the Bar and, if not, will be eligible for reimbursement.

- (f) *Miscellaneous Costs* Telephone, postage, office expense, registration fees and other legitimate business expenses will be reimbursed at actual cost with submission of receipts or an explanation of the business purpose of the expense.

### **Policy 8: LEGISLATION AND PUBLIC POLICY**

8.1 *Guidelines* Bar legislative or policy activities must be reasonably related to any of the following subjects: Regulating and disciplining lawyers; improving the functioning of the courts including issues of judicial independence, fairness, efficacy and efficiency; making legal services available to society; the education, ethics, competence, integrity and regulation of the legal profession; issues involving the structure and organization of federal, state and local courts in or affecting Nevada; issues involving the rules of practice, procedure and evidence in federal, state or local courts in or affecting Nevada; or issues involving the duties and functions of judges and lawyers in federal, state and local courts in or affecting Nevada.

8.2 *Legislative Process* Because of the nature of the legislative process, the Board retains the right to sponsor or take positions on appropriate legislation. In so doing, the Board will make a reasonable effort to do the following:

Encourage as wide a participation of the membership as possible in formulating positions on legislative issues; inform members, especially sections and committees, of the Bar's legislative positions; respect divergent opinions of subgroups within the legal profession; provide assistance to Bar sections and committees; and avoid committing Bar funds to issues that are divisive or result in creating factions within the profession.

8.3 *Committees and Sections* Any committee or section wishing to sponsor legislation or take a position on any rule or public policy issue will inform the Board of Governors of the exact nature of the legislation proposed. A copy of the bill, proposed rule or policy will be presented for consideration and approval of the Board. A committee or section of the Bar may not represent to the legislature or any individual, committee or agency thereof, a position or proposal or any bill or act, as the position of that committee or section of the Bar without the majority approval of the members of that committee or, in the case of a section, the executive committee and the prior approval of the Board, except as follows:

- (a) *Adoption of Legislative Positions* A section may propose to support or oppose the adoption of legislation by the Nevada State Legislature only on the following limited terms. A section's position on legislation must (1) relate closely and directly to the administration of justice; (2) involve matters which are not primarily political and as to which evaluation by lawyers would have particular relevance if not related closely and directly to the administration of justice; or (3) come within the section's special expertise and jurisdiction. Any proposed legislative position must be adopted by the section pursuant to those procedures set forth in the section's bylaws, as previously approved by the Board of Governors.

Upon adoption of a legislative position, the section shall present the proposed legislative position to the Board of Governors for review. If the Board of Governors approves of the legislative position taken by the section, the section may take the legislative position and may assert that the legislative position is endorsed by the State Bar generally or the Board of Governors.

If, on the other hand, the Board of Governors disapproves of the legislative position taken by the section, the section shall not take a position on such matter.

If the Board of Governors does not expressly disapprove of the section's position, or fails to take any action on the section's legislative position, the section may, as a section, seek to influence the legislation if and only to the extent that all such efforts and activities of the section to influence the legislation are funded entirely from the voluntary dues of its section members, and not through any funds obtained from the State Bar of Nevada through its imposition of mandatory dues. Under such circumstances, the legislative action taken by the section shall be clearly identified as the legislative position of the section and not that of the State Bar or the Board of Governors. A legislative position statement of a section to a legislative body must, as a preamble, contain the following disclaimer in capital letters and underlined:

*This position is being presented only on behalf of the (\_\_\_\_) Section of the State Bar of Nevada. This position should not be construed as representing the position of the Board of Governors or the general membership of the State Bar. The (\_\_\_\_) Section, which takes this position, is a voluntary section of (\_\_\_\_) members composed of lawyers practicing in a specified area of law.*

*This position is taken as a result of a vote of (\_\_\_\_) to (\_\_\_\_) of the executive committee of the (\_\_\_\_) Section, which is the governing body of that section. No approval or disapproval of the general membership of this section has been obtained.*

This disclaimer shall be filed before the presentation of testimony with the clerk of the committee or subcommittee before which testimony is to be presented. Additionally, the disclaimer must be read at the beginning of any oral testimony before a committee or subcommittee.

If the general membership of the section has approved the section's position, paragraph 2 of the disclaimer may be omitted.

- (b) *Amicus Curiae Briefs* A section that wishes to enter an *amicus curiae* appearance before any court must obtain prior approval from the Board. The request must be in writing and must include a synopsis of the question involved, the posture of the case, the position to be taken in the *amicus* appearance, and the anticipated cost of appearing *amicus curiae* including lawyer fees, if any. The question involved must directly or substantially affect admission to the practice of law, discipline of members of the bench or bar, the method selecting members of the judiciary or other questions of substantial interest to the State Bar or section. If the Board approves the filing of an *amicus curiae* appearance by a committee, the Bar will pay any costs for the appearance.

**8.4 Objections to Use of Bar Dues** A member of the Bar who objects to the use of any portion of the member's Bar dues for activities he or she considers promotes or opposes political or ideological causes may request the Board to review the member's concerns to determine if the Board agrees with the member's objections. Member objections must be in writing and filed with the Executive Director of the Bar. The Board will review each written objection received by the Executive Director at its next scheduled Board meeting following receipt of the objection. The Board will respond through the Executive Director in writing to each objection. The Board's response will include an explanation of the Board's reasoning in agreeing or disagreeing with each objection.

**8.5 Refund** If the Board agrees with the member's objection, it will immediately refund the portion of the member's dues that are attributable to the activity, with interest paid on that sum of money from the date that the member's fees were received to the date of the Bar's refund. The statutory rate of interest will be used. If the Board disagrees with the member's objection, it will immediately offer the member the opportunity to submit the matter to binding arbitration between the Bar and the objecting member.

**Policy 9: CONTINUING LEGAL EDUCATION**

- 9.1 *Self-Supporting Philosophy* The entire CLE function will be operated out of the Bar's general fund, but must be generally self-supporting or as nearly so as possible, with seminar registration fees fixed accordingly. However, because some seminars and publications cannot break even individually, prices for other seminars and publications may be fixed to provide a generally self-supporting CLE function. Except as otherwise provided herein, participating members of the Bar will not receive compensation for services on behalf of CLE, beyond a modest memento or other recognition and payment of expenses within Board guidelines.
- 9.2 *Reduced and Complimentary Registrations* Complimentary admission to CLE seminars is available to lawyer CLE Committee members. Complimentary admission does not include the cost of lunch or other fee-based activities held in conjunction with a CLE seminar.
- 9.3 *Expenses of Speakers and Planners* CLE seminar speakers and planners will be admitted free to the seminar and receive seminar materials without charge. CLE seminar speakers and planners are eligible for reimbursement for necessary travel expenses subject to the Bar's travel reimbursement policies.



### Policy 10: MEMBER SERVICES

- 10.1 *Administrative Services* Administrative services, such as mailing lists and labels will be provided to member and nonmember groups at the cost of providing the service or product following guidelines set forth by the Board. Priority is given to official bar business.
- 10.2 *Member Benefits* Providers of Bar-sponsored member benefits may use the Bar's logo in their advertising and promotional material with the prior approval of the Executive Director. They may also indicate approval or endorsement by the Board in such material if the Board has approved or endorsed the program. Inactive membership status does not affect the eligibility of a member for bar-sponsored programs.
- 10.3 *Military Dues* An active member of the state bar who is activated from reserve duty status to full-time active duty in the Armed Forces of the United States for more than sixty days in any calendar year, and who is deployed or stationed outside the United States shall be exempt from the payment of membership fees upon submitting to the Executive Director satisfactory proof that he or she is so activated, deployed or stationed. All requests for exemption must be postmarked or delivered to the state bar offices on or before March 1 of the year for which the exemption is requested. Eligible members must apply every year they wish to claim an exemption. Each exemption applies for only the calendar year in which it is granted, and exemptions may be granted for a maximum total of five years for any member.

*This policy was approved and added to the policies by the Board of Governors on March 4, 2009.*

### Policy 11: LAWYERS CONCERNED FOR LAWYERS

- 11.1 *Lawyers Concerned for Lawyers Program* (SCR 106(5)) The Lawyers Concerned for Lawyers program is a voluntary program created by the Board of Governors to assist lawyers who are suffering from a psychological disorder or impairment, or a drug, alcohol, gambling, or other addictive compulsive disorder.
- Individuals, who make a good faith report to the Lawyers Concerned for Lawyers program, and the coordinator, agents or employees of the Lawyers Concerned for Lawyers program, shall be absolutely immune from civil liability. No action may be predicated upon the filing of a good faith report with the Lawyers Concerned for Lawyers program or any action taken in connection with such a filing by the coordinator, agents, or employees of the Lawyers Concerned for Lawyers program.
- All information obtained by the Lawyers Concerned for Lawyers program including the initial report and any subsequent information provided to the program thereafter, shall be confidential and shall not be admissible in any State Bar disciplinary, admission, administrative, or other State Bar proceeding.

### Policy 12: DISCIPLINE

- 12.1 *The Discipline Process* **Grievances** must be submitted in writing to the State Bar. They can be submitted by mail, e-mail using the State Bar of Nevada's online complaint submission form, hand delivered, or faxed.
- All grievances are reviewed by Bar Counsel within one to two business days. If Bar Counsel is going to be unavailable, he/she designates another attorney in the Office of Bar Counsel to review the incoming grievances.
- The following may happen upon review of an initial grievance.

- (a) If the grievance has no factual basis or does not constitute misconduct, the complaint will be dismissed and the grievant will be notified in writing.
- (b) A file can be opened immediately. An open grievance file is defined as a file in which a case number is assigned and the matter must be presented to a Screening Panel of the Northern or Southern Disciplinary Board pursuant to SCR 105(1)(a). Once a file is opened, the grievance will be forwarded to the attorney who generally is given two weeks to provide a response. Once the response is received from the attorney, it usually is forwarded to the grievant for a reply. The grievant also is given two weeks to reply. Further investigation is conducted as needed, and the matter then be presented to a screening panel as soon practicable.
- (c) If the grievance needs further investigation prior to deciding whether to open a file, the grievance will be forwarded to the attorney who is given two weeks to respond. Once the response is received by the attorney, it is then forwarded to the grievant for a reply. The grievant is also given two weeks to reply. After a second review by Bar Counsel, the grievance will then either be:
  - (1) Dismissed; or
  - (2) Opened. If a file is opened, it usually occurs within six to eight weeks of the receipt of the initial grievance. Since the investigation is typically completed at this point, it can be presented to a screening panel.

The Screening Panel can vote for:

- (a) Dismissal
- (b) A Letter of Caution, which essentially is a "better practice letter." This is a dismissal of the disciplinary matter with language cautioning the attorney regarding his or her conduct so the same situation does not occur again. This letter is authored and issued by Bar Counsel or another attorney in his office.
- (c) Private Reprimand and a fine of up to \$1000 and/or restitution. This is issued by the Screening Panel
  - (1) The attorney has the right to appeal the reprimand before an informal or formal hearing panel. The appeal period is fourteen days.
  - (2) Informal hearings consist of a panel of three members which can result in the reprimand being upheld, dismissed, or dismissed with cautionary language. This hearing is usually convened within two months of the screening panel's decision.
  - (3) Formal Hearings consist of a panel of five members and can result in either a dismissal or any form of discipline. This hearing is usually convened within two months.
- (d) Formal Hearing
  - (1) Formal Complaint filed by Bar Counsel and heard before a panel of five members or, if the parties stipulate to a conditional guilty plea, a panel of three members. The complaint is almost always filed within one week of the screening. The Respondent has twenty days to answer the complaint. The hearing generally takes place within two months of the answer being filed. The Formal Hearing panel has the option of rendering its decision at the time of the hearing or rendering a written decision within thirty days.
  - (2) Record on Appeal is sent to the Nevada Supreme Court for panel recommendations resulting in a contested public reprimand, suspension or disbarment. This must be submitted by Bar Counsel within thirty days of the entry of the panel's decision. Once submitted to the Supreme Court, the final order is usually entered within three to six months.

12.2 *Criminal Convictions* Pursuant to Supreme Court Rule 111, upon being advised of a **conviction** of a crime other than a misdemeanor traffic violation not involving the use of a controlled substance, Bar Counsel has the duty to obtain a certified copy of the conviction or other evidence of conviction and file a petition with the Supreme Court.

- (a) *Monitoring Possible Convictions* Based upon good relations with the bar, our office learns of attorney arrests from judges, district attorneys, criminal defense attorneys and other lawyers. Our office has taken a pro-active approach in monitoring possible convictions. Additionally, an online search of the newspapers in Reno and Las Vegas with key words such as "attorney," "lawyer," and "arrest" is performed regularly to see if any arrests have been made.
- (b) *Pending Criminal Matters* Once an arrest and subsequent criminal complaint is discovered, the Office of Bar Counsel requests the complaint and police report to determine the facts underlying the criminal allegations.

The Office of Bar Counsel takes a "wait and see" approach on some of the criminal cases by simply monitoring the case through its conviction. Examples here are misdemeanors for domestic violence or driving under the influence.

In other matters, a discipline file is immediately opened. The key to opening these files is whether any of the criminal allegations stem from the practice of law and/or the lawyer using his status in the community to commit the crime. Opening a file is of great significance to a lawyer, as their response to the State Bar could also be used in their pending criminal case.

The State Bar did open a file on Lawrence Davidson when Davidson forged a judge's signature and misappropriated settlement funds. The State Bar filed an emergency petition for a temporary suspension, which was granted, while the U.S. Attorney was preparing a case for the grand jury for the forgery charge. The State Bar was able to secure disbarment by consent from Davidson prior to the federal government filing its case regarding the theft of client funds. The federal government even used the State Bar's formal hearing complaint in their criminal complaint.

- (c) *Log of Pending Criminal Matters* Once the Office of Bar Counsel learns of an arrest, a log is created. These criminal cases are monitored every month by a paralegal/investigator and reported to Bar Counsel. Once a conviction occurs, the certificate of conviction is ordered.
- (d) *Filing of the SCR 111 Petition with the Supreme Court* Once the petition is filed with the Supreme Court, the Supreme Court has routinely entered one of two orders.
  - (1) *Felony Conviction or Serious Crime* If the underlying crime is a felony or a crime less than a felony with the specific elements defined in SCR 111(6), then the attorney is immediately temporarily suspended by the Supreme Court and the matter is referred to the appropriate Disciplinary Board with the sole issue to be determined being the extent of discipline to be imposed. These orders usually come within thirty days of the petition being filed. A formal complaint is filed by the Office of Bar Counsel, followed by Respondent's answer and then a formal hearing is scheduled.
  - (2) *Misdemeanor Convictions* If the crime is a misdemeanor with none of the elements listed in SCR 111(6), then the Supreme Court enters an order requiring the Respondent to show cause why they should not receive a temporary suspension. Based on Respondent's response to the Show Cause Order, the court may refer the matter to a disciplinary board for any action it deems warranted or the Court may decline to refer the matter to the board. If the matter is referred to the board, a formal complaint is filed.
- (e) *Grievance Concerning a Current Board of Governor Member* The Executive Director shall be immediately informed of the grievance. The Executive Director will then meet with the State Bar of Nevada President to have an independent attorney retained to act as special bar counsel in that matter only. If the grievance is concerning the President, then the Executive Director shall meet with the President Elect. *This addition to the discipline policy was approved and added to the policies by the Board of Governors on August 18, 2009.*

Special Bar Counsel shall review the grievance and decide how to procedurally address it, i.e. open file or treat it as a correspondence matter that does not need to be presented to a Screening Panel of the Disciplinary Board.

Once it is determined how to handle the matter, the Special Bar Counsel shall then notify the Respondent board of governor member that a grievance was received and have them address the allegations within ten (10) days.

The Office of Bar Counsel's standard operating procedure is to provide the grievant with a copy of the Respondent's response and provide them with an opportunity to reply within ten (10) days. However, it is not mandatory for the grievant to reply.

If it is determined that a file is to be opened, it must be presented to a Screening Panel before the Disciplinary Board pursuant to SCR 105.

If the file is not opened immediately but it is determined after an investigation that it should be opened, then the matter is presented to a Screening Panel before the Disciplinary Board pursuant to SCR 105.

If the matter is treated as a correspondence matter and dismissed, all parties must be informed of the dismissal.

The Office of Bar Counsel should be made available to assist the Special Bar Counsel with **procedural advice only**. The Office of Bar Counsel can also be utilized to schedule the hearings with the Disciplinary Board chair.

If the matter does proceed to a formal hearing, Special Bar Counsel shall represent the State Bar in all stages of the disciplinary process, including the appellate phase in the Supreme Court.

### Policy 13: COMPLAINTS

#### **Complaints against the State Bar; Officers; Board of Governors**

The state bar often receives complaints against the state bar. The policy noted below involves complaints leveled at the Officers, Board of Governors or executive staff. It does not cover complaints against bar counsel as a result of a discipline activity, the processes for such complaints are directed by SCR 104.3.

Claims and complaints against the state bar are often times unsubstantiated or frivolous, although all are taken seriously and researched by the state bar general counsel. Claims and complaints against the state bar, officers, board of governors and staff are handled as follows.

Upon receipt of a complaint the general counsel immediately informs the executive director, president and Board of Governors. This notification includes:

- Nature of complaint
- Names and parties involved
- Opinion whether the complaint is frivolous
- Whether state bar insurance carrier is to be notified
- Steps taken to respond to complainant

General Counsel will also provide information regarding the response the Officers, Board of Governors and staff should make regarding such complaints. As a general rule of thumb, all inquires on the matter should be directed to the state bar's general counsel.

State Bar Officers and Board of Governors will be kept apprised of the status of the matter at the regular Board reports by the general counsel or when the situation warrants an update.



#### **Policy 14: AMICUS BRIEF**

The bylaws state that for a section to enter an amicus curiae appearance before any court, the section must obtain prior approval of the Board of Governors.

*Amicus Curiae Briefs* A section that wishes to enter an amicus curiae appearance before any court must obtain prior approval from the Board. The request must be in writing and must include a synopsis of the question involved, the posture of the case, the position to be taken in the amicus appearance, and the anticipated cost of appearing amicus curiae including lawyer fees, if any. The question involved must directly or substantially affect admission to the practice of law, discipline of members of the bench or bar, the method selecting members of the judiciary or other questions of substantial interest to the State Bar or section. If the Board approves the filing of an amicus curiae brief appearance by a committee, the Bar will pay any costs for the appearance.

The Board will look for the following information from a section seeking approval on an Amicus Brief.

The Board will ask for a report that includes:

- Due dates of the brief
- An overview of the issue
- The posture the section is taking
- The Nevada aspects / what are the Nevada specific issues the section is addressing
- What are the overarching public issues that this addresses
- List of section members working on the brief
- Assurances that there is not one person pushing a matter or no hidden agendas or conflicts
- A list of other legal organizations writing a brief on the same matter
- Approval of the sections executive committee
- Anticipated budget impact

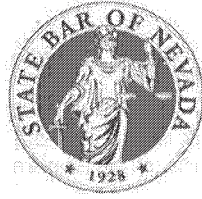
The Board will want to ensure that it has:

- A record of the specifics and why the Board approved the brief (or not)
- That the Section/Board is not advocating for a particular party
- That there are Nevada specific matters addressed
- That the brief is a collaborative effort by the section (not just one person)
- Does not violate Keller restrictions

#### **Policy 15: STATE BAR OF NEVADA LOGO**

The State Bar of Nevada logo (below) is the organizational logo for the sole purpose and use by the State Bar of Nevada. Members of the State Bar of Nevada are not permitted to use the logo for any purpose.  
October 2010





**State Bar of Nevada**

**Notes**

**Bylaws of the Board of Governors**

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State Bar of Nevada

Notes

Bylaws of the Board of Governors

**AN EXECUTIVE SUMMARY OF KELLER AND RELATED CASE LAW**

Several important court decisions have been issued since 1990, limiting the types of activities to which the State Bar of Nevada can be engaged. These cases, known as *Keller* and its progeny, address the appropriate use of mandatory bar dues for all State Bar activities and address appropriate procedures for addressing dissenting members' objections. This summary highlights the most important points that the courts have made in the development of the *Keller* doctrine.

**I. *KELLER v STATE BAR OF CALIFORNIA*, 496 U.S. 1 (1990)**

The *Keller* doctrine originated from a U.S. Supreme Court opinion issued in 1990, which stated that the compelled association within a unified bar is justified by the State's interest in the following areas: (1) regulating the legal profession, and (2) improving the quality of legal services.

Essentially, *Keller* held that "[t]he State Bar may therefore constitutionally fund activities germane to these goals out of mandatory fees of all members." Furthermore, the court added that the State Bar "may not, however, in such manner, fund activities of an ideological nature which fall outside of these areas of activity."

The *Keller* court also provided the following test in order to assist bar associations when determining permissible expenditures – "whether the challenged expenditures are necessarily or reasonably incurred for the purpose of regulating the legal profession or 'improving the quality of the legal service available to the people of the state.'"

**II. *GIBSON v THE FLORIDA BAR*, 906 F.2d 624 (11<sup>TH</sup> Cir. 1990)**

*Gibson* was one of the first courts to accept the strategy that if a state bar decides to be "*Keller*-pure" and offer its members a constitutional procedure for objecting to expenditures of their mandatory dues, then the court need not concern itself of any specific activity engaged in by the bar. In *Gibson*, the 11<sup>th</sup> Circuit has stated that when considering the constitutionality of a bar associations' objection resolution procedure, rebate procedures will be acceptable in lieu of an advanced deduction procedure. It is also okay for a bar association to require a dissenting member to object to specific activities. Finally, the *Gibson* court determined that a three-member arbitration panel (as the procedure for handling an objection member's dissent) is constitutionally acceptable.

**II. *THE FLORIDA BAR RE FRANKEL*, 581 So.2d 1294 (Fla., 1991)**

The Florida Supreme Court found that the following six areas were permissible areas for actions by the Florida Bar: (1) Questions re disciplining attorneys; (2) Matters re improvement of court functioning; (3) Increasing legal services to society; (4) Regulating Trust accounts; (5) Education, ethics and integrity of the legal profession; and (6) Issues of: (a) great public interest; (b) that lawyers are trained to evaluate; (c) where the subject matter effects the rights of those involved in the judicial system.

The court also found the following three areas were not permissible areas for lobbying by the Florida Bar: Various children's rights; Welfare reform; and Benefits Legislation.

**IV. SCHNEIDER v COLEGIO, 917 F.2d 620 (1<sup>st</sup> Cir. 1990), cert. den. 502 U.S. 1029 (1992)**

In this case, the First Circuit held that it is not permissible for the bar to take a position that rests upon partisan views rather than lawyerly concerns. Consequently, the bar cannot use mandatory dues for lobbying on controversial bills to change the law in ways not directly linked to the legal profession or the judicial system.

*Colegio* also provides a list of acceptable activities that are chargeable even to dissenting members: (1) Lobbying regarding issues related to the core purpose of the bar association (budget appropriations for judges, increased salaries for government lawyers, positions against statutory limits on attorney advertising); (2) Attorney discipline; (3) Continuing Legal Education; (4) Admission of new attorneys; (5) Supervising law schools; (6) Increasing availability of legal services through Legal Aid; (&) Public education regarding legal services; and (8) Commentary on the function of the court system.

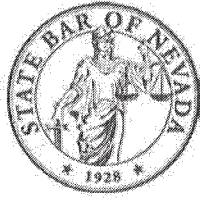
**V. LEHNERT v FERRIS FACULTY ASSOCIATION, 500 U.S. at 519**

In *Lehnert*, the U.S. Supreme Court addressed the question of what activities may be charged to dissenting members in a union, rather than a bar association. The *Lehnert* court concluded that chargeable activities must have three traits: (1) be germane to the core activity of the union; (2) be justified by the government's vital policy interest supported by mandatory membership in the union; and (3) not significantly add to the burdening of free speech that is inherent in the allowance of mandatory membership in the union. *Lehnert*, 500 U.S. at 519.

**VI. ROMERO v COLEGIO ABOGADOS PUERTO RICO, 204 f.3d 291 (1<sup>st</sup> Cir. 2000)**

This case reaffirms two principles: (1) a unified bar can give financial support to core related bar activities and (2) members cannot be compelled to contribute to "ideological activities not 'germane' to the purpose for which the compelled association is justified." This case also raises a third issue as to whether compelled bar association dues may be used to fund non-ideological and non-germane activities. The big issue presented was whether the Association of lawyers, the *Colegio* could compel members to purchase group life insurance. The court felt the mandate violated the *Keller* doctrine but rather than declare the requirement to be unconstitutional, the court remanded the issue back to the Puerto Rico Supreme Court to certify the following question: "Is the *Colegio* [the association] . . . authorized to compel members to purchase life insurance coverage through the *Colegio* as a condition of membership in the Bar of Puerto Rico?"

The court also approved and reaffirmed the activity of charging members for social activities expenses because they are often diminimus, but also germane.



**State Bar of Nevada  
Investment Policy Statement**

**Approved by Board of Governors  
December 2008**

This statement of the investment policy has been adopted by the Board of Governors of the State Bar of Nevada to provide guidelines for the investment of funds held by the organization.

This policy is set forth for purposes of managing investment risk and to optimize investment returns and maintenance of liquidity. The investment policy shall be managed within the parameters outlined by Supreme Court Rule 86.11. This Policy and any amendments to it must be authorized by action of the Board of Governors.

**Reviews** -- On a semiannual basis, or as deemed necessary, the Investment Committee will review the mix of investments for surplus funds to ensure the funds are managed in a fiscally sound manner and to achieve the highest return on investments within the parameters set forth by the Board of Governors. The Investment Committee shall report to the Board of Governors quarterly.

**Investment Committee** -- The Investment Committee is involved in the management of State Bar of Nevada investment funds. Members of the Investment Committee include at least three members of the Board of Governors appointed by the president of the State Bar. The responsibilities of the Investment Committee are to:

- Review and recommend to the Board of Governors the investment policy;
- Monitor the performance of the investment of State Bar funds;
- Make appropriate investment recommendations to the Board of Governors as necessary.

**In-house Management/Investment Manager** -- The Board of Governors, through the Investment Committee, may charge State Bar staff to invest funds according to the investment plan set forth by the State Bar Investment Policy. Or the Investment Committee may, with approval by the Board of Governors, contract with an investment manager for professional investment services. The selection of the investment manager shall be the subject of a request for proposal procedure every three years. The investment manager will monitor the various investment alternatives and select securities which best meet the State Bar's overall, long-term goals.

**Investment Criteria**

Investment funds may be placed in:

- Commercial banking or savings accounts
- Certificates of deposit
- Bonds and debentures of the United States, the maturity dates of which shall not extend more than 10 years from the date of purchase
- Bills and Notes of the United States Treasury, the maturity date of which is not more than 10 years from date of purchase
- Obligations of the United States Postal Service or the Federal National Mortgage Association, the maturity date of which is not more than 10 years from the date of purchase;
- Bonds of federal agencies, where underwritten by or payment is guaranteed by the United States.

March 29, 2010

Marc Mersol  
State Bar of Nevada  
600 E. Charleston Blvd.


Dear Mr. Mersol:

The State Bar of Nevada requested support as to why the State Bar was not required to pay federal income taxes. Federal income tax is computed based on the calculated gross income. Per the Internal Revenue Code section 115(1), gross income does not include income derived from any public utility or the exercise of any essential governmental function. The State Bar of Nevada is a public corporation created by the statute to govern the legal profession in the State of Nevada under the exclusive jurisdiction and control of the Supreme Court of Nevada. Therefore, as a part of the State of Nevada government, the income from the State Bar of Nevada is derived from public utility and is determined not to be under requirement to pay federal income taxes.

Although we have interpreted the Internal Revenue Code, the Internal Revenue Service (IRS) provides a service free of charge to governmental agencies for which the IRS will issue a "government affirmation letter" describing that the governmental entity is exempt from Federal income tax and cites applicable Internal Revenue Code sections pertaining to the exclusion.

Very truly yours,

Houldsworth, Russo & Company, P.C.

  
Katie Hampton, C.P.A.  
Principal

STATE BAR OF MICHIGAN

**HOULDSWORTH  
RUSSO & CO., P.C.**  
*certified public accountants*



### State Bar of Nevada Committee Application (Attorney)

Application Type: I am an attorney applicant

Name:

Bar number:

Date admitted to State Bar of Nevada:

If admitted to other jurisdictions, please list state and year of admission:

Name of Committee appointments you seek:

Employer:

Email Address:

Phone Number:

Do you have any disciplinary matters pending?

If you have disciplinary matters pending, please explain:

Have you ever had a finding of discipline - public or private - in this or in any other jurisdiction?

If you have had a finding of discipline, please explain:

List any State Bar sections of which you are a member:

List pro bono activities including organizations and pro bono hours:

Fields in which you practice:

Please provide a brief statement indicating why you wish to serve on this committee and what you can contribute.

I do hereby waive any confidentiality and consent to disclosure to the Board of Governors and the Chair of the particular committee(s) of all discipline files and records in jurisdictions where I am or have been admitted to practice regarding any complaints filed against me, open or closed, pending or resolved for the limited purpose of considering my application in this appointment process.

I hereby acknowledge receipt of the State Bar of Nevada Conflict of Interest Policy and I agree to abide by its terms during the tenure of my appointment.

I request an advisory opinion to or a waiver from the conflict of interest policy.

Please attach your resume or biography.

All applications will be submitted online.



## State Bar of Nevada Committee Application (Non Attorney)

Application Type: I am a non attorney applicant

Name:

Bar number:

Date admitted to State Bar of Nevada:

If admitted to other jurisdictions, please list state and year of admission:

Name of Committee appointments you seek:

Employer:

Email Address:

Phone Number:

Do you have any disciplinary matters pending?

If you have disciplinary matters pending, please explain:

Have you ever had a finding of discipline - public or private - in this or in any other jurisdiction?

If you have had a finding of discipline, please explain:

List any State Bar sections of which you are a member:

List pro bono activities including organizations and pro bono hours:

Fields in which you practice:

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Please provide a brief statement indicating why you wish to serve on this committee and what you can contribute.

I do hereby waive any confidentiality and consent to disclosure to the Board of Governors and the Chair of the particular committee(s) of all discipline files and records in jurisdictions where I am or have been admitted to practice regarding any complaints filed against me, open or closed, pending or resolved for the limited purpose of considering my application in this appointment process.

I hereby acknowledge receipt of the State Bar of Nevada Conflict of Interest Policy and I agree to abide by its terms during the tenure of my appointment.

I request an advisory opinion to or a waiver from the conflict of interest policy.

Please attach your resume or biography.

All applications will be submitted online.



## STATE BAR OF NEVADA COMMITTEES

- Advisory Commission on Law Related Education
- Board of Bar Examiners
- Character and Fitness
- Clients Security Fund
- Continuing Legal Education
- Fee Dispute
- Functional Equivalency
- Lawyer Referral and Information Service
- Nevada Lawyer Editorial Board
- Member Benefits
- Publications
- Northern Nevada Disciplinary Board
- Southern Nevada Disciplinary Board
- Lawyer Advertising Advisory Committee
- Standing Committee on Professional Responsibility and Ethics

*The State Bar Board of Governors appoints members to the following:*

- Nevada Commission on Judicial Selection
- Nevada Commission on Judicial Discipline
- Nevada Law Foundation
- Nevada Standing Committee on Judicial Ethics and Election Practices
- ABA House of Delegates



**CHECKLIST**  
**ANNUAL REVIEWS BY THE BOARD OF GOVERNORS**

**Designation of IOLTA foundation SCR 216**

The Board of Governors, with the approval of the Supreme Court, shall designate a tax-exempt bar foundation for the purposes of providing legally-related services to the poor, to the victims of domestic violence, and to children protected by or in need of protection of the juvenile court; promoting or providing law-related educational programs for members of the public; and providing similar programs which qualify for tax-exempt status by the United States Internal Revenue Service under I.R.C. section 501(c)(3) or any additions thereto or amendments thereof. To carry out these purposes, the bar foundation may utilize the income accrued from interest-bearing clients' trust accounts (IOLTA funds) as authorized by Rules 216 through 221, and as the Supreme Court may otherwise order.

**Investment Policy**

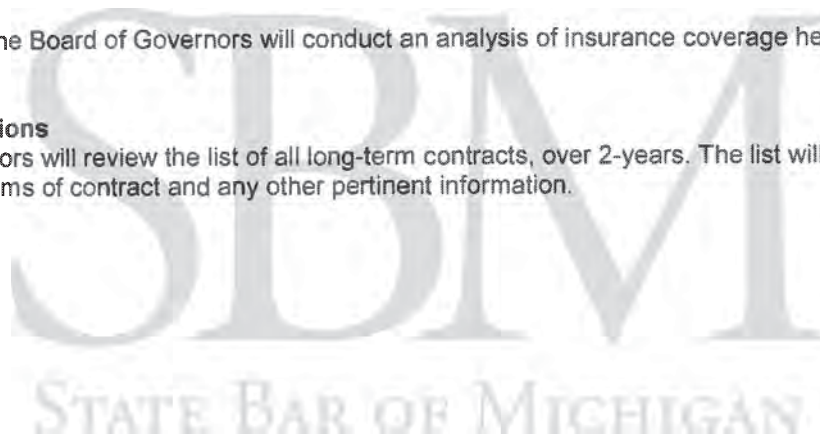
The Investment Committee will review the mix of investments for surplus funds to ensure the funds are managed in a fiscally sound manner and to achieve the highest return on investments within the parameters set forth by the Board of Governors. The Investment Committee shall report to the Board of Governors quarterly.

**Insurance Review**

On an annual basis the Board of Governors will conduct an analysis of insurance coverage held by the State Bar of Nevada.

**Contractual Obligations**

The Board of Governors will review the list of all long-term contracts, over 2-years. The list will include vendor, obligations, costs, terms of contract and any other pertinent information.



**BOARD OF GOVERNORS**  
**PROPER NOTICE OF MEETINGS**

<b>Meeting Types</b>	<b>Notice</b>	<b>Quorum Location, Date and Time</b>	<b>Scope of Business</b>
<b>Regular Meeting</b> Held quarterly, notice given by Executive Director. (SCR 87(1)).	By written notice delivered via U.S. mail or electronically to Board members stating location, date and time, at least three (3) day notice (BOG By-laws. § 5.3).	All meetings eight (8) members constitute a quorum. Discretion to hold meetings at a date, time and location, inside or outside of NV. (SCR 87(4); BOG By-laws. § 5.4).	Any business may be presented for consideration. (SCR 87(2); BOG By-laws. § 5.7)
<b>Special Meeting</b> Can be called by the President or five (5) members of the Board. (SCR 87(2)).	Notice must be signed by executive secretary or designee and delivered to each Board member at least five (5) days before fixed date. (SCR 87(3)).	All meetings eight (8) members constitute a quorum. Discretion to hold meetings at a date, time and location, inside or outside of NV. (SCR 87(4); BOG By-laws. § 5.4).	Any business may be presented for consideration. (SCR 87(2)); BOG By-laws. § 5.7)
<b>Emergency Meeting</b> Can be called by the President when President determines the matter requires immediate attention of the Board. (BOG By-laws. (§§ 5.2, 5.5).	May be called with a 24 hour notice to Members of the Board. Notice must indicate the subject matter to be considered (BOG By-laws. § 5.2).	All meetings eight (8) members constitute a quorum. Discretion to hold meetings at a date, time and location, inside or outside of NV. (SCR 87(4); BOG By-laws. § 5.4).	Shall be considered only for the matters which notice was given.(BOG By-laws. § 5.2). Meeting can be in person, or via video or teleconference participation by some or all Board members
<b>Business Meeting</b> Shall be held at the annual meeting. (SCR 87(1)).	Shall be held at the annual meeting, Governed by SCR 94.	All meetings eight (8) members constitute a quorum. Discretion to hold meetings at a date, time and location, inside or outside of NV. (SCR 87(4)); BOG By-laws. § 5.4).	
<b>Budget Meeting</b> The same rule requires that an additional meeting be held to cover the budget. Rules are not clear whether a budget meeting is part of the annual meeting or may be convened independently. (SCR 87(1)).	This meeting can be handled as a regular or special meeting if not incorporated into the Annual meeting	All meetings eight (8) members constitute a quorum. Discretion to hold meetings at a date, time and location, inside or outside of NV. (SCR 87(4)); BOG By-laws. § 5.4).	



**STATE BAR OF NEVADA**  
Board of Governors  
Conflict of Interest Policy

1. Upon appointment to a State Bar of Nevada board, committee, task force, or section, you will be required to sign and submit **for each appointment** a *Conflict of Interest Policy acknowledgment form* as a condition of your appointment.
2. After reviewing the Policy and provided materials, sign and return the acknowledgment form.
3. Unless you believe you have a waiver, failure to return the acknowledgment form will automatically revoke your appointment.
4. If, after reviewing the Policy, you believe you may have a conflict, you may:
  - Request an advisory opinion of the State Bar Executive Committee through General Counsel on the enclosed form; or
  - Request a waiver.
5. Requests for advisory opinions and waivers must be accompanied by the appropriate form, include sufficient facts to render a determination, and submitted in care of State Bar General Counsel. You should receive a response within thirty (30) days (provided sufficient information is included).
  - You will not be asked to begin your volunteer service until a decision is rendered and you either resign your appointment, submit the executed Conflict of Interest Policy Acknowledgment form, or receive a waiver.
  - In the event you receive an advisory opinion indicating a waiver is not necessary, if you choose to continue with your appointment, you must submit the acknowledgement form or request a waiver notwithstanding within ten (10) business days from receipt of the opinion.

SBN rev. July 2010



State Bar of Nevada  
Board of Governors

**CONFLICT OF INTEREST POLICY**

**ACKNOWLEDGMENT FORM**

I, \_\_\_\_\_, HEREBY ACKNOWLEDGE RECEIPT OF THE STATE BAR OF NEVADA'S CONFLICT OF INTEREST POLICY I AGREE TO ABIDE BY ITS TERMS DURING THE TENURE OF MY APPOINTMENT.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Volunteer Position Held

When completed, please return to:

c/o State Bar of Nevada  
600 E. Charleston Blvd.  
Las Vegas, Nevada 89104

December 2009



**STATE BAR OF NEVADA**  
**Request for Advisory Opinion or Waiver**  
**Pertaining to the Board of Governors**  
**Conflict of Interest Policy**

**For SBN Use Only**

Date Rec'd \_\_\_\_\_

Reviewed by  
Counsel \_\_\_\_\_

Reviewed by  
Ex. Committee \_\_\_\_\_

Waiver issued Y N

Response \_\_\_\_\_

\_\_\_ I am requesting an advisory opinion

\_\_\_ I am requesting a waiver

Name: \_\_\_\_\_ Bar Number \_\_\_\_\_

Firm Name (if applicable): \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_ Contact Phone \_\_\_\_\_

State Bar board, committee, task force, or section related to this request:

\_\_\_\_\_

This request is made under the State Bar Board of Governors Conflict of Interest Policy §1.2 and §1.3 (full policy available at [www.nvbar.org](http://www.nvbar.org)):

*1.2 This policy shall apply not only to all members of the Board of Governors, but also shall apply to all members of State Bar committees, task forces, and others in the State Bar governance structure, as well as to all State Bar employees. All references herein to the Board of Governors shall be construed also to refer to these additional individuals.*

*1.3 The Executive Committee of the Board of Governors shall operate as a compliance committee to insure the proper application and implementation of this policy. Requests for advisory opinions on and waivers of conflicts of interest shall be submitted through State Bar General Counsel for action by the Executive Committee*

Please attach a narrative of the facts which form the basis of your potential conflict, and, where applicable, the basis upon which you believe a waiver is warranted.

Submit your request to General Counsel, State Bar of Nevada, 600 East Charleston Boulevard, Las Vegas, NV 89104.

Submitted by: \_\_\_\_\_ Dated: \_\_\_\_\_  
Print

\_\_\_\_\_  
Signature

Rev. July 2010



State Bar of Nevada  
Board of Governors  
**CONFLICT OF INTEREST POLICY**

FREQUENTLY ASKED QUESTIONS (FAQs)

**Why Has The Board Of Governors Implemented This Policy?**

The State Bar is under the exclusive jurisdiction and control of the Supreme Court of Nevada. It is charged with the mission to govern the legal profession, improve the administration of justice, and uphold the honor, integrity, professionalism and dignity of the profession of law. Given that public purpose, all persons who conduct the State Bar's business must act at all times in the best interests of the State Bar and not for personal or third-party gain or financial enrichment. This policy provides a level of transparency to allow the members, the court, and the public to gauge the State Bar's conduct of its business.

**Who Does This Policy Apply To?**

This policy applies to the Board of Governors of the State Bar of Nevada and its officers, employees, boards, committees, task forces, and sections.

**Do I need to submit forms for multiple appointments?**

Yes. Because different staff is involved in the administration of the many groups to which appointments are made, we ask you to submit a form for each appointment at the time you are first approved.

**Does Subsection (J) Impact Partners Or Associates In My Firm?**

No. The prohibition is specific to the covered member and does not impute disqualification to other members of the firm.

**Does Subsection (J) automatically prohibit representing a party in a State Bar proceeding such as client protection, fee dispute, professional discipline, and admissions?**

No. However, *a conflict waiver will be necessary in most circumstances*. Each waiver request will be considered on a case-by-case basis considering such factors as subject matter and the relative relationship between the two potentially conflicting obligations. Examples:

- A lawyer on the Law Related Education Committee who also wishes to represent a respondent in a discipline matter would need to request a conflict waiver, but that waiver will most likely be granted.
- The prohibition does not prevent a covered attorney from appearing as representative counsel before a State Bar proceeding *per se*, only if the client has an "adverse" action. For example, in a discipline hearing, the State Bar has an administrative interest as both prosecutor (office of Bar

Counsel) as well as adjudicator (Discipline Board). A witness is not necessarily adverse to either Bar Counsel or the Hearing Panel. The same holds true for a Fee Dispute Arbitration since the interests of the State Bar are not adverse to either participant.

**Does Subsection (J) Prohibit Representation In Outside Proceedings In Which The State Bar Is Participating?**

No. The prohibition only concerns matters in which the State Bar participates pursuant to an "administrative function" (admissions, regulation, discipline) as defined by statute or court rule, rather than outside proceedings. Thus, a covered attorney could represent a creditor in a bankruptcy in which the State Bar is a competing creditor or prosecute a personal injury action on behalf of an attorney with pending discipline.

**Is There A "Cooling Off" Period To The Conflicts Of Interest Policy?**

No. The Conflict of Interest Policy only applies while the person is a covered member as defined under section 1.2. There is no required waiting period once that service ends.

**Does The Conflict Of Interest Policy Prevent A Covered Person From Running For Political Office Or Engaging In Political Activities?**

No. Nothing in the policy would prevent a person from such activities simply by virtue of their status as a covered member (*i.e.* they are not "Hatched" like federal employees). However, depending on the particular activities engaged in, such conduct might impact other prohibitions such as section (b) or the Rules of Professional Conduct in the case of an attorney.

**What Constitutes "Indirect" Inducement To Provide Special Services Under Subsection (1.1(e))?**

While this would be determined on a case-by-case basis, it would include granting special treatment in exchange for gifts to a family member or significant other or a benefit effected in another matter that is consideration for the special treatment in this matter.

**If I Have A Conflict Can It Be Waived?**

Yes, depending on the circumstances as discussed above. If you believe you may have a conflict and want an advisory opinion, or if you have a conflict and want to obtain a waiver from the State Bar, you can submit it on the appropriate form in care of State Bar General Counsel.

**What If I Inadvertently Violate the Conflict of Interest Policy?**

If it is suspected you have a conflict despite having signed the policy, the matter will be investigated by State Bar General Counsel and your appointment will likely be revoked. Failure to sign and return the policy (or request and obtain a waiver) will revoke your appointment.

**Who Do I Contact If I Think I May Have A Conflict Of Interest or If I Have Questions About the Policy?** You can call State Bar General Counsel at (702) 2382-2200 or (800) 254-2797 to discuss your particular situation.



## Policy Regarding the Sale of Mailing Lists

The State Bar of Nevada maintains a database containing information about all of its members, including addresses, telephone numbers, fax numbers and email addresses. From time to time the State Bar is asked to provide some of this information to third parties for which the State Bar is compensated. The Board of Governors has determined that written policies governing this process would be desirable and has adopted the following guidelines to cover mailing list sales:

1. The State Bar will not provide telephone numbers, fax numbers or email addresses of its members to third parties under any circumstances.
2. The mailing list may otherwise be sold or provided to the following:
  - Sections and committees of the State Bar (free of charge.)
  - Local bar associations in Nevada (for non-CLE purposes)
  - Candidates for the offices of judge, district attorney or state attorney general
  - Candidates for the Board of Governors of the State Bar
  - Member benefit partners or endorsed vendors of the State Bar
  - Other law-related vendors in the discretion of the Executive Director
  - Non-profit legal services providers
3. The mailing list will **NOT** be sold to the following:
  - Continuing Legal education providers
  - Non-Legal vendors
  - Competing vendors of member benefit partners
  - Non-profit charitable organizations
  - Candidates for non-law-related partisan political office.
4. The mailing list may be provided on labels, on a diskette or in electronic format.
5. The mailing list may only be used once and any recipient will so agree in writing prior to the list being provided.
6. The document to be mailed must accompany the application for list purchase when submitted to the State Bar.
7. Fees to be charged for normal list sales:
  - \$.15/name for diskette or electronic format
  - \$.20/name for printed labels
8. Mailing lists will be provided free of charge to State Bar sections and committees.
9. Mailing lists will be provided to candidates for law-related offices, and legal services providers on a per name basis, up to a maximum of \$250.00.
10. Mailing lists will be provided to candidates for the Board of Governors for a minimum fee of \$25 or the cost of the media, whichever is greater. Per State Bar policy, the mailing list may only be used once.

**ADOPTED by the Board of Governors on October 30, 2002.**

**Amended by the Board of Governors in 2003.**