
III. VSB Policies

A. Policy Concerning the Use and Disclosure of VSB Email Addresses

Resolved, that the Virginia State Bar will send group emails to its members only:

- 1) in circumstances as determined to be appropriate by the executive director or a majority of the officers of the bar,
- 2) in a periodic electronic newsletter of official bar news according to guidelines and in a format to be determined by the Communications Department, and
- 3) in a periodic electronic newsletter by the president regarding items of interest, and
- 4) in the case of emails to their members from bar conferences, sections, committees and task forces, emails may be sent as necessary to carry out the work of the conference, section, committee or task force.

Pursuant to Va. Code § 2.2-3705.1(10), member email addresses are exempt from public disclosure, provided the member has asked the VSB not to disclose it. Such requests can be made on the annual dues statement or in writing to the membership department of the VSB. In the absence of such a request, member email addresses are record information subject to disclosure to third parties who ask for such information.

Adopted by VSB Council
March 3, 2006

Amended by VSB Council
October 17, 2008

Amended by VSB Council
February 22, 2014

B. Policy Governing Legislative Activities

(A.) General Statement of Policy

The Supreme Court has accorded to the Council of the Virginia State Bar the discretion to exercise the necessary powers to promote reforms in judicial procedure and in the judicial system, to regulate the legal profession and to improve the quality of legal services made available to the people of Virginia. In furtherance of that discretion, the Council recognizes that an important governmental and public interest is met in allowing the participation of the Bar in the legislative process with respect to some issues; and that the expertise of the Bar serves as a valuable resource for the General Assembly of Virginia and the United States Congress in their consideration of some legislative issues. Council also recognizes, however, that the participation of the Bar in the legislative process must necessarily be limited to appropriate subject areas, and should be undertaken only when duly authorized and within the procedures set out below. To this end, Council hereby adopts this policy governing the participation of the Virginia State Bar, its sections, conferences, committees, officers and employees in legislative activities.

(B.) Restrictions on Participation in Legislative Activities

1. No officer, employee or member of the Virginia State Bar shall participate in legislative activities on behalf of the Virginia State Bar or one of its sections, conferences or committees unless such participation is authorized as provided herein.
2. No section, board of governors, or committee of the Virginia State Bar shall participate in legislative activities on behalf of the Virginia State Bar or one of its sections, conferences or committees unless such participation is authorized as provided herein.
3. For the purpose of this policy, “legislative activity” means:
 - a) publicly asserting a position on a legislative issue;

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- b) appearances before the General Assembly or the United States Congress, or the legislative committees or subcommittees of either; and,
 - c) meeting with members of the General Assembly, Congress, or representatives of the executive branch of the state or federal government for the purpose of promoting, advocating or opposing any matter before the General Assembly or Congress.
4. Nothing in this policy shall be construed to restrict the personal or professional activities of any person when such activities are not undertaken on behalf of the Virginia State Bar or one of its sections, conferences or committees.

(C.) Permissible Participation in Legislative Activities

1. Officers, employees and members of the Virginia State Bar may participate in legislative activities on behalf of the Virginia State Bar or any of its sections, conferences or committees when such participation is specifically authorized by the Executive Committee.
2. The Executive Committee may authorize participation in legislative activities on behalf of the Virginia State Bar or any of its sections, conferences or committees only when the subject matter of the legislative activities is within one of the following categories:
 - a) the powers and duties of the Virginia State Bar;
 - b) the regulation of the legal profession;
 - c) budget appropriations for the Virginia State Bar, the judicial system or legal aid societies;
 - d) the availability of legal services to the public;
 - e) qualifications and standards for admission to the Bar;
 - f) the endorsement of judicial candidates on a nonpartisan merit basis;
 - g) improvements to the quality of the legal services made available to the public;
 - h) reforms in judicial procedure or the judicial system that are intended to improve the quality and fairness of the system; and any other
 - i) matters within the scope of Paragraph 9(j), Section IV, Part 6 of the Rules of the Supreme Court of Virginia.
3. Prior approval by the Executive Committee shall not be required when the subject matter of the legislative activity is:
 - a) The provision of expert advice on the state of the law at the request of a member of the General Assembly or Congress, or a legislative committee or subcommittee. Such advice shall not, however, express the approval or disapproval of any proposed legislation on behalf of the State Bar or any of its sections, conferences or committees without specific prior approval of the Executive Committee.
4. Subject to paragraph 6 below, approval of legislative activities under this policy may be delegated by the Executive Committee to the officers when it is not feasible to convene a meeting of the Executive Committee. An officer shall individually poll as many members of the Executive Committee as is practical prior to authorization of the legislative activity in question.
5. In making a determination on whether to authorize legislative activities, the Executive Committee shall consider, along with any governmental or public interest that may be affected, the degree to which there is perceived to be a substantial consensus among the members of the Virginia State Bar on the issue involved, and the degree to which the issue is perceived to have significant political or ideological underpinnings.
6. Whenever the timing makes it feasible, the Executive Committee shall not approve legislative activity without first having the issue and the bar's proposed position on it submitted to Council for its approval at a regularly scheduled Council meeting. In situations where it is not feasible to seek prior approval by Council, the Executive Committee shall report its approval of any legislative activity to Council at its next regularly scheduled meeting, at which time Council shall vote to endorse or withdraw support for the legislative activity in question.

Approved by VSB Executive Committee
May 1989

Revised by VSB Executive Committee and Approved by Council
October 1990

Revised by VSB Executive Committee and Approved by Council
June 2001

C. Policy Governing Regulatory Activities

(A.) General Statement of Policy

The Supreme Court has accorded the Council of the Virginia State Bar the discretion to exercise the necessary powers to promote reforms in judicial procedure and in the judicial system, to regulate the legal profession and to improve the quality of legal services made available to the people of Virginia. In furtherance of that discretion, Council recognizes that an important governmental and public interest is met in allowing the participation of the organized Bar in the regulatory process with respect to some issues; and that the expertise of the Bar serves as a valuable resource for the General Assembly of Virginia, the United States Congress and state and federal administrative agencies in their consideration of some regulatory issues. Council also recognizes, however, the participation of the Bar in the regulatory process must necessarily be limited to appropriate subject areas, and should be undertaken only when duly authorized within the procedures set forth below. To this end, Council hereby adopts this policy governing the participation of the Virginia State Bar, its sections, conferences, committees, officer and employees in regulatory activities.

(B.) Restrictions on Participation in Regulatory Activities

1. No officer, employee or member of the Virginia State Bar shall participate in regulatory activities on behalf of the Virginia State Bar or one of its sections, conferences or committees unless such participation is authorized as provided herein.
2. No section, board or governors or committee of the Virginia State Bar shall participate in regulatory activities on behalf of the Virginia State Bar or one of its sections, conferences or committees unless such participation is authorized as provided herein.
3. For the purpose of this policy, the term “regulatory activity” means:
 - a) publicly asserting a position on a regulatory issue;
 - b) appearance before any state or federal administrative agency; or
 - c) meeting with members of any state or federal administrative agency to advocate or promote any action on a regulatory issue.

Regulatory activities shall not include appearance before state or federal regulatory agencies or meetings with members or representatives of such agencies in connection with proceedings before the regulatory agency when the Virginia State Bar or one of its sections, conferences or committees is a party to the proceedings.

4. Nothing in this policy shall be construed to restrict the personal or professional activities of any person when such activities are not undertaken on behalf of the Virginia State Bar or one of its sections, conferences or committees.

(C.) Permissible Participation in Regulatory Activities

1. Officers, employees and members of the Virginia State Bar may participate in regulatory activities on behalf of the Virginia State Bar or any of its sections, conferences or committees when such participation is specifically authorized by the Executive Committee.
2. The Executive Committee may authorize participation in regulatory activities on behalf of the Virginia State Bar or any of its sections, conferences or committees only when the subject matter of the legislative activities is within one of the following categories:
 - a) the powers and duties of the Virginia State Bar;
 - b) the regulation of the legal profession;
 - c) budget appropriations for the Virginia State Bar, the judicial system, the administrative adjudicatory system or legal aid societies;
 - d) the availability of legal services to the public;
 - e) qualifications and standards for admission to the Bar;
 - f) the endorsement of judicial candidates or candidates for administrative appointments on a nonpartisan, merit basis;
 - g) improvements to the quality of the legal services made available to the public;
 - h) reforms in judicial procedure or the judicial system that are intended to improve the quality and fairness of the system; and any other
 - i) matters within the scope of Paragraph 9(j) Section IV, Part 6 of the Rules of the Supreme Court of Virginia.

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3. Prior approval by the Executive Committee shall not be required when the subject matter of the regulatory activity is:
 - a) the provision of expert advice on the state of the law at the request of a member of the General Assembly or Congress, a legislative committee or subcommittee, or a state or federal administrative agency. Such advice, however, shall not express the approval or disapproval or any proposed regulatory action on behalf of the State Bar or any of its sections, conferences or committees without specific prior approval of the Executive Committee.
 4. Subject to paragraph 6 below, approval of regulatory activities under this policy may be delegated by the Executive Committee to the officers when it is not feasible to convene a meeting of the Executive Committee. An officer shall individually poll as many members of the Executive Committee as is practical prior to authorization of the regulatory activity in question.
 5. In making a determination on whether to authorize regulatory activities, the Executive Committee shall consider, along with any governmental or public interest that may be affected, the degree to which there is perceived to be a substantial consensus among the members of the Virginia State Bar on the issue involved, and the degree to which the issue is perceived to have significant political or ideological underpinnings.
 6. Whenever the timing makes it feasible, the Executive Committee shall not approve regulatory activity without first having the issue and the bar's proposed position on it submitted to Council for its approval at a regularly scheduled Council meeting. In situations where it is not feasible to seek prior approval by Council, the Executive Committee shall report its approval of any regulatory activity to Council at its next regularly scheduled meeting, at which time Council shall vote to endorse or withdraw support for the regulatory activity in question.

Approved by VSB Executive Committee
May 1989

Revised by VSB Executive Committee and Approved by Council
October 1990

Revised by VSB Executive Committee and Approved by Council
June 2001

D. Policy on Solicitation or Receipt of Funds and Grants

(A.) Policy

The Virginia State Bar, including its committees, sections and conferences, should refrain from soliciting or receiving funds from any source to underwrite special projects, programs or purchases. The Virginia State Bar, including its sections and conferences, is required to comply with state guidelines and restrictions applicable to the solicitation of funds and grants.¹ VSB committees do not have separate budgets and are not permitted to raise funds.

With the exception of sponsorships authorized for events planned by the VSB Bar Services Department in conjunction with the Annual Meeting of the Virginia State Bar, all committee, section and conference projects, programs and purchases must be funded through the general operating budget of the Virginia State Bar, or the budgets of its sections and conferences, as may be appropriate, with the approval of the Executive Committee and Council.

If a section or conference of the Virginia State Bar has a unique need which would require solicitation or receipt of funds for a project, program or purchase not authorized in its budget, it must seek special approval from the Executive Committee of the Virginia State Bar in advance of the solicitation using the attached *VSB Request Form for Solicitation or Receipt of Grants and Other Funds*.

If a section or conference has a unique need which would require a grant, it must seek the executive director's approval prior to submitting a grant application. All grant applications and any paperwork related to receipt of grant funds must be signed by the executive director or deputy executive director, and a copy of the grant application and any approval must be provided to the VSB finance/procurement director.

Approved by VSB Executive Committee
April 28, 1994
September 22, 2016

Revised 9/22/16

Footnote:

- 1 Section 4-2.01(a)(1) of the Appropriations Act provides that “[n]o state agency shall solicit or accept any donation, gift, grant, or contract without the written approval of the Governor except under written guidelines issued by the Governor which provide for the solicitation and acceptance of nongeneral funds....” Blanket approval to solicit and accept grants and donations that may become available from individuals, law firms, non-profits or other corporations for the purpose of hosting a specific event or project must be received from each Virginia governor.

(B.) Criteria for Evaluating Grants, Solicitation Requests and Offers or Donations of Funds

The following criteria will be considered when evaluating a request for funds to be raised through a grant, solicitation, donation or offer of funds for a program or project.

1. Description of project.
2. Sponsor/Co-sponsor of project.
3. Date(s) of project.
4. Goals of project.
5. Target audience/beneficiaries.
6. Funding/Budget.
 - A. Expenses.
 - B. Potential income.
 - C. Why project is not in budget.
7. Description of solicitation proposal, grant application, donation or offer of funds.
 - A. Who/how many persons or entities will be solicited for funds or grant, or who/how many persons or entities are offering or donating funds.
 - B. Whether the person or entity has previously been solicited by, or issued a grant, donated or offered funds to the Virginia State Bar or its sections or conferences.
 - C. Whether this is a one-time solicitation request.
 - D. Amount/contribution requested or offered or donated.
8. Whether the project has been implemented before.
9. Whether any other bar association has a similar project.
10. Previous requests for solicitation or grants, offers or donations and Executive Committee or executive director action on such requests.

Footnote revised 9/4/18

E. Virginia State Bar Social Media Policy

Social media offers an important means for the Virginia State Bar (“VSB”) to communicate and share information with its members and the public. The VSB supports the sensible use of social media as a means to assist in achieving the VSB’s mission by increasing member engagement, enhancing the VSB’s public profile, and improving access to information about the VSB. However, the use of social media may not be appropriate in all instances, nor for all kinds of outreach. As the use of social media may, in some instances, conflict with the VSB’s interests, Council has adopted the following policy governing the use of social media.

Scope

This policy applies to the VSB’s conferences, sections, committees, subcommittees, boards, panels, task forces, and related programs or groups (each, a “VSB entity” and, collectively, “the VSB entities”) and its volunteers. This policy governs the manner in which a VSB entity may create or maintain a social media presence that identifies, expressly or by implication, the VSB entity or its social media presence as being sponsored by, administered by, or affiliated with the Virginia State Bar (a “VSB social media presence”). This policy also applies to a member’s or volunteer’s use of social networking or social media in a manner that identifies, expressly or by implication, that member’s or volunteer’s commentary or posting as being sponsored by, administered by, approved by, or affiliated with the VSB. This policy does not apply to a member’s or volunteer’s use of social networking or social media that is unrelated to the VSB.

For the purposes of this policy, “social media” means websites that may permit interaction and communication, including but not limited to online posting, commentary, and publication, also known as “social networking,” among users. Some examples of social media include, but are not limited to, personal and professional websites, e-mail websites, blogs, chat rooms, listservs, bulletin boards, networking websites such as Facebook, LinkedIn, Twitter, Instagram, Snapchat, and YouTube.

All VSB entities creating or maintaining a VSB social media presence, and any VSB member or volunteer using social networking or social media in a manner that identifies, expressly or by implication, that member’s or volunteer’s commentary or posting as being sponsored by, administered by, approved by, or affiliated with the VSB, are expected to do so responsibly, professionally, ethically, and lawfully, and in accordance with this policy.

Social Media Activity by VSB Volunteers

The VSB respects the right of its members and volunteers to use social media and engage in social networking. However, only those officially and expressly designated by the VSB are authorized to engage in social media activity on behalf of the VSB. This policy applies to a member’s or volunteer’s use of social networking or social media in a manner that identifies, expressly or by implication, that member’s or volunteer’s commentary or posting as being sponsored by, administered by, approved by, or affiliated with the VSB. For purposes of this policy, a posting that identifies its author as being a member of the VSB shall not be deemed, on that basis alone, to state or imply that the author’s commentary or posting is sponsored by, administered by, approved by or affiliated with the VSB. When appropriate, volunteers must make clear that they are not speaking on behalf of the VSB. VSB members and volunteers are personally liable for all communications and information they publish online on their behalf; provided, however, that no third party beneficiaries are created by this policy.

Establishing and Administering a VSB Social Media Presence

Each VSB entity desiring to create a social media presence will work with its VSB staff liaison (or his/her designee) to determine the VSB entity’s objectives and the proper social media venues, if any, and to approve any such venues. The VSB entity must create and submit to the VSB Communications Department for approval, through the staff liaison, a plan for its social media presence. The plan, which shall be memorialized in writing (such as in an e-mail), should include: (a) the social media tools the VSB entity desires to use; (b) the objective of the use; (c) the guidelines for use to be followed by members of the VSB entities; (d) the oversight mechanism that will be used; (e) the VSB entity’s plans for generating regular and relevant content; and (f) the identity of the position at the VSB entity responsible for administering the VSB social media presence. Creation and administration of the VSB social media presence shall be the responsibility of the VSB entity with oversight from the staff liaison in accordance with this policy.

Wherever possible, the social media presence must clearly and conspicuously indicate its affiliation with the VSB and must contain direct links back to the VSB website in a manner prescribed to the staff liaison by the VSB Communications Department.

VSB entities shall work with their staff liaison to coordinate the development of appropriate and approved graphics for the VSB social media presence. No VSB social media presence shall use the VSB’s logo without prior written approval from the VSB’s executive director or his/her designee.

The VSB reserves the right to remove or demand removal of any content deemed inappropriate or not in keeping with this policy. VSB entities are responsible, in collaboration with their staff liaison, for complying with these guidelines.

Using social media

VSB entities are expected to use good judgment and common sense when using social media in ways that pertain to, concern, or relate to the VSB. The following content standards apply to any VSB social media presence:

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- A. Content posted to social media should be relevant to the mission of the VSB entity and the Virginia State Bar. All statements must be true to the best of the knowledge and belief of the participating VSB entity and not be misleading. Private information about posters or others is prohibited. Content must adhere to state and federal law, including the Rules of Professional Conduct and laws and rules governing the privacy of individuals and confidential information of clients. No VSB social media presence shall contain material that is obscene, defamatory, profane, libelous, threatening, harassing, abusive, hateful, or embarrassing to another person or entity, or to the VSB.
 - B. Content must comply with the applicable rules and terms of use of the social network or social media page, to the extent those rules and terms of use are not inconsistent with this policy.
 - C. No VSB entity or volunteer shall post content to social media that fails to conform to all applicable state and federal laws.
 - 1. Without limitation, this includes compliance with copyright law by ensuring that the VSB entity has permission to use or reproduce any copyrighted text, photos, graphics, video, or other material owned by others. Any copyrighted or borrowed material must be identified with appropriate citations and links, giving credit to the original publisher or author.
 - 2. Without limitation, this includes antitrust laws. No content shall encourage or facilitate agreements between VSB members of different firms concerning the following, as they pertain to legal services: prices, discounts, or terms or conditions of sale; salaries; profits, profit margins, or cost data; market shares, sales territories, or markets; allocation of customers or suppliers; or any other term or condition related to competition.
 - D. No VSB social media presence shall contain confidential or non-public proprietary information of or about the VSB.
 - E. Content must comply with all other applicable VSB policies, including, without limitation, the VSB's policies concerning legislative and regulatory activities. In addition, no VSB entity shall use a VSB social media presence for the purpose of interfering with or affecting the result of an election or a nomination for public office, or advocating for or against a political party, candidate for political office, or political group.

Media Inquiries

Social media postings may generate media coverage. If a member of the media contacts a VSB entity about a VSB social media presence, that contact should be referred to the VSB's deputy executive director.

Enforcement

VSB entities failing to comply with this policy may forfeit the right to participate in social media activities sponsored by, administered by, approved by, or affiliated with the VSB. Moreover, nothing in this policy alters, derogates from, or otherwise affects VSB members' (a) legal obligations under civil or criminal law or (b) ethical and professional obligations under the Rules of Professional Conduct.

Risk Management and Loss Prevention

The VSB does not maintain any liability insurance policies in force and does not provide any indemnification that could protect a VSB member or volunteer from consequences of participation in social media, including but not limited to participation in a VSB social media presence.

Changes

The VSB may amend this policy at any time and from time to time, and all VSB entities must conform to this policy as so amended. No vested rights are granted by the policy to anyone.

Disclaimer

The Virginia State Bar accepts no liability or responsibility for the content of any target site linked from its social media accounts. The Virginia State Bar accepts no liability or responsibility for any content published on any VSB social media site by any person other than the VSB.

Approved by VSB Communications Committee October 2010
Approved by VSB Executive Committee October 14, 2010
Approved by VSB Council October 15, 2010
Approved by VSB Executive Committee June 14, 2017
Approved by VSB Council June 15, 2017

F. Policy on Content of Publications of Virginia State Bar Committees, Sections, Conferences, and *Virginia Lawyer*

All VSB publications address matters germane to the bar’s mission, the practice of law, and the purpose of each specific committee, conference, or section. Contributors to such publications have been given access to these forums for the specific purpose of educating and informing members about matters falling within the scope of each publication, rather than as a forum for expressing their views or opinions on other topics or matters. If a contributor wishes to express their views on other topics or matters of general importance—including in the contributor’s capacity as a lawyer-citizen—there are numerous other outlets for doing so.

This policy applies to any content produced by VSB committees, sections, and conferences including but not limited to: articles, letters to the editor, newsletters, pamphlets, brochures, web pages, emails, and social media posts (“Content”).

Virginia Lawyer

Virginia Lawyer seeks articles written by members of the Virginia bar (or those that provide information useful to VSB members) that:

- address specific issues in areas of law that are widely practiced
- cover new fields of law or subspecialties
- are of interest to a significant portion of our members

We will decline articles that:

- are political in tone or content
- denigrate the legal profession
- criticize sitting members of the judiciary
- address a writer’s pending litigation
- are too minutely focused
- promote a specific business
- do not conform to these guidelines

We reserve the right to edit all submissions for length, clarity, organization, and style; substantive changes are subject to author approval.

We reserve the right to determine when an article is published. If your article is appropriate for a theme issue, your article may be sent to the theme issue editor for consideration; theme articles are published according to the theme issue schedule which may be found at <http://www.vsb.org/site/publications/ad-info#editorial>.

Virginia Lawyer does not publish articles that have been published elsewhere.

Letters to the Editor

Virginia Lawyer welcomes letters to the editor. An individual’s opinion on an important legal topic, as well as a dialogue among bar members, as voiced in a civil exchange of public letters, are valuable to the membership of the Virginia State Bar. Letters should discuss issues related to the regulation of the legal profession, improving the quality of legal services to Virginians, the programs and activities of the VSB, and articles or other materials published in *Virginia Lawyer*. Letters must not contain language constituting an attack upon an individual, group, or organization, as opposed to an idea, and may not promote individual products, services, or political candidates. We reserve the right not to publish every letter we receive.

Generally, letters are about 250 words in length and are from members in good standing of the VSB. Members should include their name and bar number for verification. Email the editor at norman@vsb.org or Editor, VSB, 1111 E. Main Street, Suite 700, Richmond, VA 23219-0026.

Licensing

All authors grant the Virginia State Bar the right to reproduce, distribute, and publish their work in all forms and media throughout the world, to prepare translations and other works that derive from their work, and to license and authorize others to do all these things. The authors retain a royalty-free, perpetual right to use, reproduce, and distribute their work, and to create derivative

works once the VSB publishes the work.

We reserve the right to refuse to publish any Content.

Style guidelines and manuscript requirements may be found at http://www.vsb.org/docs/style_guide.pdf.

See also VSB Social Media Policy for additional information: <http://www.vsb.org/docs/ch-social-media-policy.pdf>

Effective October 2018