



2018–19
Chairs Handbook

Information on operation, policies, planning, and procedures for chairs of Virginia State Bar committees, sections, and conferences

<http://www.vsb.org/site/members/chairs-handbook>

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I. VSB Operation and Strategic Plan

A. Creation of Virginia State Bar

The Virginia State Bar (VSB) was created in 1938 by the General Assembly as a unified bar and an administrative agency of the Supreme Court of Virginia.¹ The Bar Act of 1938 invested the Supreme Court of Appeals (now the Supreme Court of Virginia) with legislative authority to promulgate rules and regulations “organizing and governing the Virginia State Bar.” In October 1938, the Court adopted the Rules for the Integration of the Virginia State Bar, which today are in Part 6 of the Rules of Court. Part 6, Section IV, Organization and Government gives Council general administrative authority for the VSB and the power to adopt bylaws.

- *Code of Virginia* §§ 54.1-3909-54.1-3918
- *Rules of the Supreme Court of Virginia* Part 6, § IV Organization and Government
- *Bylaws of Virginia State Bar and Council*

¹Chapter 410 of the 1938 Acts of Assembly, now § 54.1-3909 *et seq.* of the *Code of Virginia*.

B. Mission Statement

The mission of the Virginia State Bar, as an administrative agency of the Supreme Court of Virginia, is (1) to regulate the legal profession of Virginia; (2) to advance the availability and quality of legal services provided to the people of Virginia; and (3) to assist in improving the legal profession and the judicial system.

Commentary

The Mission Statement contains the three basic elements which are found in most of the sources relating to the existence, power, and authority of the Virginia State Bar. They are (1) professional regulation; (2) public access to legal services; and (3) improving the system. The authority for the Mission Statement is found in, e.g., *Va. Code* Section 54.1-3909 (the Supreme Court’s authority to promulgate rules and regulations regarding the practice of law), *Va. Code* Section 54.1-3910 (establishing VSB as an administrative agency of the Court for professional regulation). Rules of Court Part 6, Section IV, paragraph 9(j) (the “necessary powers”).

Everything the VSB does should and can be related to one of these three areas. In the list which follows, each of the State Bar’s present functions has been placed in one or more of these categories.

I. Regulating the Legal Profession

- Office of Bar Counsel/Professional Regulation Department/Clerk of the Disciplinary System
- Disciplinary Board
- District Disciplinary Committees
- Standing Committee on Lawyer Discipline
- Standing Committee on Legal Ethics
- Mandatory Continuing Legal Education Board/Staff
- Communications Department
- Membership Department
- Administrative Support

II. Improving Legal Services to Public

- Lawyer Regulation (see I. above)
- Standing Committee on Professionalism/Professionalism Course
- Committee on Access to Legal Services
- Alternative Dispute Resolution Joint Committee
- Lawyer Referral
- Communications Department
- Clients’ Protection Fund
- Access to Justice Director
- Membership Department
- Administrative Support

III. Improving Legal Profession and Judicial System

- A. Lawyer Regulation (see I. above)
- B. Professionalism (see II. above)
- C. Judicial Nominations Committee
- D. Sections and Conferences
- E. MCLE (see I. above)
- F. Lawyer Assistance Program
- G. Local and Specialty Bar Relations Coordinator
- H. Bench Bar Relations Committee
- I. Administrative Support

Approved by VSB Council
February 28, 1998

C. Governance

Council

The rules provide that the powers of the Virginia State Bar shall be exercised by a Council elected pursuant to the Rules. Each of the 31 judicial circuits is entitled to elect one or more Council members. The election is by vote of active VSB members licensed to practice in the circuit wherein an election is held. The term of the Council member is three years with a provision that a Council member may be elected for one additional three-year term. Council elections are held in April.

In addition to the elected Council members, the Supreme Court of Virginia appoints nine at-large members. The chair of the Conference of Local and Specialty Bar Associations, the president of the Young Lawyers Conference, the chair of the Senior Lawyers Conference, and the chair of the Diversity Conference serve as *ex-officio* members of Council.

The president, president-elect, and immediate past president of the bar serve as *ex-officio* members of the Council, with the president serving as presiding officer. The executive director/chief operating officer serves as secretary and treasurer of the VSB.

The Council typically meets three times a year: in October, in late February or early March, and in June prior to the Annual Meeting.

Executive Committee

Between meetings of the Council, its duties and functions may be performed by the Executive Committee of thirteen members, six of whom are elected annually by and from the Council, with the president, president-elect, immediate past president, chair of the Conference of Local and Specialty Bar Associations, president of the Young Lawyers Conference, chair of the Senior Lawyers Conference, and chair of the Diversity Conference serving as *ex-officio* members.

Powers of Council

Part 6, Section IV, Paragraph 9(j)

Rules for Organization and Government, Virginia State Bar

POWERS OF THE COUNCIL.—The Council shall have general charge of the administration of the affairs of the Virginia State Bar, and shall have the power:

- (a) To adopt Bylaws for the Council and the Virginia State Bar not in conflict with these rules.
- (b) To elect the officers provided for by these rules.
- (c) To fill vacancies in the Council for unexpired terms if there should be a failure for sixty days to elect as provided in Section (6) and to fill vacancies in any office for unexpired terms.
- (d) To appoint committees and prescribe their duties.
- (e) To employ such assistants as it deems necessary and to fix their duties and compensation and the compensation of the Secretary-Treasurer.
- (f) To make allocations of funds within the amounts available.

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- (g) To conduct such investigations and make such reports as may be directed by the Supreme Court or by the bar.
 - (h) To render advisory opinions as provided in Section (10).
 - (i) To establish an Administration and Finance Fund from which expenses related to meetings of the Council, meetings of the Executive Committee, the Annual and Midyear Meetings, and other official functions of the Virginia State Bar may be paid. The Fund shall be composed of funds appropriated to it by Council, or otherwise received. Such funds may be held, managed and invested as authorized or directed by Council. Disbursements from the fund shall be made as authorized by Council to pay the necessary expenses related to official functions of the Virginia State Bar as authorized by these Rules including, but not limited to, those expenses resulting from the exercise of the Council's powers under these Rules.
 - (j) The Council may, at its discretion or upon a written request of the majority of the members of the Virginia State Bar or pursuant to a resolution duly adopted at a regular or called meeting, exercise the necessary powers:
 - To promote reforms in judicial procedure and the judicial system that are intended to improve the quality and fairness of the system;
 - To recommend to the Supreme Court procedures for the disciplining, suspending and disbaring of attorneys;
 - To recommend to the Supreme Court the adoption of, modifications to, amendments to or the repeal of any rule of the Rules of the Supreme Court of Virginia;
 - To regulate the legal profession;
 - To improve the quality of the legal services made available to the people of Virginia;
 - To investigate, evaluate or endorse judicial candidates on a nonpartisan, merit basis;
 - To uphold and elevate the standards of honor, of integrity and of courtesy in the legal profession;
 - To encourage higher and better education for membership in the profession; and
 - To encourage and promote diversity in the profession and the judiciary; and
 - To perform all duties imposed by law.

Amended by VSB Council
June 18, 2009

Approved by Supreme Court of Virginia
January 22, 2010

D. Council Bylaws Establishing Sections (Article XI)

The Council may create and abolish sections as it may consider necessary or desirable to accomplish the purposes and serve the interests of the Virginia State Bar and of the sections and shall prescribe the powers and duties of the sections. The bylaws of any section shall be subject to approval of Council.

E. VSB Bylaws Establishing Committees (Article V)

- Sec. 1.* Unless otherwise provided in the Supreme Court Rules, by action of Council, or elsewhere in these bylaws or the bylaws of Council, all committees shall be appointed by the president, who shall have power to determine the size and composition of the committee and to designate the chair thereof and to fill any vacancy therein.
- Sec. 2.* A majority of any committee shall constitute a quorum.
- Sec. 3.* In addition to the Executive Committee, district committees, and standing committees specified in the bylaws of Council, there shall be special committees to carry out the other ongoing work of the bar, and study committees, where appropriate in the judgment of the president, to examine and make recommendations on specific proposals or programs within a reasonably brief and discrete period of time.

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- Sec. 4.* Members of special committees shall be appointed to three-year terms, with the exception of the Special Committee on Lawyer Malpractice Insurance whose members shall be appointed to five-year terms. No member shall serve more than two consecutive terms on such a committee. A member appointed to fill an unexpired term shall be eligible to serve two additional full terms. An eligible member wishing to be reappointed to a special committee shall be required to reapply in writing prior to the end of his or her current term under procedures established by Council and administered by the executive director. If any member of a committee fails to attend either three meetings during any bar year or two successive meetings of the committee without providing an explanation satisfactory to the committee chair, or in the case of a lawyer member, is declared not in good standing with the Virginia State Bar, such person's position shall automatically be considered vacated and filled as in the case of other vacancies.
- Sec. 5.* In making initial appointments to new special committees, the president shall appoint members to one, two and three-year terms so as to allow for the retirement or reappointment of one-third of the membership of each special committee at the end of each bar year.
- Sec. 6.* Effective July 1, 1996, the size of special committees shall be as specified by Council. A list of the committees and their respective sizes shall be maintained by the executive director. Changes in the size of special committees may be approved by the Executive Committee.

F. Impact Statement for New Programs/Projects

This statement should be completed, with the assistance of your liaison, whenever a new project is proposed.

1. Name of person or group proposing program/project:
2. Name of VSB staff person working with your group:
3. Name of program/project:
4. Proposed starting date:
5. What is the goal of this program/project?
6. Has any similar program/project been undertaken in the past by the VSB?

Yes No (Circle One)

If yes, what is the status of that program/project?

7. Is any other VSB committee or section currently working on a similar program/project?

Yes No (Circle One)

If yes, please name:

8. Does any other group in Virginia currently have or plan to have a similar program/project?

Yes No (Circle one)

If yes, please name:

9. On a separate sheet, please estimate the costs in VSB funds of the proposed program/project. Include all out-of-pocket (new) expenses (such as copying, telephone, postage and supplies). Estimate apportionments of all fixed (current) expenses (such as rent, staff salaries, computer time and office equipment).

10. Please estimate the costs in staff time (include by name the person who would be primarily responsible for implementing the program/project and all support staff needed; please estimate the total number of hours for each person to be devoted to this project/program within the next fiscal year):

11. Please estimate the time in which this program/project will be completed and any *special supply needs*:

12. Are the necessary funds in the current section budget?

Yes No (Circle One)

If not, how will it be funded?

When complete, please file one copy with your liaison and one copy with Crystal Hendrick in the Fiscal Office.

By Chair/President

Date

By Staff Liaison

Date

G. Calendar of Important Dates and Deadlines

September 1, 2018 – July 1, 2019

September 2018

The board of governors of each section/conference should have met and formulated an agenda for the bar year.

- 27 **Fall Meeting of Section, Conference, and Committee Chairs** — Virginia State Bar Office, 3rd Floor Conference Room, Bank of America Building, 1111 E. Main Street, Richmond, 11:00 a.m. The agenda will include a review of the Chairs Handbook; preliminary planning for the 2019 Annual Meeting; and an overview of the budgeting process for the 2019–20 bar year. Section and conference vice chairs and newsletter editors are encouraged to attend this meeting.

October

- 12 **Deadline for section/conferences to submit Showcase CLE program proposals to BAM Committee for possible presentation at the 2019 Annual Meeting.**
- 18 Solo & Small-Firm Practitioner Forum — Wytheville
- 26–27 VSB Executive Committee and Council Meetings — Newport News

November

- 9 VSB Diversity Conference Forum on Diversity in the Legal Profession
- 14 **For Showcase CLE topics selected for presentation at the 81st Annual Meeting**, deadline for submission of detailed information, including title, narrative description, and invited/confirmed speakers.

December

- 3 **Deadline for submitting section and conference budget requests**, with supporting information, for 2019–20 bar year.

January 2019

- 11 **Deadline for submitting final program information for section and conference CLE programs to be conducted at the Annual Meeting** including: (1) precise title; (2) list of speakers; and (3) speaker bios.

February

- 22–23 VSB Executive Committee and Council Meetings — Richmond

March

- 26 Solo & Small Firm Practitioner Forum — Suffolk

April

In accordance with section and conference bylaws, chairs should appoint a nominating committee for the purpose of electing new officers and board members at the Annual Meeting in June.

5 **Deadline for submitting MCLE materials for CLE programs for 81st Annual Meeting.**

8 VSB TECHSHOW — Richmond

12 CLSBA Bar Leaders Institute — Richmond

19 VSB Executive Committee Meeting — Richmond

May

3 **Gift and Award Requests due**

3 2019 Leroy R. Hassell Sr. Indigent Criminal Defense Seminar — Richmond, Wytheville, and Harrisonburg

4 Email requesting annual reports for the 2018–19 bar year will be sent to all section, conference, and committee chairs.

8 Solo & Small Firm Practitioner Forum — Fredericksburg

June

12–13 VSB Executive Committee and Council Meetings — Virginia Beach

12–15 **VSB 81st Annual Meeting — Virginia Beach**

14–15 **Section and conference CLE and special programs will be conducted during the Annual Meeting.**

Annual business meetings of sections and conferences will be held in conjunction with the 2019 Annual Meeting. The nominating committee of each group will report to the membership, and elections will be held for new officers and new board members.

Section and Conference election results should be recorded on the forms provided at the business meeting and returned to the State Bar office no later than July 1, 2019.

30 **Deadline for submitting section and conference bylaw amendments** approved at business meetings during 2019 Annual Meeting (Please send this information to VSB office for approval by Council at its October 2018 meeting.)

Deadline for advising VSB of section dues increase approved at business meeting during 2019 Annual Meeting (Sections may raise their dues up to \$35 without further action by Council. However, any such increase would not become effective until the following fiscal year, 2020–21.)

July

1 **Deadline for submitting the new listing of the officers and board of governors** for each section/conference for the 2019–20 bar year.

Deadline for submitting annual reports from each section, conference, and committee for the 2018–19 bar year ending June 30, 2019.

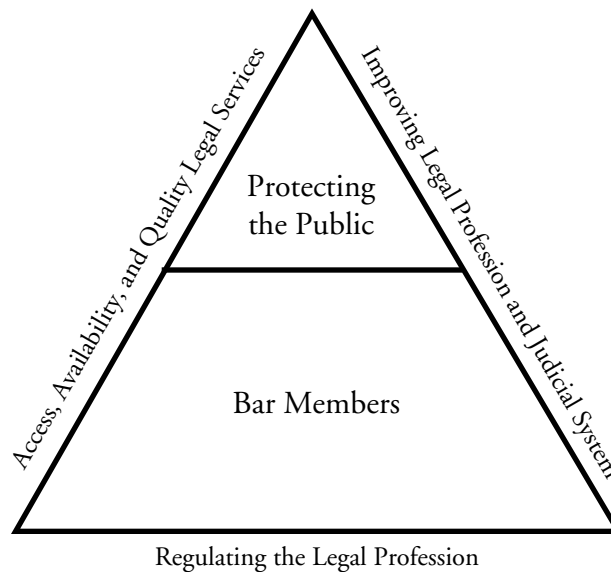
H. Virginia State Bar Strategic Plan

2016–2018

The Virginia State Bar (VSB) was created in 1938 by the General Assembly as an administrative agency of the Supreme Court of Virginia. The creation of the agency unified Virginia’s lawyers in a mandatory state bar. The VSB is governed by its Council and Executive Committee, whose members are elected or appointed from every judicial circuit in the commonwealth. The mission of the Virginia State Bar, as an administrative agency of the Supreme Court of Virginia, is to regulate the legal profession of Virginia; to advance the availability and quality of legal services provided to the people of Virginia; and to assist in improving the legal profession and the judicial system. (*About the Bar — website — <http://www.vsb.org/site/about/>*)

Goals for 2016–2018:

- I. Protect the Public
- II. Regulate the Profession
- III. Advance Access to Legal Services
- IV. Improve the Legal Profession and the Judicial System
- V. Operate the Bar



Strategic Plan 2016–2018

The Virginia State Bar’s Executive Committee amended the bar’s strategic plan at its meeting in April 2015. The strategic plan has five goals within the mission statement. The goals provide a framework for the aspirations and continuous efforts of the committees, conferences, sections and departments.

Strategies were identified that support the five goals. Many strategies advance multiple goals. To further the strategies, the committees, conferences, sections and departments should implement programmatic tools or tactics.

- I. Protect the Public** — Protect the public by educating and assisting lawyers to practice ethically and competently, and by disciplining those who violate the Supreme Court’s Rules of Professional Conduct, all at no cost to Virginia taxpayers.
 - A. Regulation of the Legal Profession** — Efficiently regulate the legal profession to protect the public from lawyer misconduct.
 - B. Unauthorized Practice of Law** — Promptly investigate and act upon allegations of the unauthorized practice of law.
 - C. Early Intervention** — Identify problems early and promptly intervene.
 - D. Clients’ Protection Fund** — Finance and administer the fund to maximize reimbursement of losses caused by the dishonest conduct of lawyers.
 - E. Public Awareness and Communications** — Promote public awareness of rights and remedies through education and communications.
 - F. Transparency** — Promote public confidence in the profession and the regulatory system through continued transparency.
- II. Regulate the Profession** — Regulate the profession through principles that guide lawyer behavior and enforcement proceedings for noncompliance with such principles.
 - A. Discipline** — Strive for timely investigation and prosecution of disciplinary complaints and the imposition of appropriate sanctions.
 - B. Legal Ethics** — Provide legal ethics opinions and confidential advice through the ethics hotline.
 - C. Client Property** — Prevent loss of client property by appropriately reviewing attorney escrow accounts or seeking injunctive relief.
 - D. Practice Audits** — Standardize practice audit template, integrate technology.
- III. Advance Access to Legal Services** — Ensuring public access to quality legal services.
 - A. Legal Services** — Encourage and support pro bono efforts, appointed counsel, and organizations that offer or support civil legal services and indigent defense.
 - B. Outreach** — Develop and implement law-related community education programs and projects.
 - C. Diversity** — Encourage availability of diverse population of lawyers, able to serve the commonwealth’s diverse populations.
 - D. Technology** — Promote the effective use of technology in the delivery of legal services.
 - E. Lawyer Assistance Programs** — Support organizations with lawyer assistance initiatives.
 - F. Lawyer Referral** — Provide legal referrals at a nominal fee.

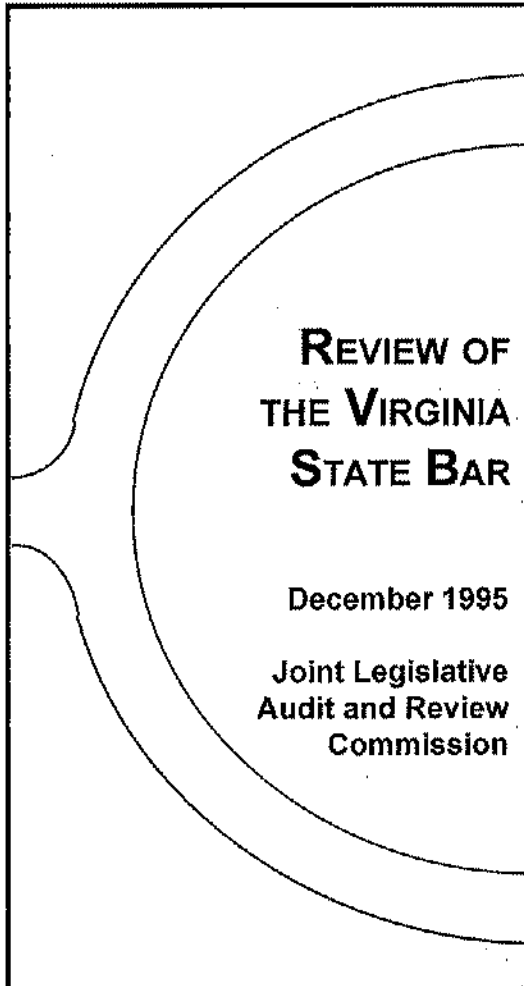
IV. Improve the Legal Profession and the Judicial System — Programs and initiatives to improve the legal profession and the administration of justice.

- A. Advocacy** — Increase public and member understanding of legal process and the role of the legal profession. Use the Speakers' Bureau.
- B. Candidate Review** — Maintain judicial evaluation processes.
- C. Professional Conduct and Ethics** — Continue incorporating professionalism and civility into continuing education.
- D. Mandatory Continuing Legal Education** — Promote competence and professionalism through high-quality continuing education programs and requirements.
- E. Lawyer Population** — Promote diversity in the legal profession and the judiciary.
- F. Judicial Independence** — Support judicial independence and educate members and the public about its importance.
- G. Communications** — Provide information through publications, the website, and other media.
- H. Leadership** — Provide leadership opportunities and training to local and state bar leaders and coordinate and recognize volunteers to maximize involvement and minimize attrition.
- I. Lawyer Assistance Programs** — Support organizations with lawyer assistance initiatives.

V. Operate the Bar — Maintaining an effective Virginia State Bar.

- A. Mission Statement** — Consider inclusion of a fourth element in the mission statement: “protecting the public.”
- B. Executive Committee** — Plan strategic meetings to eliminate redundancy of reporting and focus primarily on strategy and action items.
- C. Strategic Plan** — Monitor progress of the strategic plan through the Executive Committee.
- D. Five-Year Plans** — Integrate section, conference and committee 5-year plans into the strategic plan.
- E. Sections, Conferences and Committees** — Review the purpose, function and return on investment of sections, conferences and committees to ensure they best serve the VSB's mission.
- F. Technology** — Utilize technology to serve the members and the public through enterprise content management (ECM) and enhanced and expanded web applications. Ensure that we have informed and efficient decision making when making technology decisions.

JLARC Report Summary



The Virginia State Bar (VSB) was created in 1938 by the General Assembly as an administrative agency of the Supreme Court of Virginia. The creation of the agency unified Virginia's lawyers in a mandatory State Bar to provide for the regulation of lawyers practicing in the Commonwealth. Since that time, Virginia State Bar activities have grown to support a broad mission which includes efforts to regulate, improve,

and educate members of the legal profession; and to promote the administration of justice and quality of legal services provided to Virginians.

Virginia is one of 32 states and the District of Columbia that have unified, mandatory bar organizations. Currently, the VSB is made up of 20,408 active members who each pay \$185 in annual fees for the privilege of practicing law in Virginia. Annual attorney fees are used to fund most of the Bar's operations and totaled \$4.3 million in FY 1995. Total Bar operating expenditures in FY 1995 were almost \$5.3 million.

This review of the Virginia State Bar is one in a series of studies on the administration of justice in Virginia. Senate Joint Resolution (SJR) 263 specifically directed JLARC to conduct an analysis of the VSB and evaluate the efficiency, economy, and effectiveness of the VSB in carrying out its mission.

This review found that while the VSB shares a number of characteristics with other unified state bars, the agency is unique when compared to agencies that regulate other professions and occupations in Virginia. The VSB is different because it combines activities to regulate the profession with non-regulatory activities that are similar to those usually conducted by professional associations. This unusual mix of activities raises questions about how to best allocate resources and prioritize activities to carry out the Bar's mission.

Analysis of State Bar operations indicates that:

- lawyers may be paying more in annual fees than is necessary to fund the Bar's operations, as evidenced by the growing cash balances maintained in VSB special funds,

- the system to discipline lawyers in Virginia works relatively well, although, some steps need to be taken to better ensure public protection and build public confidence, and
- most activities of the VSB are consistent with the mission established for the Bar by statute and the *Rules of Virginia Supreme Court*, but the association-like nature of the Bar's non-regulatory activities exposes the Bar to potential conflicts, diverts resources from the Bar's most important activity — lawyer discipline — and raises concerns about public accountability.

Three Special Funds Are Maintained to Pay for VSB Activities

The VSB is authorized to maintain three distinct special funds to pay for its regulatory and non-regulatory activities. The State Bar fund is authorized by the *Code of Virginia* and is composed primarily of the mandatory annual fees paid by lawyers to be members of the VSB. The administration and finance (A&F) fund is authorized by the *Rules of Virginia Supreme Court (Court Rules)* and was created to pay for conference, meeting, and related VSB expenses for which State funds cannot be used. The clients' protection fund is also authorized by the *Court Rules* and is used to compensate persons who have experienced financial losses due to the dishonest conduct of a lawyer. Member dues also finance this fund.

The State Bar fund is one of many special funds within the State Treasury, and as such, is monitored through the Commonwealth's Cost Accounting and Reporting System (CARS). The A&F fund and the clients' protection fund are maintained and administered solely by the VSB and are not tracked by CARS. The VSB is responsible for investing the revenue of these funds

and paying their associated expenses. While not monitored through CARS, the Auditor of Public Accounts does conduct periodic audits to ensure that expenditures are properly documented and that these expenses are not charged to the State Bar fund.

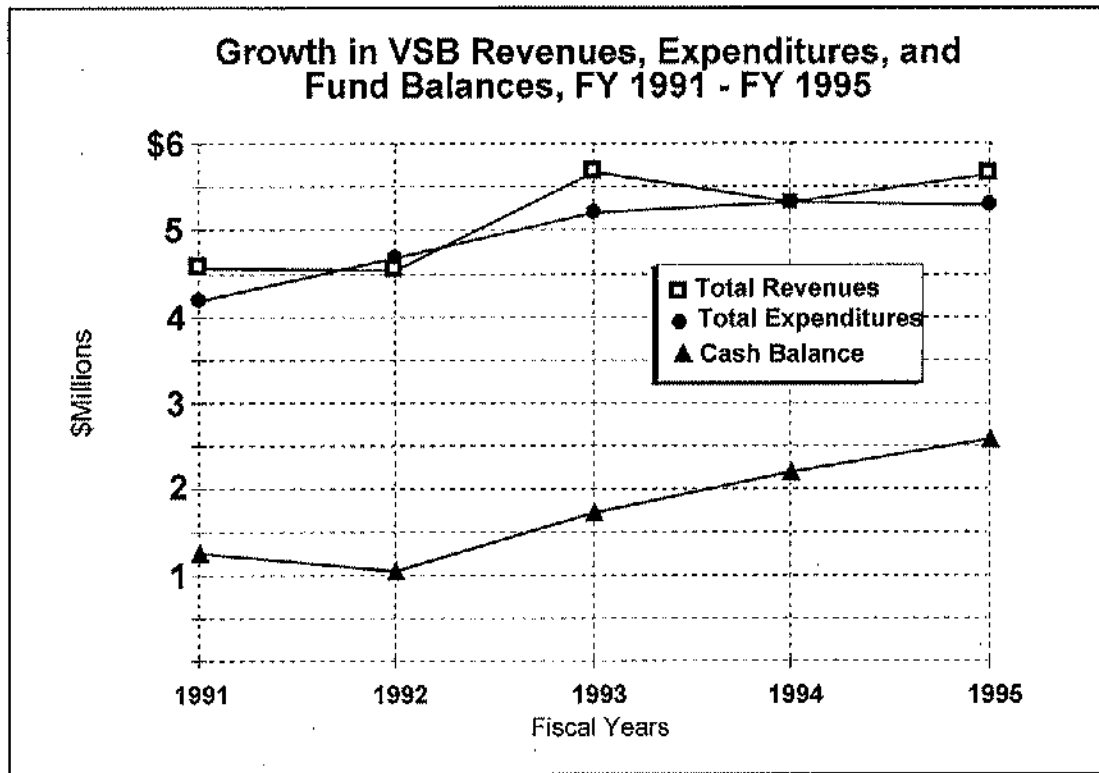
While A Majority of VSB Expenditures Pay for Lawyer Regulation, Lawyers May Be Charged Excessive Fees

Analysis of VSB funding indicates that about 54 percent of total State Bar expenditures are used to regulate lawyers through the disciplinary system and other regulatory activities carried out by the Virginia State Bar. Nevertheless, Virginia lawyers may be paying more than is necessary to fund the activities of the VSB. Growing cash balances in two of the VSB's special funds form a large cash reserve that could have paid for about one-half of the agency's operating expenditures in FY 1995.

In three of the past five fiscal years, VSB revenue exceeded expenditures (see figure on next page). Excess revenues, combined with growing cash balances in the Bar's special funds have provided the Bar with a large cash reserve. Currently, the VSB has more than \$2.5 million in combined reserve amounts from the State Bar fund and the A&F fund. Some of this reserve can be attributed to the VSB implementation of two increases in member dues over the past five years.

Recommendations are made in this report to:

- amend the *Code of Virginia* to ensure that mandatory member dues are not increased if the reserve levels in VSB special funds exceed ten percent of total operating expenditures, and
- reduce the amount of VSB member dues.



Transfers of Funds from the State Bar Fund to the Clients' Protection Fund Raise Questions about Fund Integrity

The clients' protection fund was established in 1985 by *Court Rules* to further the administration of justice by reimbursing clients for financial losses caused by the dishonest conduct of Virginia lawyers. Since its inception, the fund has been capitalized by lawyers' annual fees to the VSB. To date, the fund has received more than \$1.5 million in transfers from the State Bar fund and has paid out more than \$1.3 million to petitioners. The Bar's council has provided revenues to the fund in two ways: (1) approval of fund transfers from the State Bar fund, and (2) loans from the State Bar fund for the express purpose of accruing interest income to capitalize the fund. These loans were later forgiven.

The practice of routinely transferring revenue from the State Bar fund to capitalize

the clients' protection fund raises concerns about the integrity of the State Bar fund. This fund was established to pay for the cost of lawyer regulation, primarily lawyer discipline. Further, the current method of funding the clients' protection fund is inconsistent with the methods used for budgeting other VSB expenditures, even though these expenses accounted for eight percent of the VSB's expenditures in FY 1995.

While the Bar has made contributions to the clients' protection fund since 1976 from the State Bar fund, this contribution was not formally budgeted until recently in FY 1995. The Bar's 1994 long range plan included a goal of contributing \$200,000 annually to the clients' protection fund for a period of at least five years beginning in FY 1995. Nevertheless, the Bar's budget for FY 1995 included only \$130,000 as a line item for the clients' protection fund, which represented a portion of that recommended by

the long range plan and a portion of the \$400,000 which the Bar actually contributed to the fund. Consequently, capitalizing the fund appears to continue to be a discretionary expenditure depending on the financial position of the State Bar fund at the year's end.

Continued growth in demand for payments from the clients' protection fund to persons who have experienced financial losses due to the dishonest conduct of lawyers may necessitate a more straightforward funding mechanism to ensure fund integrity and protect the public. Because it is unclear whether the General Assembly intended for the fund to be capitalized by Bar member dues, recommendations are contained in this report to address these concerns by having the VSB:

- discontinue the current practice of making State Bar fund transfers to the clients' protection fund without specific statutory authority, and
- request General Assembly authorization to maintain and finance the clients' protection fund through a specific funding mechanism.

Certain Revenues Received by the Bar May Have Been Erroneously Retained

Since at least FY 1987 and possibly earlier, the VSB has received revenues from its sponsored insurance plans. From FY 1988 to FY 1995, the Bar received approximately \$727,000 in insurance proceeds for various reasons. The majority of these funds appear to be from refunds for favorable claims experience on the part of VSB policyholders. These funds were eventually deposited in the VSB's administration and finance fund and have collected more than \$88,000 in interest income. It appears that some of these insurance refund amounts should have been treated as unclaimed in-

tangible property and returned to the State Treasury.

Recommendations are made to:

- identify and determine if portions of the VSB's insurance revenue should be designated and treated as unclaimed property, and
- ensure that all future refunds involving intangible property are treated as unclaimed property by the VSB when the owner cannot be identified.

Some Bar A&F Fund Expenditures Do Not Appear Consistent with the Purpose of the Fund

The Bar's administration and finance fund was created in 1987 by the Supreme Court of Virginia to pay for:

expenses related to meetings of the Council, meetings of the Executive Committee, the Annual and Midyear Meetings, and other official functions of the State Bar
(Court Rules)

Analysis of the A&F fund indicates that certain expenditures may not be consistent with the purpose of the fund as established by the Supreme Court. Further, the cash balance in the A&F fund has accumulated to a level more than three times the amount expended from the fund in FY 1995. The Supreme Court may not have intended that the Bar maintain such a large cash balance when it originally set up the fund.

The three primary events that are funded through the A&F fund are the VSB annual meeting, the annual Cambridge seminar, and the midyear legal seminar. Receipts from these events are deposited with the State Treasurer in the State Bar fund. The money is then transferred to the A&F fund to pay for associated expenses. However, in FY 1995 the fund is also used to pay for:

- alcoholic beverage expenses for social meetings of the council, executive committee, specialty law sections, and committees;
- travel expenses for spouses of Bar officers; and
- staff activities and expenses such as coffee, soda, a staff holiday party, and other items.

These types of expenses are not normally approved by the Commonwealth for reimbursement. In addition, they do not appear to relate directly to “official” business of the Bar.

Reimbursement of the above types of expenses appears inconsistent with what the Supreme Court intended in setting up the fund. Further, these expenditures raise questions about the focus and priorities of the VSB in carrying out its mission. The expenditures resemble those more typical of a professional or trade association. The VSB was not set up primarily as a professional association, but rather as a regulatory agency with a mission that includes upholding and elevating the standards of honor and integrity in the legal profession. As such, all of its discretionary expenditures should be made prudently and should be able to withstand public scrutiny.

Recommendations are made to:

- lower the A&F fund balance to a reasonable level, and
- discontinue payment of certain expenses from the A&F fund.

The Disciplinary System Works Well Although Some Changes Are Needed to Improve Public Protection and Build Public Confidence

The primary mission of the VSB is to regulate the legal profession to protect the

public from lawyer misconduct. In doing so, the VSB has developed a complex disciplinary system that strives to balance the need to protect the public with the need to ensure that the limited resources of the Bar are used efficiently. The Bar is also faced with the challenge of maintaining public trust, being accountable, and protecting the public while ensuring the system protects the rights of those accused and treats them fairly.

This review found that the disciplinary system works relatively well in achieving balance between the competing demands on the system. Nevertheless, some problems were identified which need to be addressed to improve public protection, build public trust in the system, and increase accountability to the public. Moreover, some minimal steps could be taken to improve fairness in the system.

Process for Dismissing Complaints Needs Strengthening. Protection of the public is the most important goal of Virginia’s disciplinary system. The disciplinary process begins with the filing of complaints by members of the public regarding the conduct of members of the Virginia State Bar. However, the majority of complaints against members of the Bar are dismissed before a hearing ever takes place on the complaint. Bar counsel appear to have sufficient basis to screen out most of these complaints. However, review of VSB disciplinary files indicated some weaknesses in: (1) the documentation of case dismissal decisions, (2) the provision of an opportunity for complainants to comment on the accused attorney’s response to allegations, and (3) the scope of bar counsel’s authority to dismiss cases. Recommendations are made to:

- improve documentation of dismissed cases and limit bar counsel’s authority to dismiss cases after a preliminary investigation, and

- provide complainants with an opportunity to rebut the accused attorney's response prior to dismissal.

Additional Improvements Could Be Made to Protect the Public. This review also identified several changes to the disciplinary system that could be made to enhance the VSB's ability to protect the public. Currently, complainants do not have the right to appeal dismissals by bar counsel. In addition, bar counsel cannot appeal decisions to dismiss cases after adjudication by Bar committees or the disciplinary board. However, attorneys accused of violating ethical standards (respondents) have the right to appeal case decisions in most instances. In addition, citizen complainants do not have the same rights to immunity from civil suits in filing complaints against lawyers, as lawyers currently have.

While the system has changed to involve lay persons in the adjudication of complaints against lawyers, lay member participation is not mandatory in all parts of the process. Further, it is not clear that the VSB has taken steps to ensure that adjudicatory decisions are consistent across the Commonwealth. This report includes recommendations to:

- provide complainants with the right to appeal dismissals,
- provide complainants with absolute immunity from civil suits for all disciplinary complaints made to the VSB,
- require lay member participation in district committee and disciplinary board actions, and
- have the VSB take steps to assess consistency in outcomes of committee decisions.

Steps Could Be Taken to Improve Public Confidence in the System. This review found that the VSB has taken a number of important steps to improve public trust in the system to discipline lawyers in recent years. However, several aspects of the current system continue to reduce confidence in the system and perhaps raise suspicions that the system is designed to protect lawyers instead of the public. These include maintaining a committee system that is closed to public access and allowing certain practices which create appearances of impropriety. Further, lack of understanding about the system and its purposes could be improved to facilitate a higher degree of public trust. Review of disciplinary files indicated that the Bar could more clearly explain reasons for case dismissals to complainants.

Recommendations are made to:

- further open the disciplinary process to the public;
- prevent members of the Bar's council from representing respondents in disciplinary proceedings and clarify participation by other Bar officers, committee members, and board members;
- prohibit Bar members from having access to confidential disciplinary information, other than Bar staff and members of the standing committee on lawyer discipline;
- require disclosure of potential conflicts of interest in disciplinary cases; and
- provide more detailed explanations for dismissals to complainants.

Minor Changes Could Be Made to Further Improve System Fairness. Analysis of the VSB disciplinary system found that, on the whole, attorneys accused of violating ethical standards are treated fairly. However, some minor changes could be made to improve the fairness of the system. Currently, respondents are only entitled to receive very limited information from bar counsel about their case in order to prepare for a hearing. Further, respondents and their counsel are not allowed to be present for subcommittee meetings in which decisions are made to impose discipline and approve or disapprove proposed agreed dispositions. And, subcommittee members who consider whether to set a case for hearing may also sit on the committee panel that hears the case.

Recommendations are made to improve system fairness by:

- providing respondents with limited discovery in disciplinary cases and the right to appeal dismissals which create a disciplinary record, and
- excluding certain subcommittee members from the adjudicatory process, and allowing respondents and their counsel to be present for subcommittee meetings.

Changes Could Be Made to Improve the Efficiency of the Disciplinary System. Currently, the VSB assesses the efficiency of the disciplinary system by monitoring time guidelines it has established for the various steps in the disciplinary process. Analysis of VSB performance in reaching its guidelines indicates that most complaints are not processed within the goals established for the system. Several changes could be made to assist the Bar in achieving its goals and strengthening the efficiency of the system. Recommendations are made to improve efficiency by:

- improving the monitoring of performance in meeting time guidelines,
- reclassifying at least one position as an additional bar counsel position,
- better monitoring of staff productivity and assessing the need for paralegal support, and
- developing a training program for investigative staff.

The VSB's Current Mission and Role Raises Concerns about Its Regulatory Focus

This review found that, with one minor exception, most VSB activities appear consistent with the mission established for it by the General Assembly and the Supreme Court of Virginia. Nevertheless, there appears to be a need for better prioritization of activities to ensure that the Bar's regulatory activities remain its primary focus. Findings in this report indicate that the Bar may need to reallocate existing resources to address resource needs in this area.

The association-like nature of some programs and activities conducted by the Bar raises questions about whether the Bar is properly focused on its regulatory mission. In addition, the expansion of the Bar into commercial activities is unusual for a State agency and exposes the Bar to potential conflicts, especially with its regulatory function. Further, these types of activities divert resources from the Bar's most important activity — lawyer discipline — and raise concerns about public accountability.

Implications for the Future Role of the Virginia State Bar

Concerns about the unusual mission and role that the unified bar has as a state governmental agency are not new. One legal scholar who studied unified bars in the 1980s has argued that the unified bar as an

institution has three contradictory images which affect its governance and accountability — that of a public agency, a compulsory membership organization, and a private voluntary association. Clearly, these images are reflective of the role of the unified bar in Virginia and as such, raise concerns about how these contradictory roles can be appropriately balanced to ensure continued protection of the public and enhance public confidence in Virginia’s legal system.

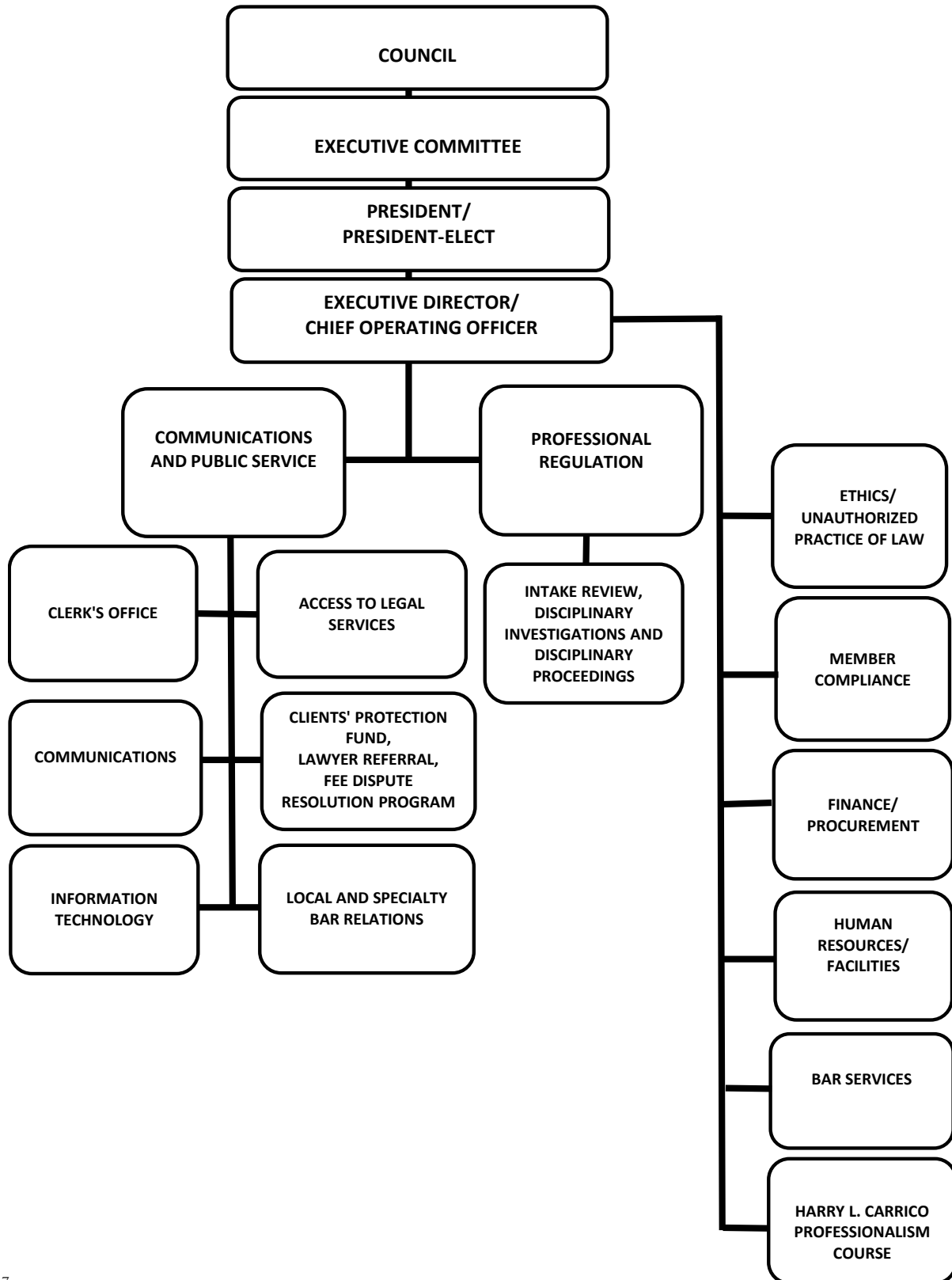
Without a more thorough examination and delineation of the role of the Virginia State Bar in the future, striking the proper balance between the Bar’s regulatory and non-regulatory activities will continue to be

problematic. The Bar will most likely continue to experience pressure to change the scope of its activities from its members, other statewide voluntary bar associations, complainants, and members of the General Assembly.

The Supreme Court of Virginia and the General Assembly may wish to consider several options for the future to refocus the Bar’s activities and improve its public accountability. These could include structural changes to the Bar’s governance, transfer of certain activities to other entities, or implementing a more structured system of oversight.

II. VSB Organization and Staff Support

A. VSB Organization Chart



B. Staff Directory

VIRGINIA STATE BAR
1111 East Main Street, Suite 700
Richmond, Virginia 23219-0026
(804) 775-0500 • TDD (804) 775-0502
website: <http://www.vsb.org>
Office Hours: 8:15 a.m. to 4:45 p.m.

EXECUTIVE OFFICE

		Phone	E-mail
Karen A. Gould	Executive Director	775-0550	gould@vsb.org
Asha B. Holloman	Assistant to the Executive Director	775-0551	aholloman@vsb.org

FINANCE

Crystal T. Hendrick	Finance/Procurement Director	775-0523	hendrick@vsb.org
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MEMBER COMPLIANCE

Demetrios J. Melis	Director	775-0578	dmelis@vsb.org
	Main Number for Mandatory Continuing Legal Education	775-0577	mcle@vsb.org
	Main Number for Membership	775-0530	membership@vsb.org

BAR SERVICES

Maureen D. Stengel	Director	775-0516	stengel@vsb.org
Dolly C. Shaffner	Meetings Coordinator	775-0518	shaffner@vsb.org
Lauren A. Parrish	Meetings Coordinator	775-0515	parrish@vsb.org
Mallory J. Ralston	Meeting Assistant	775-0514	mralston@vsb.org

COMMUNICATIONS, PUBLIC ACCESS, AND SPECIAL PROGRAMS

Renu M. Brennan	Deputy Executive Director	775-0575	brennan@vsb.org
Stephanie G. Blanton	Records Manager/Executive Assistant and Fee Dispute Coordinator	775-0576	blanton@vsb.org
Paulette J. Davidson	Conference of Local and Specialty Bar Associations	775-0521	davidson@vsb.org
Crista L. Gantz	Director, Access to Legal Services	775-0522	cgantz@vsb.org

Communications

Caryn B. Persinger	Director of Communications and Creative Director of <i>Virginia Lawyer</i>	775-0588	persinger@vsb.org
Deirdre H. Norman (Dee)	Editor of <i>Virginia Lawyer</i> and Media Manager	775-0594	dnorman@vsb.org
Jackie Kruszewski	Communications Coordinator	775-0529	jkruzewski@vsb.org

Virginia Lawyer Referral Service

Toni B. Dunson	Lawyer Referral Coordinator	775-0591	dunson@vsb.org
Referral Service—Local		775-0808	
Referral Service—Long Distance		800-552-7977	

PROFESSIONAL REGULATION

Edward L. Davis (Ned)	Bar Counsel	775-0566	davis@vsb.org
Kathryn R. Montgomery	Deputy Bar Counsel	775-0543	montgomery@vsb.org
James M. McCauley (Jim)	Ethics Counsel	775-0565	mccauley@vsb.org
Ethics Hotline		775-0564	ethics hotline@vsb.org
James C. Bodie (Jim)	Intake Counsel	775-0596	bodie@vsb.org
Complaint Line		775-0570	

C. Section and Conference Staff Liaisons and VSB Contacts

2018–19

The following staff members serve as liaisons to the sections and conferences:

Administrative Law	Dolly C. Shaffner	shaffner@vsb.org	(804) 775-0518
Antitrust Law	Mallory J. Ralston	mralston@vsb.org	(804) 775-0514
Bankruptcy Law	Mallory J. Ralston	mralston@vsb.org	(804) 775-0514
Business Law	Lauren A. Parrish	parrish@vsb.org	(804) 775-0515
Construction Law	Paulette J. Davidson	davidson@vsb.org	(804) 775-0521
Corporate Counsel	Lauren A. Parrish	parrish@vsb.org	(804) 775-0515
Criminal Law	Maureen D. Stengel	stengel@vsb.org	(804) 775-0517
Education of Lawyers	Maureen D. Stengel	stengel@vsb.org	(804) 775-0517
Environmental Law	Lauren A. Parrish	parrish@vsb.org	(804) 775-0515
Family Law	Dolly C. Shaffner	shaffner@vsb.org	(804) 775-0518
General Practice	Paulette J. Davidson	davidson@vsb.org	(804) 775-0521
Health Law	Paulette J. Davidson	davidson@vsb.org	(804) 775-0521
Intellectual Property Law	Lauren A. Parrish	parrish@vsb.org	(804) 775-0515
International Practice	Mallory J. Ralston	mralston@vsb.org	(804) 775-0514
Litigation	Paulette J. Davidson	davidson@vsb.org	(804) 775-0521
Local Government Law	Lauren A. Parrish	parrish@vsb.org	(804) 775-0515
Military Law	Mallory J. Ralston	mralston@vsb.org	(804) 775-0514
Real Property	Dolly C. Shaffner	shaffner@vsb.org	(804) 775-0518
Taxation	Mallory J. Ralston	mralston@vsb.org	(804) 775-0514
Trusts & Estates	Dolly C. Shaffner	shaffner@vsb.org	(804) 775-0518
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Conference of Local and Specialty Bar Associations	Paulette J. Davidson	davidson@vsb.org	(804) 775-0521
Diversity Conference	Stephanie G. Blanton	blanton@vsb.org	(804) 775-0576
Senior Lawyers Conference	Stephanie G. Blanton	blanton@vsb.org	(804) 775-0576
Young Lawyers Conference	Lauren Parrish	parrish@vsb.org	(804) 775-0515
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Annual Report	Deirdre H. Norman	dnorman@vsb.org	(804) 775-0594
Newsletters	Jackie Kruszewski	jkruszewski@vsb.org	(804) 775-0529
<i>Virginia Lawyer</i> magazine	Deirdre H. Norman	dnorman@vsb.org	(804) 775-0594
VSB Website	Caryn B. Persinger	persinger@vsb.org	(804) 775-0588

D. Committee Staff Liaisons

2018–19

STANDING COMMITTEES:

Budget & Finance	Crystal T. Hendrick	hendrick@vsb.org	(804) 775-0523
Lawyer Discipline	Edward L. Davis	davis@vsb.org	(804) 775-0566
Legal Ethics	James M. McCauley	mccauley@vsb.org	(804) 775-0565
Professionalism	Maureen D. Stengel	stengel@vsb.org	(804) 775-0517

SPECIAL COMMITTEES:

Access to Legal Services	Crista L. Gantz	cgantz@vsb.org	(804) 775-0522
Bench-Bar Relations	Karen A. Gould	gould@vsb.org	(804) 775-0550
Better Annual Meeting	Maureen D. Stengel	stengel@vsb.org	(804) 775-0517
Future of Law Practice	James M. McCauley	mccauley@vsb.org	(804) 775-0565
Judicial Candidate Evaluation	Karen A. Gould	gould@vsb.org	(804) 775-0550
Lawyer Insurance	Karen A. Gould	gould@vsb.org	(804) 775-0550
Lawyer Referral	Toni B. Dunson	dunson@vsb.org	(804) 775-0591
Resolution of Fee Disputes	Stephanie G. Blanton	blanton@vsb.org	(804) 775-0576
Technology and the Practice of Law	James M. McCauley	mccauley@vsb.org	(804) 775-0565

E. Duties of Staff Liaisons

Effective staff liaisons are essential to a committee/conference/section and the VSB's overall success. The staff liaison is a key resource to the assigned group, facilitates operations by acting as the information conduit between the group and the VSB, and assists the chair with planning and administrative responsibilities.

The liaison acts at the direction of the chair but does not actually perform the group's work. Too large of a staff role reduces the value of the group and motivation of volunteers; too small a role often results in the group operating inefficiently.

General Organizational and Policy Duties

The staff liaison:

- is familiar with all aspects of the group's bylaws (sections and conferences), purpose, prior work product, activities and current budget (sections and conferences).
- works with the chair to ensure that the group's work is consistent with the VSB's goals and objectives. The liaison understands and advises the group concerning:
 - the organization's strategic direction;
 - relevant policies, procedures, rules, and organizational structure;
 - the organization's financial planning process and related deadlines; and
 - restrictions on lobbying and fund raising.
- is an active participant at meetings, when possible, engaged in discussions, answering questions, offering suggestions and providing perspective. The liaison anticipates the informational needs of the group and coordinates with the chair to ensure that there is appropriate staff and volunteer input prior to discussion and decision making.
- supports the VSB's policy decisions, even when these decisions may be inconsistent with an individual group's needs.
- anticipates and provides administrative support when possible.
- seeks guidance from his or her manager or other appropriate resources when information beyond the liaison's expertise is required.
- The staff liaison does not participate in the group's votes.

Meeting and Special Event Support

The staff liaison:

- makes early contact with the chair to discuss a meeting schedule for the bar year, taking into consideration deadlines for financial and other planning activities, and the group's projects and reports.
- reviews with the chair the group's charge and goals for the year; ongoing projects and programs; budget considerations and other relevant background; and the need for new member orientation.
- confirms availability of meeting space, scheduling meeting room, arranging for refreshments and meals and ensuring that the meeting is confirmed on the State Bar's master calendar.
- works with the chair to develop and distribute meeting notices, agendas, minutes, meeting materials and other appropriate communications.
- circulates meeting notices and agendas electronically to the board in a timely manner, ensuring that board members post the meeting date on their calendars at the earliest possible time.
- attends meetings and provides on-site support, as necessary. With respect to meeting attendance, liaisons should coordinate with the chair and exercise judgment as to the importance/expense of attendance at meetings at an offsite location.

-
- assists the chair with preparation of the agenda and materials for meetings.
 - ensures that the original minutes are maintained in a permanent file following approval.
 - ensures compliance with FOIA, including notice, minutes and electronic meeting requirements (Standing Committees and Public Bodies).
 - coordinates and/or distributes reports or other information relevant to the group's work, including staff, committees, sections, conferences and other pertinent organizations.

General Resource and Administrative Support Duties

The staff liaison:

- assists with preparation of impact statements relative to new projects (see *Handbook, New Project Impact Statement*, page 9).
- explains travel expense reimbursement and general fiscal policies and procedures.
- assists with preparation/submission of form for solicitation of grants and other funds, as necessary.
- assists the Communications Department [dnorman@vsb.org or (804) 775-0594] with collection of the group's annual report before the annual meeting, but no later than July 1, 2019.
- coordinates email distribution lists, ensuring that the participant list is current and that policies and rules are distributed as appropriate.

Administrative Support Duties Specific to Sections and Conferences

The staff liaison:

- assists in the nominating committee process of the section/conference for the board of governors and officers' appointments by advising the committee of the number of vacancies and terms of office and by serving as a resource for recruitment of members who would bring diversity to the board and the section/conference's work.
- assists with the collection of election results from section/conference's annual business meeting held during the VSB's Annual Meeting in June (names; addresses; terms of office for newly elected board members and officers)
- communicates proposed section bylaw amendments to the executive director and Bar Services. Amendments to section bylaws must be approved by VSB Council before they become effective.
- anticipates and coordinates the timely production of the section/conference's communications, marketing, research and other needs with appropriate staff (for example: event promotion, mailings, newsletter production, group e-blasts etc.).
- facilitates newsletter production (electronic and printed media; and mailing) in coordination with the Communications Department [jkruszewski@vsb.org@vsb.org or (804) 775-0529]. Volunteer newsletter editors prepare content for the section/conference newsletters, and provide final text to the designated graphic designer for formatting.
- coordinates group email distributions; where appropriate, works through IT and Communications Departments for large distributions.
- coordinates with the section/conference's webmaster to ensure that the content on the section/conference's website is current and accurate.
- coordinates arrangements with Fiscal Office to ensure that the section has adequate money in budget to cover expenses for programs and projects (i.e. postage/envelopes).
- coordinates arrangements with printer and mailing service for special programs and projects;

-
- orders gifts and plaques for outgoing section chairs and board members to be presented at the Annual Meeting. No additional awards should be ordered without checking with the section or conference liaison. Such expenditures must be authorized by the section/conference and will be charged against its budget.

Finance and Budgeting Duties Specific to Sections and Conferences

The staff liaison:

- provides financial planning, budgeting support, and guidance through coordination with the fiscal office.
- assists the chair in developing the section/conference's annual budget, according to the policies, procedures and deadlines established by the Virginia State Bar.
- together with the chair, manages the section/conference's budget, proactively reporting appropriate financial information.
- monitors invoices and travel reimbursement vouchers chargeable to the section/conference's budget to ensure that each expenditure made can be covered by the budget, as approved for the fiscal year.
- reviews monthly financial statements and reports financial/budget concerns to his or her supervisor and follows up until the matter is resolved.

CLE Administration Duties Specific to Sections and Conferences

The staff liaison:

- coordinates with the section in the development of section CLE programs.
- coordinates with Bar Services for CLE workshops planned in conjunction with VSB Annual Meeting.
- coordinates planning with VSB MCLE Department to ensure that program qualifies for proper credit; that the application for course approval (form #6) is submitted in a timely fashion; that all MCLE requirements for written materials are satisfied; and that forms #2 and #3 are printed and delivered to section for distribution.

Execution of Contracts & Grants

- Only the executive director, deputy executive director, or their designee may enter into contracts on behalf of the organization, or approve the engagement of consultants and professional service providers. All grant applications must be authorized and signed by the executive director or the deputy executive director or their designee. (*Handbook — Grant Requests*, page 53).
- Bar policy requires approval by the executive director BEFORE solicitation or acceptance of any grant, and approval by the Executive Committee BEFORE solicitation or acceptance of funds from any entity. Please use the form specified by the VSB for this purpose. (*Handbook — Grant Requests*, page 36).

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;

-
- 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.

-
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:

-
- 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

IV. Virginia Freedom of Information Act (FOIA) and Virginia Public Records Act (PRA)

A. Virginia FOIA and PRA

The VSB and its boards, committees, conferences, sections, employees, and volunteers are subject to both the:

1. Virginia Freedom of Information Act, Va. Code § 2.2-3700, et seq. and
2. Virginia Public Records Act, Va. Code §§ 42.1-76 - 42.1-91.

FOIA ensures Virginians access to both:

- (1) **public records** in the custody of a public body, its officers, and employees and
- (2) **meetings of public bodies, wherein public business is conducted.**

The Public Records Act (PRA) governs how long a government entity must retain certain records.

RECORDS

Records are broadly defined under both FOIA and the PRA to include all recorded information, whatever the form, prepared or documenting public business.

FOIA — all writings and recordings prepared or owned by, or in the possession of, a public body or its officers, employees, or agents in the transaction of public business. Va. Code § 2.2-3701.

Examples include but are not limited to **emails, text messages, handwritten notes, typewritten documents, electronic files, audio or video recordings, CDs, emails, photographs, or any other written or recorded media.**

Minutes of meetings of public bodies.

Records include **all drafts** and final versions.

PRA — recorded information, regardless of physical form, that documents a transaction or activity by or with any public officer, agency, or employee of an agency.

The recorded information is a public record **if it is produced, collected, received, or retained in pursuance of law or in connection with the transaction of public business.**

The medium upon which such information is recorded has no bearing on the determination of whether the recording is a public record.

Under FOIA, all public records are **open to the public**, unless a specific exemption in law allows the record to be withheld.

FOIA records exemptions include personnel exemptions, the attorney-client privilege, attorney-client work product, and personal contact information, all as defined and limited at Va. Code § 2.2-3705.1.

The Rules of Court, Part Six, Section IV, Paragraphs 10 and 13-30 are treated as exemptions to FOIA.

Paragraph 10-2.E. provides that the records of the Ethics Committee, including Committee deliberations, memoranda, correspondence, and work product shall be confidential and privileged and will not be provided to anyone absent a court order.

Paragraph 10-5.C. provides that communications between Ethics Counsel and members requesting advice are confidential. Likewise, Paragraph 13-30.A. protects disciplinary records as follows:

13-30. A. Confidential Matters.

1. Bar complaints, unless introduced at a public hearing or incorporated in a Charge of Misconduct, when the matter is placed on the public docket, or a Certification.
2. Bar investigations, except Reports of Investigation admitted as exhibits at a public hearing.
3. Impairment proceedings, except the final orders, which are public.
4. Notes, memoranda, work product, research of Bar Counsel.
5. Records, communications, and information protected by RPC 1.6.
6. Subcommittee records and proceedings, except determinations imposing public discipline.
7. Deliberations and working papers of the District Committees, Disciplinary Board, and three-judge Circuit Courts.

13-30. K. Records of the Disciplinary System.

Requests for Information/Records

If you receive any request for information or records in connection with your work with the VSB, please contact your committee, conference, or section liaison. The VSB must timely, within five business days, respond to any request for production, including citing any appropriate exemption and/or producing the non-exempt records.

Retention of Records

- Any records you receive from the VSB are duplicates unless you have taken substantive notes and have documents that should be included as part of the work product of the file.
- If you send an e-mail that relates to the transaction of section business, please either copy or forward to your liaison. Once sent to your liaison, you do not have to preserve it.
- If you create a record outside of what is provided to you by the VSB, please scan or copy it and send it to your liaison.
- Once the VSB liaison is in possession of any records you have created or obtained outside of what the VSB provided to you, you may destroy your case file.
- Try not to commingle personal and official emails. Private emails do not need to be retained; emails relating to the transaction of public business do. When sending emails or otherwise acting on behalf of the VSB, please be mindful of the fact that you are creating a public record.
- If you have any questions, please do not hesitate to call your liaison.

MEETINGS

FOIA requires that all public bodies:

- post notice of meetings at least three working days in advance of the meeting;
- ensure the meeting is open to the public; and
- take and preserve minutes.

A meeting is defined as three or more members of the public body, or a quorum if the public body is less than three members, where public business is transacted or discussed, whether or not minutes or votes are taken. To avoid an accidental electronic meeting, please do not email more than one other member about VSB business, and **please do not hit reply all** if other members of the committee are copied on the email. Please use the “bcc” (blind carbon copy) option when emailing a group. For a helpful discussion about this topic and other FOIA questions, please see the following publications by the Virginia FOIA Council: *A Guide to the Virginia Freedom of Information Act for Members of Boards, Councils, Commissions, and other Deliberative Public Bodies* and *E-Mail: Use, Access & Retention* at <http://foiacouncil.dls.virginia.gov>.

V. Budget and Finance

A. Overview of Financial Operation and Budget Process

(A.) General Assembly Appropriation

Although it is a state agency, the Virginia State Bar receives no general fund or tax dollars. It is funded by dedicated special revenues derived primarily from bar dues which are held in the State Bar Fund with the Department of the Treasury. Regardless of cash balances on hand in the State Bar Fund, the VSB is authorized to spend **only** the amount of money appropriated to it by the General Assembly of Virginia in the state budget. The bar's appropriation request is included in the Governor's budget prior to review and approval by the General Assembly.

(B.) Special Funds

Virginia State Bar funds are held in three separate accounts: the State Bar Fund; the Administration and Finance Account, and the Clients' Protection Fund. Each of these accounts is authorized by statute or rule of court and is audited annually by the State's Auditor of Public Accounts.

The State Bar Fund is the bar's operating account. This fund is comprised of member dues and penalty fees, as well as fees from a variety of other sources including MCLE sponsors, professionalism course registration, cost assessments in disciplinary matters and section revenues. Va. Code § 54.1-3913.

The Administration and Finance Account was created in 1987 to manage revenues and expenses for meetings that are supported by registration receipts rather than mandatory dues. The Annual Meeting is handled through the A&F Account. The fund is used to pay expenses that cannot be paid with state funds. Va. Sup. Ct. R. Part 6, §IV, ¶9(i).

The Clients' Protection Fund was established in 1976 to make monetary awards to persons who have suffered financial losses because of the dishonest conduct of a Virginia lawyer. The fund is administered by a fourteen member board and operates under rules approved by the Council. From 1976 to 2005, the fund was primarily capitalized by member dues through transfers from the State Bar Fund. In 2007, the General Assembly and the Supreme Court approved a \$25 per year assessment for each active member of the bar. In February 2013, the General Assembly extended the assessment through June 30, 2020. In September 2017 the Supreme Court reduced the assessment for each active member of the bar to \$10. This change is effective 7/1/2018. Also effective 7/1/2018 the General Assembly extended the CPF sunset provision from 7/1/2020 to 6/30/2023.

(C.) Annual Process for Operating Budget

In November, the VSB staff will begin developing the operating budget for the following fiscal year beginning July 1. The proposed budget is reviewed and finalized by the Standing Committee on Budget and Finance in January. The budget is presented to the Executive Committee and Council for approval at their February meetings. The budget is also presented to the Supreme Court of Virginia for its input and approval.

B. Financial Policies

(A.) Dues Increases

No increase in the annual dues above \$250 for active members or \$125 for associate members will be authorized by the Court whenever the total combined cash balances of the State Bar Fund and the Virginia State Bar's Administration and Finance Account shall exceed fifteen (15) percent of the total annual operating expenditures of the Virginia State Bar for the year preceding the year in which the dues increase is sought. (Rules of Court, Part Six, Section IV, Paragraph 11). Va. Code § 54.1-3912.

(B.) Expenses for Group Functions

The Executive Committee has directed the VSB staff to negotiate the best rate possible (considering location and circumstances) for group functions sponsored by the Virginia State Bar.

(C.) Use of State Bar Funds

As a matter of policy, funds in the custody of the Virginia State Bar shall not be used for the purpose of contributing to, or sponsoring, the social activities of any organization excepting those organizations to which the VSB owes a duty as a participating member.

Approved by VSB Executive Committee
December 1988

Approved by Council
February 1989

(D.) Alcohol and Spouse Expenses

Senate Joint Resolution 263 (1995) directed the Joint Legislative Audit and Review Commission (JLARC) to conduct an analysis of the Virginia State Bar. The review began in the spring of 1995 and was concluded with a report to the commission on December 11, 1995. One recommendation stated that the Virginia State Bar should discontinue the practice of paying for expenses from its Administration and Finance Account which are inconsistent with the intent of the Supreme Court of Virginia in establishing and authorizing the fund.

In June 1996, Council amended its policy to prohibit the use of State Bar funds for spousal travel expenses and purchase of alcohol. Section budgets are comprised of voluntary dues therefore spousal expenses for group meal events are acceptable.

C. Volunteer Expense Reimbursement Policies and Procedures

(a.) Volunteer Travel Expense Reimbursement Guidelines

The Virginia State Bar (VSB) follows the Commonwealth of Virginia Travel Regulations with certain exceptions. Reasonable and necessary travel expenses incurred by committee members attending committee meetings are reimbursable by the Virginia State Bar. This includes mileage or fares, lodging and certain meal expenses; however, alcoholic beverages and spousal expenses are NOT reimbursable. Committee members are encouraged to minimize travel expenses by reducing overnight stays in connection with committee business. To this end, committee chairs are requested to call meetings at such times and in such places that costs of travel by committee members will be held to a minimum.

Travel reimbursement requests should be filed IMMEDIATELY after a meeting. All vouchers received more than 30 days after the completion of the trip must be approved by the Executive Director. Reimbursement requests received more than thirty days after completion of travel may not be honored.

With reasonable notice, arrangements can be made for a committee to use a VSB meeting room. Meetings at “resort” hotels are usually not allowed and must be cleared in advance by the Executive Committee.

Members attending the VSB Annual Meeting held in June at Virginia Beach are expected to pay their own expenses as a part of their professional responsibility. Hence, expenses of members attending committee meetings scheduled immediately before, after or during the Annual Meeting are NOT REIMBURSABLE. This also applies to committee meetings scheduled immediately before, after or during regular meetings of various voluntary state associations (i.e., VBA, VTLA and VADA) and are considered to be held for the convenience of lawyers attending those association meetings. This policy is in accord with that of the American Bar Association and other state bar associations. The board members of sections and conferences are allowed an exception to this reimbursement policy (refer to Sections and Conferences section of this handbook).

Please refer to the Volunteer Expense Reimbursement Voucher at www.vsb.org/site/members/chairs-handbook. Reimbursement vouchers should be typed or handwritten legibly. Volunteer reimbursement vouchers are available from the VSB website or bar office (Excel spreadsheet or PDF file via e-mail). Send your e-mail request to: huband@vsb.org. **Each day’s expenses must be itemized separately on the voucher. You must attach appropriate itemized receipts.** Reimbursements will not be made from credit card receipts or statements. All Virginia State Bar volunteers are required to complete a Commonwealth of Virginia substitute W-9. A sample of the W-9 is on the following page. The W-9, Volunteer Expense Reimbursement Voucher, and detailed instructions are online at <http://www.vsb.org/site/members/chairs-handbook>.

(b.) Invoices and Miscellaneous Expenses

Miscellaneous expenses (copying, postage, etc.) should be included on the volunteer reimbursement voucher and must include original invoices. Use the “other” column to capture these expenses. The State Comptroller’s Office requires detailed explanations and documentation.

Form **W-9**

Commonwealth of Virginia
Substitute W-9 Form

Revised July 2014

Request for Taxpayer Identification Number and Certification



<input type="checkbox"/> Social Security Number (SSN) <input type="checkbox"/> Employer Identification Number (EIN) _____	Please select the appropriate Taxpayer Identification Number (EIN or SSN) type and enter your 9 digit ID number . The EIN or SSN provided must match the name given on the "Legal Name" line to avoid backup withholding. If you do not have a Tax ID number, please reference "Specific Instructions - Section 1." If the account is in more than one name, provide the name of the individual who is recognized with the IRS as the responsible party.
---	--

Dunn & Bradstreet Universal Numbering System (DUNS) (see instructions) _____	Legal Name: _____	
	Business Name: _____	

Entity Type	Entity Classification	Exemptions (see instructions)
<input type="checkbox"/> Individual <input type="checkbox"/> Corporation <input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> S-Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> C-Corporation <input type="checkbox"/> Trust <input type="checkbox"/> Disregarded Entity <input type="checkbox"/> Estate <input type="checkbox"/> Limited Liability Company <input type="checkbox"/> Government <input type="checkbox"/> Partnership <input type="checkbox"/> Non-Profit <input type="checkbox"/> Corporation	<input type="checkbox"/> Professional Services <input type="checkbox"/> Medical Services <input type="checkbox"/> Political Subdivision <input type="checkbox"/> Legal Services <input type="checkbox"/> Real Estate Agent <input type="checkbox"/> Joint Venture <input type="checkbox"/> VA Local Government <input type="checkbox"/> Tax Exempt Organization <input type="checkbox"/> Federal Government <input type="checkbox"/> OTH Government <input type="checkbox"/> VA State Agency <input type="checkbox"/> Other	Exempt payee code (if any): (from backup withholding) _____ Exemption from FATCA reporting code (if any): _____

Contact Information		
Legal Address: City: State : Zip Code:	Name: Email Address: Business Phone:	
Remittance Address: City: State : Zip Code:	Fax Number: Mobile Phone: Alternate Phone:	

Section 2 - Certification	Under penalties of perjury, I certify that: <ol style="list-style-type: none"> 1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and 2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or c) the IRS has notified me that I am no longer subject to backup withholding, and 3. I am a U.S. citizen or other U.S. person (defined later in general instructions), and 4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct. <p>Certification instructions: You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See instructions titled Certification</p>
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Printed Name:		
Authorized U.S. Signature:		Date:

VI. Communications

The Virginia State Bar's Communications Department is responsible for producing print and online publications for bar members and providing information to the public. (<http://www.vsb.org/site/public>) Publications include *Virginia Lawyer*, which contains the previously separate *Virginia Lawyer Register*, *Professional Guidelines*, Latest News at [vsb.org](http://www.vsb.org), monthly news emails, conference and section newsletters, public information brochures, annual reports, and meeting and seminar programs. Information about publications beyond what is described in this handbook may be obtained by calling the department at (804) 775-0529.

A. *Virginia Lawyer*

Virginia Lawyer magazine is the official publication of the Virginia State Bar and is distributed to all VSB members in good standing, general subscribers, law libraries, other state bar associations, and the media. Total distribution, including members of the bar, is about fifty thousand.

Virginia Lawyer is published in February, April, June, August, October, and December. Issues contain substantive articles on the law and a number of regular features, including informational pieces about the bar and bar activities, letters to the editor, rule changes, ethics opinions, disciplinary actions, professional notices, advertising, and classified ads.

Section and Conference Participation in *Virginia Lawyer* Magazine

- **Bar News**

Virginia Lawyer offers a number of ways for sections and conferences to educate lawyers and to promote membership.

The first is through the Noteworthy section, which provides highlights of VSB news, CLE recaps, and ongoing activities of members of the bar. It offers a means for every lawyer in Virginia to know what your section or conference is doing and, in turn, helps to encourage section membership. Send your announcement to the editor by email to dnorman@vsb.org, or call (804) 775-0594. If you are highlighting a recent seminar or meeting, we encourage photos to accompany your announcement. Digital files should be sent as high-resolution (300 ppi) in jpg, eps, or tiff attachments. Copy deadlines for news are generally a month before the publishing dates listed above.

- **Dedicated Issues**

Many of the substantive articles that appear in the magazine come from VSB sections or conferences that agree to provide articles (usually three) for a dedicated issue. Sections or conferences interested in contributing to a dedicated issue may do so by contacting the editor, Dee Norman, at (804) 775-0594 or dnorman@vsb.org. Copy deadlines for substantive articles are generally two months before the publishing dates listed above. A VSB style book is available online at <http://www.vsb.org/site/publications/valawyer>.

B. Brochures

The VSB Communications Department produces more than twenty brochures for use by attorneys and the general public. Some are available at no charge, others at nominal cost. For a list of these publications, visit the communications website at <http://www.vsb.org/site/publications/>. To obtain copies, call (804) 775-0529.

If your section, conference, or committee is interested in producing a brochure, a request for new publications may be made by filling out an impact statement (see pages 9–10) and sending it to persinger@vsb.org

C. Videos

The VSB receives requests from sections, conferences, and committees wishing to produce videos. The VSB Council has enacted guidelines for video production. These guidelines are reprinted below.

1. An idea for a video should be accompanied by a proposal that includes a VSB impact statement (see pages 9–10) for the proposed video and an outline of the script.
2. Based on the idea, outline, cost, and availability of resources, the Communications Department will make recommendations to the section, conference, or committee.

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3. Approval for production of a video will come from the Communications Department, with the provision that a final script will need to be reviewed, as will the video itself prior to its release.
 4. Once approval is received, the committee or section will be responsible for procuring the production company and writing the finished script.
 5. Credit lines on videos should include acknowledgment of any foundation or grant support; e.g., “This project was financially assisted by The Virginia Law Foundation.”
 6. A rough cut of the video also will be reviewed and approved by the Communications Department prior to any release or use of the video. The department may choose to have the video viewed by a larger and more diverse group if it is being produced for the public.

D. Annual Report

The Virginia State Bar Annual Report is a summary of the bar’s activities published each fiscal year. The report is used for research by VSB staff and volunteers, journalists and historians, court and government officials, and legislators for resource information and policymaking.

The chair of each section, conference, committee, and task force should **file an annual report before its annual meeting, but no later than July 1, 2019**, about activities from July 1 to June 30 in the prior fiscal year. The chair who served during the report year usually writes the report. The report should be sent to the Communications Department at dnorman@vsb.org.

Previous annual reports may be read at www.vsb.org/site/about/annual-reports/.

Your annual report may include the following information:

- number of members of your section or conference;
- special activities during the fiscal year and the key person in charge of each (full names, please);
- significant issues that arose and how they were resolved;
- continuing legal education programs sponsored by your group;
- officers and board members for the next fiscal year; and
- the name and title of the person filing the report.

The Annual Report is published online only. Questions about the annual report should be addressed to Dee Norman at (804) 775-0594 or dnorman@vsb.org.

Please refer to the Policy on Content for the Virginia State Bar *Virginia Lawyer* magazine and the Publications of VSB Committees, Sections, and Conferences on page 39.

VII. Sections and Conferences

A. General Information

Sections of the Virginia State Bar are separate groups having special interests in particular areas of practice. Sections function under bylaws approved by the Virginia State Bar Council and broad policy guidelines, also established by the Council. (See pages 6–7)

Members in good standing of the Virginia State Bar are eligible for *active* membership in most sections upon payment of authorized dues. In addition to *active* membership, the bylaws of many sections also provide for *judicial*, *law student*, and *associate* categories of membership. As voluntary, nonappointed entities, sections elect their own officers and choose their own activities within limitations established by the bylaws of the section, as well as by the general policies and purposes of the Virginia State Bar.

Sections provide the structure through which all members of the bar have the opportunity to participate in bar work. Sections may be divided into smaller units. For example, committees of sections may be appointed to undertake particular projects such as membership recruitment and retention, newsletters and other publications, and continuing legal education (CLE) programs. The board of governors should serve to coordinate the work of the section committees rather than attempt to do all of the section's work.

As of September 1, 2018, the Virginia State Bar Council has authorized twenty sections, with a approximate total membership of 21,537. (<http://www.vsb.org/site/members/sections/>). In addition, Council has authorized four conferences:

- **Conference of Local and Specialty Bar Associations (CLSBA)**

All local and specialty statewide bar associations are eligible for membership

(<http://www.vsb.org/site/conferences/clba/>)

Number of Member Bar Associations: 124 (as of September 1, 2018)

- **Senior Lawyers Conference (SLC)**

All members of the Virginia State Bar in good standing who are aged 55 or older are automatic members of the SLC.

<http://www.vsb.org/site/conferences/slc/>

Membership: 20,499 (as of September 1, 2018)

- **Young Lawyers Conference (YLC)**

All members of the Virginia State Bar in good standing who are age 36 or younger and/or who have been admitted to their first bar less than three years are automatic members of the YLC.

<http://www.vsb.org/site/conferences/ylc/>

Membership: 9,166 (as of September 1, 2018)

- **Diversity Conference (DC)**

Open to all members of the Virginia State Bar in good standing who are interested in increasing diversity in the legal profession and in ensuring that Virginia meets the legal needs of an increasingly diverse population.

<http://www.vsb.org/site/conferences/dc/>

Membership: 773 (as of September 1, 2018)

B. Historical List of Sections and Conferences

NAME OF SECTION	ESTABLISHMENT DATE
ADMINISTRATIVE LAW SECTION	January 1979
ANTITRUST, FRANCHISE & TRADE REGULATION SECTION ⁷	April 1977
BANKRUPTCY LAW SECTION	February 1990
BUSINESS LAW SECTION ¹	January 1970
CONSTRUCTION LAW & PUBLIC CONTRACTS SECTION ⁸	April 1979
CORPORATE COUNSEL SECTION	October 1989

CRIMINAL LAW SECTION	October 1967
EDUCATION OF LAWYERS SECTION	October 1992
ENVIRONMENTAL LAW SECTION	October 1978
FAMILY LAW SECTION	January 1978
GENERAL PRACTICE SECTION	February 1986
HEALTH LAW SECTION	October 1984
INTELLECTUAL PROPERTY LAW SECTION ⁴	May 1970
INTERNATIONAL PRACTICE SECTION ⁶	October 1978
LITIGATION SECTION ²	October 1980
LOCAL GOVERNMENT LAW SECTION ⁵	February 1985
MILITARY LAW SECTION	February 1996
REAL PROPERTY SECTION ³	October 1978
TAXATION SECTION	October 1955
TRUSTS AND ESTATES SECTION ³	October 1978

CONFERENCE OF LOCAL AND SPECIALTY BAR ASSOCIATIONS	1990
SENIOR LAWYERS CONFERENCE ⁹	July 2001
YOUNG LAWYERS CONFERENCE	July 1974
DIVERSITY CONFERENCE ¹⁰	January 2010

- (1) Originally authorized October 21, 1955, with name changed to Section on Corporation and Business Law and then to Section on Corporation Counsel, October 1969.
- (2) Originally authorized October 21, 1955, with name changed to Section on Negligence, October 27, 1967.
- (3) Estates and Property Section authorized October 21, 1955, with a division into Trusts and Estates Section and Real Property Section, October 28, 1978.
- (4) Formerly Patent, Trademark and Copyright Law Section; name change was authorized by Council, February 27, 1987.
- (5) Formerly Municipal & Local Government Law Section; name change was authorized by Council, October 16, 1988.
- (6) Formerly International Law Section; name change was authorized by Council, June 15, 1989.
- (7) Formerly Antitrust Law Section; name change was authorized by Council, February 1989. Restated by section, June 1991.
- (8) Formerly Construction Law Section; name change was authorized by Council, February 1992.
- (9) Formerly Senior Lawyers Section, established February 1987. Council authorized establishment of the Conference in June 2001.
- (10) Council approved creation of the Diversity Conference in June 2009. Supreme Court of Virginia authorized establishment of the conference in January 2010.

C. Section Membership Structure, Dues, and Billing

(A.) Table of Membership

NAME OF SECTION	CURRENT MEMBERSHIP*
ADMINISTRATIVE LAW	556
ANTITRUST LAW	186
BANKRUPTCY LAW	675
BUSINESS LAW	1,708
CONSTRUCTION LAW	740
CORPORATE COUNSEL	1,492
CRIMINAL LAW	2,230
EDUCATION OF LAWYERS	178
ENVIRONMENTAL LAW	349
FAMILY LAW	1,873
GENERAL PRACTICE	683
HEALTH LAW	627
INTELLECTUAL PROPERTY	1,526
INTERNATIONAL PRACTICE	393
LITIGATION	3,083
LOCAL GOVERNMENT	647
MILITARY LAW	231
REAL PROPERTY	1,822
TAXATION	681
TRUSTS AND ESTATES	1,857
TOTAL	21,537

*As of September 1, 2018, includes Active, Associate, Judicial, and Non-Bar Member categories of section membership.

(B.) Section Dues Structure*

ADMINISTRATIVE LAW SECTION	\$20.00
ANTITRUST, FRANCHISE & TRADE REGULATION SECTION	\$10.00
BANKRUPTCY LAW SECTION	\$20.00
BUSINESS LAW SECTION	\$10.00
CONSTRUCTION LAW & PUBLIC CONTRACTS SECTION	\$20.00
CORPORATE COUNSEL SECTION	\$20.00
CRIMINAL LAW SECTION	\$20.00
EDUCATION OF LAWYERS SECTION	\$20.00
ENVIRONMENTAL LAW SECTION	\$20.00
FAMILY LAW SECTION	\$30.00
GENERAL PRACTICE SECTION	\$20.00
HEALTH LAW SECTION	\$20.00
INTELLECTUAL PROPERTY LAW SECTION	\$20.00
INTERNATIONAL PRACTICE SECTION	\$10.00
LITIGATION SECTION	\$15.00
LOCAL GOVERNMENT LAW SECTION	\$20.00
MILITARY LAW SECTION	\$20.00
REAL PROPERTY SECTION	\$25.00
TAXATION SECTION	\$15.00
TRUSTS AND ESTATES SECTION	\$10.00

[As of August 2018]

* Pursuant to the terms of their bylaws, sections have authority to raise their dues up to \$35.00 without further Council action. However, a dues amendment *must* be approved by the board of governors and general membership of the section (if applicable) prior to such action. If such amendment is approved at the Annual Meeting of the section in June, it will not become effective until the billing conducted one year later.

(C.) Dues and Billing

Section membership is voluntary. Section dues are billed on a fiscal-year basis to comport with the bar's mandatory dues billing.

Section dues are received continually during the months of July and August. Therefore, section membership lists fluctuate in size during this time period. Sections are encouraged to schedule mailings and newsletters after September 1 to ensure distribution to all new members of the section.

Pursuant to the terms of the section bylaws, section dues are waived for new members enrolled during the last quarter of the state bar's fiscal year (April–June).

D. Budget Preparation and Expenditures

(A.) Budget Cycle

The Virginia State Bar operates on the fiscal year cycle commencing July 1. Sections formulate a budget based on 80 percent of their dues revenue plus any seminar proceeds or miscellaneous revenue that may have been generated by the section.

Conferences prepare budgets based on the programs and projects planned for the fiscal year. Since conferences do not charge dues, these budgets are funded by the bar's general revenue, derived primarily from mandatory bar dues. In some cases, conferences may charge fees for events that would help offset the cost of that event.

Planning for the next fiscal year budget will begin in November. Sections and conferences should anticipate board meetings, projects, programs, newsletters, and Annual Meeting activities which they plan to conduct in the subsequent fiscal year. Costs associated with these activities should be included on the proposed budget. Section vice chairs should be actively involved in the budget process since they will be responsible for adhering to the budget when they assume the chair's position.

Section and conference budget proposals must be filed in the bar office on or before **December 3, 2018**. This allows time for the bar staff to compile the complete State Bar budget for review by the Standing Committee on Budget and Finance prior to the Executive Committee and Council meetings.

An Excel version of the budget form may be found on the State Bar's website at <http://www.vsb.org/site/members/chairs-handbook>.

(B.) VSB Section Budget and Expenditures Policy

These rules have been approved by the Executive Committee of the Virginia State Bar, and sections are enjoined to adhere to them:

1. After three years of operation, each section shall have a membership and dues structure which enables it to be self-supporting.
2. After three years of operation, each section shall pay annually 20 percent of its dues revenue as an administrative service charge for the use of the bar facilities, services and staff.
3. Each section's budget must be approved in accordance with the VSB's annual budgeting process. Proposed budgets must be submitted for approval on or before the specified due date. The budget must be detailed with specific line items in accordance with the VSB proposed budget form for sections.
4. The Executive Committee must approve, in advance, any increase or decrease to a section's budget. A section must request any amendment in writing as soon as the need is known and no later than the April meeting of the Executive Committee. Non-dues revenue generated in a given year will be considered by the Executive Committee in evaluating a section's proposed budget for the coming year and in evaluating a section's request for a budget amendment. In the event a decision needs to be made between Executive Committee meetings, the budget amendment decision may be made by the VSB's executive director.
5. A section's unexpended budget and excess revenue, as of June 30 of each year, becomes a part of the bar's general operating fund. Unexpended revenue which is available as year-end approaches cannot be expended for purposes not previously addressed in the approved budget.
6. Sections shall not expend funds in excess of their budget and all expenditures should be for the benefit of the entire section membership.
7. No vouchers will be approved for expenditures which are inconsistent with general policies of the bar as a state agency, such as political activities, meetings at resort hotels and other expenditures which are excessive.
8. Sections are responsible for Annual Meeting expenses which should be reflected in their annual budget. No charges may be made to the hotel master accounts established by the Virginia State Bar without express authority of the VSB executive director.
9. Council must approve, in advance, proposed dues increases over the amount of \$35 (as amended 2/89).

Amendment February 11, 2011

Approved by VSB Executive Committee September 19, 2008

Approved by VSB Executive Committee October 1988

Approved by VSB Executive Committee September 10, 1999

Approved by VSB Executive Committee February 25, 2011

(C.) Section and Conference Accounts

Virginia statutes require that all revenues collected by the state bar, or any of its sections, conferences or committees, be deposited into the state treasury to the credit of the bar. The state bar fiscal office maintains subsidiary ledgers for the sections and conferences, which reflect dues and other revenues. In accordance with policies regarding state funds, sections and conferences are prohibited from maintaining outside checking accounts.* The executive director of the Virginia State Bar has exclusive responsibility for the financial management of all section and conference budgets.

*Section 2.1-180 of the *Code of Virginia* requires that every state agency collecting monies from any source for the use of the agency pay the collected monies into the state treasury.

(D.) Annual Meeting and Year End Expenditures

Sections and conferences are responsible for all expenses associated with Annual Meeting activities sponsored by the section or conference, including:

- a) Effective with the fiscal year beginning on July 1, 2005, section and conference board members may be entitled to travel reimbursement for one night during the Annual Meeting. Reimbursement will be allowed for board members if a section or conference business meeting is held during the Annual Meeting and if the section's or conference's budget is sufficient to cover the expenses. This exception to the general policy is based on the fact that sections and conferences play a major role in the activities that make up the bar's Annual Meeting.
- b) travel, lodging and other related expenses for speakers;
- c) awards for speakers and outgoing board members and officers;
- d) printing, AV and other special program requirements.

In accordance with state year-end guidelines, **original** invoices for section and conference expenditures that are not processed by the state bar office prior to fiscal year end closing will be charged against the group's budget for the following year.

(E.) Monthly Financial Reports

Section and conference chairs will receive a monthly financial report indicating the revenue and expenses. Reports are circulated approximately three weeks after the close of the month. A copy of the financial report also will be sent to the vice chair for information. Because of the vice chair's responsibility for budget preparation for the next year, the vice chair should keep abreast of the financial condition of the section and be mindful of any developing needs or problems that might be anticipated.

(F.) Grant Requests

Chairs should be advised that sections and conferences are required, as is the Virginia State Bar, to comply with state guidelines and restrictions applicable to seeking grants from private or public sources. See Solicitation Policy on page 34.

If a section or conference plans to submit a grant application for a special project, **prior** approval must be given by the executive director. All grant applications must be signed by the executive director or the deputy executive director and a copy of the application must be given to the bar's finance/procurement director. The fiscal department is responsible for tracking grants and complying with state fiscal policies and procedures.

If the grant is approved, a copy of the approval letter from the granting entity must be given to the finance/procurement director. The executive director or the deputy executive director must sign off on any paperwork related to receipt of grant funds. The section/conference liaison is responsible for working with the volunteer responsible for carrying out the grant to make sure all funds are spent as designated by the grant, invoices are submitted promptly for payment, and required reports are filed accurately and timely.

(G.) Approval of Vouchers

Under VSB budgetary guidelines, expenditures made during a given fiscal year should be covered by funds on hand and available for that fiscal year. Section and conference chairs have a personal responsibility for adhering to annual budgets as approved. Expenditures exceeding annual budgets must be approved in advance by the Executive Committee, according to the policies established by the Virginia State Bar. Requests for expenditures in excess of approved budgets are authorized only in unusual circumstances.

Volunteer expense reimbursement vouchers chargeable to section and conference budgets will be forwarded to the appropriate chair or staff liaison for approval prior to processing for payment by the Virginia State Bar Fiscal Office. Please refer to the volunteer expense reimbursement policies and procedures on page 44.

E. Newsletters, Websites, and Electronic Communications

Newsletters

Newsletter production varies by conference and section as well as by methods of disbursement. Staying in touch with your membership and providing current articles and information is vital to the health of your section or conference. The VSB encourages each section and conference to publish 2–3 newsletters a year. See Resources for Newsletter Editors at <http://www.vsb.org/site/members/editors>. For questions and to plan strategy, please contact Communications Coordinator Jackie Kruszewski at jkruszewski@vsb.org or (804) 775-0529. (Please refer to the Policy on Content of Publications of Virginia State Bar Committees, Sections, Conferences, and *Virginia Lawyer* on page 39.)

Section and Conference Websites

Section and conference webmasters take advantage of the website template that was designed to have the look and functionality of the state bar's website. The template is based on the VSB website's content management system. It allows for basic features such as lists of board members, meetings, news, bylaws, publications, and a membership form. Password protection is available for portions of the site, such as newsletters and member rosters.

Sections should designate a person to be in charge of content for their sites, and they may hire an outside contractor to maintain the sites. Your VSB liaison can connect your section or conference with an outside vendor to update the website. Your web editor may access the template by contacting Caryn Persinger at persinger@vsb.org or (804) 775-0588.

VSB staff currently maintains the SLC, DC, and CLSBA sites, as well as the bar's entire site, including disciplinary information and the *Professional Guidelines* and its supplement of rule changes and proposed rule changes throughout the year.

A disclaimer will appear on all section pages that states that the information is the work of the section and that the contents do not necessarily reflect official state bar views or policies.

Group Email Distribution Lists

At the request of the chair of a section or conference, the bar will send a group email to the section's or conference's membership list. The text of group emails will be reviewed and edited by the VSB. The service does not permit members to respond to any of the messages. Please give one week's notice. (Please refer to the Policy Concerning the Use and Disclosure of VSB Email Addresses on page 31 and the Policy on Content of Publications of Virginia State Bar Committees, Sections, Conferences, and *Virginia Lawyer* on page 39).

F. CLE Seminars and Educational Programs

(A.) Coordination with CLE Providers

Sections and conferences interested in developing CLE programs are encouraged to establish a cosponsorship arrangement with cooperative VSB accredited CLE providers. In cosponsoring a program with a section, it is customary for CLE Providers to establish a discounted registration fee structure for section members.

Many sections have worked with Virginia CLE, a not-for-profit continuing legal education provider. Ray White with Virginia CLE (www.vacle.org) can be contacted at (800) 223-2167 or (804) 979-3147. A list of additional accredited sponsors, those sponsors with a history of Virginia approved courses, is available on the VSB's website under MCLE. For questions about a provider, please contact the VSB's MCLE department.

All sections and conferences must work closely with the cosponsoring CLE provider to coordinate essential administrative program support, including:

- **Marketing the seminar;**
- **Handling preregistration and on-site registration;**
- **Assembling and producing written materials;**
- **Assuring compliance with MCLE regulations;**
- **Coordinating on-site logistics; and**
- **Providing on-site staffing.**

In cosponsoring a program with a section, CLE providers will customarily establish a discounted registration fee structure for section members.

(B.) Independent Programming

With the exception of programs planned in conjunction with the Virginia State Bar's Annual Meeting, any seminar and/or educational program planned by a section/conference **independently** of Virginia CLE **must have advance approval** of the Director of Member Compliance in consultation with VSB Executive Director Karen Gould.

Such advance approval will ensure the section has adequate resources to promote and finance the program. Prior to approving, consideration will be given to the level of administrative support required of the state bar office to adequately staff all aspects of such an undertaking. Since the Virginia State Bar is generally not set up to conduct CLE programs on a regular basis, the impact on staff resources is an important consideration.

G. MCLE Regulations and Compliance

<http://www.vsb.org/site/members/mcle-courses/>

Pursuant to Rule of Court (Paragraph 17, Part Six, Section IV), the Supreme Court of Virginia established a mandatory continuing legal education program in Virginia which requires each active member of the Virginia State Bar annually to complete a minimum of twelve (12) hours of approved continuing legal education courses, of which at least two (2) hours shall be in the area of legal ethics or professionalism, unless expressly exempted from such requirement. Of the twelve credit hours required, no more than eight (8) may be earned from pre-recorded courses resulting in a minimum requirement of four (4) credit hours via live interactive programs. The program is administered by the Mandatory Continuing Legal Education (MCLE) Board, appointed by the Supreme Court of Virginia, using regulations adopted by the board.

(A.) MCLE Attorney Online Records and Certification

Attorneys may visit the member's area of the Virginia State Bar's website at <https://member.vsb.org/vsbportal/> to review their MCLE records and certify course attendance online. Course attendance information is posted to the member's record immediately using this feature.

(B.) MCLE Definitions and Requirements

CLE credit will be given for attendance at an educational program sponsored by a section/conference of the Virginia State Bar if the seminar meets the standards of approval as outlined in the Mandatory Continuing Legal Education Regulations. Virginia CLE will be responsible for ensuring that programs which they cosponsor meet the required standards of approval. However, if a section/conference has received authorization from the VSB Executive Committee to present an independent program, the program chair should consult with the group's staff liaison to ensure that the program is developed to meet MCLE regulations.

- 1) **Accredited Sponsors:** Together with over 100 other providers, the Virginia State Bar and Virginia CLE have been designated as accredited sponsors of continuing legal education programs in Virginia. Accredited sponsors are subject to and governed by the applicable provisions of the rules and regulations of the MCLE Board, including the quality standards of Regulation 103 and the record-keeping and reporting requirements of Regulation 105. **The MCLE Board may at any time review an accredited sponsor program and reserves the right to deny CLE or ethics credit when the standards for approval are not met.**
- 2) **Written materials:** An outline **must** be submitted in order for a program to qualify for CLE credit. Pursuant to MCLE Regulation 103(g), thorough, high-quality instructional written materials which appropriately cover the subject matter must be provided. **An agenda or topical outline will not be sufficient. [MCLE Opinion #14]**
- 3) **Ethics Credit:** A presentation may qualify for credit in the area of legal ethics or professionalism if the ethics component meets the definition in MCLE Regulation 101(s and t) and covers a minimum of 30 minutes, as outlined in MCLE Regulation 103(d).

If a section/conference plans to incorporate an ethics segment into a CLE program, the program chair is responsible for ensuring that:

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- a) the material qualifies as legal ethics or professionalism [**MCLE Opinion #13**];
 - b) the segment is clearly and appropriately described or entitled in the written materials [**MCLE Reg 101(s and t)**];
 - c) the time for the ethics component is clearly designated in the program schedule [**MCLE Reg 103(d)**].

- 4) **Coordination with VSB MCLE Department:** If a program is being planned independently by a section/conference, it is the responsibility of the section to apprise the MCLE Department of the proposed program and to seek approval of the course for the specified number of CLE and ethics credits. **Applications must be received at least 30 days in advance of the program.**

Virginia CLE or other accredited co-sponsors will coordinate with the State Bar's MCLE Department for course approval for any programs cosponsored with that office.

- 5) **Course Approval:** At the earliest possible date in the planning, the section/conference should coordinate through its staff liaison to ensure that an Application for Course Approval (**Form #4**) and the proper materials are submitted to the MCLE Department. Since the section/conference is applying for credit under the auspices of the Virginia State Bar, which is an accredited sponsor, it is exempt from filing the fee specified on the application form. It is helpful in marketing the seminar if course approval is finalized prior to advertising the program and mailing the announcement brochure.
- 6) **MCLE Certification Forms:** Once a program has been approved for CLE credit, the MCLE Department will provide attendance certification forms to the "accredited sponsor" (either Virginia CLE or the VSB section). These forms must be distributed to all registrants at the seminar. For CLE programs planned independently of Virginia CLE, it is the section's/conference's responsibility to coordinate with its staff liaison to make sure that the appropriate number of these forms (**Form #2**) are provided. The MCLE Department will also provide certification forms for the speakers (**Form #3**).

(C.) MCLE Opinion #13—Topics Qualifying for Ethics Credit

The Virginia Supreme Court has required by Rule of Court that each active member of the Virginia State Bar complete a certain minimum amount of continuing legal education "in the area of legal ethics or professionalism." MCLE Regulations provide that an approved course or program may provide credit toward this requirement by addressing "topics embraced in recognized formulations of rules of professional conduct or codes of professional responsibility applicable to attorneys." The board has encountered instances where it has received applications for approval of ethics credits for topics which do not objectively pertain to or specifically address rules of professional conduct or codes of professional responsibility specifically applicable to attorneys.

The following are examples of some of the topics and types of courses which DO NOT qualify for ethics credits:

Ethics in Government: Programs or components which, although presented to attorneys, focus on standards of conduct applicable to non-attorney employees including those dealing with:

- i) the ethical standards applicable to governmental employees, federal legislators, governmental contractors;
- ii) United States' employees' compliance with the President's Executive Order requiring a standard of conduct higher than the bare ethical rules might require;
- iii) educating the government attorney in these standards to enable that attorney to better advise a legislative and/or executive branch client on the applicable standards.

Medical Ethics: Programs or components which, although presented to lawyers, focus on:

- i) an analysis or the application of medical ethics, "bioethics," or "biomedical" ethics;
- ii) statutory options involving "living wills," the right to die, and "informed consent";
- iii) educating the lawyer in these subjects to enable that lawyer to better advise a client.

Ethics of other Professions: Programs or components which although presented to lawyers, focus on:

- i) an analysis or the application of ethical standards governing members of a profession other than the legal profession, e.g. ethics for museum administrators, accountants, realtors, architects, engineers, chemists, etc.;
- ii) educating the lawyer in these standards to enable that lawyer to better advise a client on the applicable standards.

Business or Corporate Ethics: Programs or components which, although presented to lawyers, focus on:

- i) an analysis or the application of ethical standards appropriate for executives, corporate officers and employees;
- ii) educating the lawyer in these standards to enable that lawyer to better advise a client on the applicable standards.

Rules of Procedure, Rules of Evidence and Litigation Tactics: Programs or components which focus on rules of procedure, rules of evidence, unless the focus of the programs or components also provides a substantial treatment of applicable rules of pro-

essional conduct or codes of professional responsibility. In particular, malpractice prevention programs or components which focus primarily on malpractice litigation, tactics, or strategy will not be approved for ethics credit.

Programs or components devoted to or including these topics may meet the requirements for general MCLE credit. The board is of the opinion that such topics do not fulfill the requirement for continuing legal education in the area of legal ethics or professionalism. The board will therefore not assign ethics credits to such topics.

[Paragraph 17.C.(1) of Section IV, Part Six, Rules of the Supreme Court of Virginia and MCLE Regulations 101(s), 101(t) and 103(d)]. (12/92)

Amended effective 11/1/09

(D.) MCLE Opinion #14—Requirement for Written Materials

MCLE OPINION #14

REQUIREMENT FOR WRITTEN INSTRUCTIONAL MATERIAL

The Supreme Court of Virginia has required by Rule of Court that courses or programs qualifying for MCLE credit must provide attendees with written educational materials which reflect a thorough preparation by the provider of the course and which assist course participants in improving their legal competence. Paragraph 17(H)(3) of Section IV, Part Six, Rules of the Supreme Court of Virginia. In compliance with this mandate, the MCLE Board has promulgated Regulation 103(g). That provision provides:

Thorough, high quality instructional materials which appropriately cover the subject matter must be distributed to all attendees at or before the time the course is presented. A mere agenda or topical outline will not be sufficient.

Although courses of shorter duration may require less lengthy materials, this requirement must be satisfied by courses of any length in order for MCLE credit to be granted.

The purpose of the requirement of written materials is fourfold. First, it ensures thorough course preparation by the provider. Second, it minimizes the need for attendees to take extensive notes, whether written or electronic, during the presentation thereby allowing attendees to focus their attention on the presentation. Third, it ensures that the attendees will be provided with materials that are useful after the course is completed. Materials provided should be sufficient to assist the attendee when questions regarding the particular subject matter covered are raised at a later date and to serve as a general resource after course completion. The fourth reason for this requirement is to allow the MCLE Board to evaluate the quality and nature of the course and the actual subject matter being covered. Occasionally neither the title of the course submitted on an application nor the agenda for the presentation provides sufficient information about course content to allow evaluation. The review of the written materials provided to course attendees allows the Board to assess the quality and subject matter of the course and ensures that the topics addressed are appropriate for accreditation purposes.

The phrase “[t]horough, high quality instructional written materials which appropriately cover the subject matter” as used in Regulation 103 means current and up-to-date materials that directly, concisely, and adequately cover the subject matter in such a way as to effectively and thoroughly instruct attendees on the topics covered during the program and assist course participants in improving their legal competence. These materials can include, by way of example and not limitation, the following:

- a. Materials prepared specifically for the course; or
- b. A book, chapter of a book, article, or other writing directly on point to the presentation.

Distribution of primary sources, such as statutes, regulations, cases, briefs, pleadings, or motions may supplement thorough, high quality instructional written materials; however, such primary sources alone are not adequate to satisfy the written materials requirement. Similarly, compilations of articles and informational resources may also supplement thorough, high quality instructional materials; however, such compilations alone, which require the attendee to research through the documentation in order to discern, ascertain or search for, the information conveyed during the program, will not satisfy the written materials requirement.

In determining whether written materials are adequate, the Board will also consider the teaching method employed. For example, materials appropriate to participatory skills development courses, such as a trial advocacy course, will differ from a course where a straight lecture method is employed. Moreover, courses in which role-playing or other interactive teaching methods are employed will have varied materials. However, in all such cases, high quality instructional materials must be provided.

The following recurring issues regarding the provision of instructional materials have come to the Board's attention:

- a) **Presentation Slides:** Presentation slides, such as PowerPoints, will satisfy the requirement for high quality written materials so long as the other requirements set forth in this opinion have been met. To be considered as written materials, an electronic or paper copy of the presentation slides must be distributed to the individual attendees at or before the presentation. Presentation slides which were not distributed to attendees at or before the presentation will not be considered when evaluating instructional materials.
- b) **Hypotheticals:** Written materials which contain only hypotheticals will not satisfy this requirement. While the discussion of hypotheticals can be an appropriate teaching method, written materials including only hypotheticals to be discussed will not suffice as thorough, high quality instructional material. On the other hand written materials in which the hypotheticals are accompanied by (1) course materials which assist the understanding of the subject matter and have reference value to the participants or (2) course materials which provide a thorough written discussion and/or responses to such hypotheticals may satisfy this requirement. Such written discussion or responses to hypotheticals may be provided to the participants separately at any time up to the time of the conclusion of the course.
- c) **Lists of Reference Materials:** Bibliographies or a list of other reference materials, such as internet sites, standing alone, will not suffice as thorough, high quality instructional material.
- d) **Late Materials:** Instructional materials provided after the course do not comply with Virginia's MCLE requirement.

The written materials requirement must be satisfied for each segment of a program. For any segment not meeting the written materials requirement, no credit will be granted. The requirement to distribute written materials can be satisfied by providing printed copies or copies stored on electronic media. It may also be satisfied by allowing attendees access to a web-site or other area where electronic copies are available for downloading. To ensure easy access and identification by the attendee and the MCLE Board as they relate to the course agenda, instructional materials (whether in written or electronic format) must be readable, and user friendly. For example, a linear PDF file of documents without bookmarks to identify the agenda segment to which they apply would not be acceptable.

[Paragraph 17(H)(3) of Section IV, Part Six, Rules of the Supreme Court of Virginia; MCLE Regulation 103(g)].

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Revised 8/15/13 to change reference to MCLE Regulation 103(f) to 103(g).

Revised 8/21/17



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