

# POLICIES OF THE BOARD OF TRUSTEES

## CHAPTER I ORGANIZATION

### 1-101 MEETINGS OF THE BOARD OF TRUSTEES (BOARD)

The Board of Trustees will meet in December, April, and May or June of each year and at the annual meeting, unless otherwise set by the Board.

### 1 - 102 PARLIAMENTARY PROCEDURE; MINUTES

The Board shall generally follow Robert's Rules of Order Newly Revised (11th ed.). In preparing the minutes of the meeting, the names of persons making motions and providing seconds to motions will not be recorded unless contemporaneously requested by a Trustee.

### 1 - 103 TRUSTEE JOB DESCRIPTION

The duties of each Trustee are:

1. To attend each Board meeting, unless excused by the President for good cause.
2. To attend the annual meeting.
3. To actively participate on all committees of which he or she is a member.
4. To regularly attend the meetings of local bar associations within the Trustee's area and provide reports about State Bar activities to the local bar members.
5. To actively encourage and sponsor formation of local bar associations within the Trustee's area and serve as a voting member on the local bar association's governing board (where permitted).
6. To serve as a liaison on the committees or sections to which the Trustee has been appointed by the President. The Trustee will:
  - a. serve as a voting member of the committee or section and encourage the committee or section to attain the objectives assigned by the Board;
  - b. attend meetings of the committee or section; and
  - c. report on the committee or section activities at quarterly meetings of the Board.
7. To accomplish such other purposes as may from time to time be appropriate.

### 1 - 104 ANNUAL MEETING

1. Site Selection. The Board will select the site of the annual meeting at the September Board meeting two years prior thereto. This time may be extended by the Trustees.
2. Annual Meeting Committee. The president shall appoint an annual meeting committee in coordination with the local bar. The committee will: (a) schedule the annual business meeting, (b) schedule social events including fund raising for such events, (c) schedule a banquet with a recommendation for a keynote speaker, if any, and (d) recommend a theme, specific CLE topics and speakers.
3. Policy. The annual meeting is an important event and all members and nonmembers are encouraged to attend. The Annual Meeting Committee will develop and host sufficient CLE programs so that members may satisfy most of their annual CLE requirements.

### 1-105 SUPREME COURT JUSTICES-ANNUAL MEETING

Supreme Court Justices and their spouses are admitted to annual meeting activities free of charge.

### 1-106 PROCEDURE FOR REFERENDA

1. Unless the Board considers that a different timetable is warranted, ballots for referenda will be mailed, returned and counted according to the same schedule as ballots for the election of officers and trustees. Only active members will be eligible to vote.
2. Referenda proposed by the members through the petition process prescribed in Article XIII (3) shall be presented in writing to the Executive Committee no later than March 31. The Executive Committee will review the proposed referenda for consistency with the State Bar Constitution and by-laws.

### 1-107 MONTANA LAWYER PUBLICATION

News feature articles, and letters to the editor contributed to *The Montana Lawyer* should meet these guidelines:

1. letters longer than 250 words require prior approval of the editor;
2. the editor will make every effort to print letters submitted by members of the State Bar of Montana;
3. articles accepted for publication will be edited as necessary for style and length, and the editor will confer with the author before content changes are made.

### 1-108 COMMITTEE CHAIRS - LIMIT ON TERMS

Members may not chair standing committees for more than five consecutive years.

### 1 - 109 LAY REPRESENTATION ON COMMITTEES

The President may actively recruit and select members of the public who are not members of the State Bar of Montana to serve on committees of the State Bar of Montana.

### 1-110 SECTION BY-LAWS AND ASSOCIATE MEMBERS

Sections may propose amendments to their by-laws to permit associate status for persons who are not members of the State Bar, provided such associate members may not vote in section elections or hold section offices. The Board of Trustees may establish conditions for associate membership in sections, and sections shall be required to secure the Board's approval for any amendments to their by-laws.

### 1-111 REPRESENTATION FOR OUT-OF-STATE MEMBERS

The Immediate Past President is the representative of out-of-state members and those members are encouraged to contact the Immediate Past President with any suggestions concerning the policies or management of the State Bar of Montana.

## CHAPTER II INTERNAL ADMINISTRATION

### 2 - 101 DUTIES OF THE EXECUTIVE DIRECTOR

The Executive Director shall perform those duties provided by Article VI of the By-laws, and as otherwise enumerated in the job description approved (or amended) by the Board of Trustees.

### 2 - 102 EXECUTIVE DIRECTOR - TRAVEL

The Executive Director shall consult in advance with the president concerning travel. If the two disagree about the proposed travel, the matter shall be resolved by the Executive Committee.

### 2 - 103 STATE BAR MOTOR VEHICLE

1. The Executive Director shall have custody and control of the State Bar motor vehicle, and shall be responsible for regular maintenance. All repairs, maintenance and service for the vehicle shall be recorded and accounted for.
2. The vehicle shall be used only for State Bar business, including staff errands and travel.
3. Drivers shall possess a valid Montana driver's license.
4. Drivers shall comply with all laws, rules and regulations regarding the operation of motor vehicles.
5. Drivers and all passengers in the vehicle must wear their seat belts at all times.
6. Drivers are responsible for all traffic violations.
7. Drivers shall immediately report all accidents to the Executive Director and shall cooperate with the State Bar insurers.

The Executive Director may deny use of the State Bar motor vehicle to individual drivers.

### 2 - 104 BUDGET MONITORING/AMENDMENTS

1. Committees and sections of the State Bar shall not incur expenses in excess of amounts budgeted by the Board of Trustees. The Executive

Director, in conjunction with the Secretary-Treasurer, shall monitor State Bar spending and, in writing, inform the chairman of the applicable committee and section if it appears that the committee or section will spend in excess of the amount authorized by the Board of Trustees.

2. Amendments to the State Bar's approved operating budget shall be presented and approved or disapproved by the Board of Trustees. Budget amendments shall be limited to proposed changes in policy, and shall not be presented for ministerial matters. In the case of non-policy spending changes, the Executive Director need only secure the approval of the Executive Committee.

3. Except in extraordinary cases when approved by the Executive Committee, State Bar committees may not spend general fund monies for out-of-state travel.

## **2-105 RECOGNIZED COMMITTEE/SECTION/BOARD EXPENSES**

1. The following constitute recognized committee, section meetings, and in or out-of-town travel expenses of members of State Bar committees, sections and Board as set forth below:

- Highway mileage at prevailing State Bar rate or coach airfare.
- Actual lodging expense with receipt when necessary.
- Meal allowances established by the Board of Trustees.
- Highway mileage will be calculated according to the Montana Highway Map or Google Maps. Transportation to and from the airport, or additional mileage to and from home will be approved for reimbursement on a case by case basis.

Miscellaneous expenses such as parking, car rental, copying charges, etc. in excess of \$25 with receipt will be approved at the discretion of the Executive Director.

Proper documentation must accompany all requests greater than \$25 for travel expense reimbursement.

Committee members will be reimbursed actual mileage expenses only for attending committee or section meetings at the Annual Meeting.

Section members will be reimbursed from section funds for actual mileage expense, up to three meals and up to two nights lodging approved by the section chair.

2. The following constitute recognized expenses for speakers and moderators at one-day CLE seminars:

- One Night's Lodging.
- Up to three Meals.
- Highway mileage at prevailing State Bar rate, or coach airfare.

3. The following constitute recognized expenses for speakers and moderators at two-day CLE seminars:

- Two Nights Lodging.
- Up to six Meals.
- Highway mileage at prevailing State Bar rate, or coach airfare.

4. The following constitute recognized expenses for the State Bar annual meeting:

- Moderators will be given a complimentary full registration.
- Montana speakers will be given a complimentary full registration, but no other reimbursement will be made.
- Out-of-state speakers will be given a complimentary full registration, and travel expenses (highway mileage or coach airfare), but no other reimbursement will be made, except in extraordinary cases when approved by the Executive Director.

## **2 - 106 SECTION FUND BALANCES**

1. Any unexpended balance in a section's account arising out of section (non-general fund) income will be carried-forward into the succeeding fiscal year for credit to the section. Sections are not allowed to deficit spend except in extraordinary cases and approval by the Executive Director.

2. In the case of sections authorized to spend general fund money, any non-general fund money shall be expended first.

## **2-107 TRAVEL EXPENSES FOR OFFICERS**

Officers of the State Bar of Montana may be provided with a travel budget to be utilized during their tenure in office. Such funds shall be utilized subject to the following guidelines:

1. All travel funds, subject to budget allowances, shall be utilized by the officer exclusively for Bar related travel at the discretion of the officer concerned, subject only to any specific directives provided by the

Board of Trustees.

2. The officer shall be reimbursed in full for all Bar related travel, to include travel, transportation, lodging, meals, and incidental expenses, pursuant to Section 2-105.

3. The officer may request an advance for travel expenses anticipated; however, any portion of the advance not utilized shall be returned to the Bar.

4. The officer may have the Bar pay for expenses directly.

5. In no event shall the total payments or reimbursements for the officer exceed the amount budgeted unless a budget change is approved by the Board.

6. It is acknowledged that the presence of the spouse at many of the conferences and Bar related activities is highly desirable and appropriate. The policy of the Bar is to encourage such attendance. However, the Bar shall not reimburse or pay for additional expenses incurred by the officer in connection with travel and attendance of the spouse, and no portion of the budgeted travel allowance of an officer shall be used for this purpose.

7. It is acknowledged that funds budgeted may be insufficient to cover all Bar related costs for the officer. Accordingly, the officer may either limit travel or personally pay for amounts in excess of the funds budgeted.

## **2-108 CHARITABLE DONATIONS**

The State Bar shall not make charitable donations to any group.

## **2-109 REPEALED**

## **2-110 MAILING LABELS AND LISTS**

The State Bar reserves the right to decline to sell mailing labels or lists to anyone and reserves the right to review all materials being mailed through use of such labels or lists. State Bar letterhead may not be used in connection with the marketing of products or services endorsed by the State Bar of Montana. Labels or lists may not be sold for political purposes or fundraising and may be sold to commercial vendors only if the product or service is law-related, in good taste, and does not conflict with the purposes of the State Bar of Montana. Labels or lists may be sold for judicial campaigns. Decisions concerning the sale of labels or lists will be made by the Executive Director. Only the member's name and mailing address will be provided. Email addresses will not be provided. Appeals concerning decisions of the Executive Director may be made to the Executive Committee.

## **2-111 INVESTMENTS**

1. Funds of the State Bar shall be invested by the Executive Director, with the approval of the Secretary-Treasurer, at the highest rate attainable, consistent with the established Investment Policy Statement approved by the Board of Trustees.

2. The Financial Advisor will meet in person annually with the Board of Trustees to review the Investment Policy Statement to confirm the investment guidelines for the Reserve Accounts are being followed. The investment policy will be reviewed at least once every three years and more often should the Board of Trustees deem it appropriate.

3. The Financial Advisor will provide quarterly written investment performance reports to the Board of Trustees.

## **2-112 ETHICS OPINIONS**

Ethics opinions issued by the Ethics Committee are advisory only and are not subject to the approval of the Board of Trustees. Ethics opinions of the committee shall be published in *The Montana Lawyer* and on the Bar website.

## **2-113 CONTINUING LEGAL EDUCATION (CLE) INSTITUTE OBJECTIVES**

The Continuing Legal Education Institute is formed as a standing committee of the State Bar of Montana in order to carry out the mandate of Article III of the Constitution of the State Bar: "to foster and maintain on the part of those engaged in the practice of law high standards of learning and competence and to provide for the continuing legal education of members of the Bar." The Institute is specifically charged as agent of the State Bar to prepare, sponsor and administer continuing legal education programs in Montana. The Institute will:

1. Continue to improve the quality of CLE seminars, publish

CLE materials for the members of the State Bar, and provide for the maintenance of its repository/catalog of publications.

2. In cooperation with the staff, continue to make sections, committees, local bars, and members aware of the Institute's central coordinating function.

3. Cooperate with other professional and state bar organizations within the region in educational seminars and meetings.

4. Explore ways to market CLEs, including online CLEs, and using other technologies, i.e. video conferencing, phone conferencing, webinars, and other means allowing dissemination to a wider range of attorneys.

5. Be fiscally responsible and contribute to the Bar's general fund.

## **2-114 CONTINUING LEGAL EDUCATION (CLE) INSTITUTE OVERSIGHT**

The CLE Institute will be responsible for all State Bar committee and section CLE offerings.

## **2 - 115 SEMINAR FEE SPLITTING**

1. When a Section of the State Bar of Montana co-sponsors a seminar with the CLE Institute, the Section must adhere to the Institute's policies concerning selection and reimbursement of speakers, and assume primary responsibility for obtaining the speakers and setting the seminar schedule for a full day seminar (five hours or more). The State Bar will make its CLE Coordinator available to assist with the seminar (i.e., publishing the seminar flyer, printing the outline, handling registration).

2. The State Bar will have the publication rights to all seminar books arising out of jointly sponsored seminars. All Sections of the State Bar will be entitled to request general fund financial assistance from the Board in the event of a deficit or due to other unanticipated events.

3. The State Bar will charge a flat fee to be determined annually for administrative support of any CLE. Thereafter, the Net Profit (income less direct costs (facility rental, speaker travel, audio/video equipment rental, etc.)) or loss will then be split as follows:

(a) For each jointly sponsored seminar the net profit will be split 50/50 between the State Bar's general fund and the Section. If there is a Net Profit in excess of \$3,000, the split will be 60 percent to the Section and 40 percent to the State Bar on all Net Profit in excess of \$3,000. Any losses will be borne by the section.

(b) The Bankruptcy Section has been granted a grandfather clause. For a jointly sponsored seminar with that Section, the Net Profit or loss will be split 50/50 between the Section and the State Bar general fund. The 50/50 split will be in effect up to \$1,000. Any Net Profits above \$1,000 would go to the Section. Any losses Net Profit would be borne by the Section. If the Bankruptcy Section jointly sponsors more than one seminar in a calendar year, they will abide by the arrangements stated in the immediately preceding paragraph for each additional seminar.

## **2 - 116 REFUNDS**

If cancellation is made seven (7) days or more before the date of a seminar, a 75% refund will be made. If cancellation is made less than seven days before the seminar, a 50% refund will be made. No refund will be granted if cancellation is made on or after the date of the seminar. Upon cancellation, materials will be provided subject to availability after the seminar. Substitution of attendees is acceptable. Cancellations may be made in writing or by calling the State Bar.

## **2 - 117 LAW STUDENTS/FACULTY**

Law students and faculty members may attend continuing legal education seminars at no charge by the State Bar and may pay a nominal fee for CLE materials.

## **2 - 118 JUDGES - CLE SEMINARS**

A full-time Judge shall receive complimentary registration to State Bar continuing legal education seminars. "Full-time Judge" means an elected or appointed individual who devotes full-time professional activity to the position of supreme court justice, district court judge, water court judge, workers' compensation judge, justice of the peace, city judge, municipal judge, federal administrative law judge residing in Montana, or tribal, federal district/magistrate judge, appellate or bankruptcy judge residing in Montana. The Executive Director may allow a partial or full CLE registration waiver for a part-time judge.

## **2 - 119 RESERVES**

The State Bar of Montana shall endeavor to maintain a general fund cash reserve sufficient to operate the State Bar of Montana for a three month period of time.

## **2 - 120 ALCOHOL AT CLE SEMINARS**

Alcoholic beverages will not be served at State Bar CLE seminars during the seminar.

## **2 - 121 ENDORSEMENTS**

Members of the State Bar of Montana are urged to make an independent analysis and judgment about any products or services which are the subject of State Bar endorsement agreements.

Upon request of a vendor the State Bar will consider an endorsement of a product or service upon review of the following:

1. The appropriateness of the product or service to the particular membership of the State Bar.

2. The benefit to the members of the State Bar of Montana from such an endorsement, with the focus being the best interest of the members.

3. The consideration of whether the product or service has been endorsed by other bar organizations.

4. The extent and manner in which the name and any trademarks of the State Bar of Montana are proposed to be used and whether prior approval of use by the State Bar of Montana will be available or required.

5. Whether any State Bar committees or sections with a particular interest have recommended the endorsement.

6. Whether the endorsement proposed is to be an exclusive or non-exclusive endorsement.

7. Any burden placed upon the State Bar staff to assist in promotions or marketing activities.

8. The nature of the relationship created between the State Bar and the vendor.

9. The particular terms and conditions of the endorsement, including length of time, ability to terminate, ability to renew, requirement of confidentiality, ability to assign, indemnity provisions, remedies for breach and the choice of law and forum of resolution.

Upon request of a vendor, the Executive Director of the State Bar will investigate the product or service using the above criteria and report to the Executive Committee. Endorsements and continuation of endorsements recommended by the Executive Committee are subject to approval by the Board of Trustees.

Endorsements approved by the State Bar shall be reviewed by the Executive Committee at least every three years for the purpose of recommending to the Board of Trustees whether it is in the best interest of the members of the State Bar to continue the endorsement. Any recommended continuation or discontinuation of an endorsement is subject to approval by the Board of Trustees.

## **2 - 122 EMAIL PROTOCOL**

1. State Bar staff, officers and trustees are encouraged to use email as an expeditious means of providing timely information to Board members.

2. Content of messages/confidentiality: Email messages should be written with the understanding that their content may be seen by unintended parties. Email is not private. Consequently, email should not be used to send confidential information.

3. Email is no substitute for the agenda and meeting: Email only serves to facilitate the Board's decision-making process. Unless special arrangements are made, actions of the Board will only be taken at regularly scheduled meetings.

4. At a member's request, the member's email address may be withheld from publication in the Lawyers' Deskbook & Directory.

### **CHAPTER III THE JUDICIARY, PUBLIC AND EXTERNAL ENTITIES**

## **3-101 PRO BONO SUPPORTED**

The State Bar of Montana encourages all members to participate in a pro bono publico referral program established by the Montana Legal Services Association, a local bar association or other organized program.

### 3-102 LOBBYING PROCESS

One of the purposes of the State Bar expressed in Article III of its Constitution, is to "provide a forum for the discussion of and effective action concerning subjects pertaining to the practice of law, the science of jurisprudence and law reform, and relations to the bar to the public....". In order to meet these objectives the Bar may take positions on these issues and may promote those positions by legislative lobbying, filing amicus briefs, and other activities.

The State Bar recognizes that it is an organization of individuals with diverse interests, backgrounds and philosophies. Consequently, there may be disagreement among the membership with almost any position that is adopted. The Bar also recognizes it is governed by elected representatives who are entrusted with the power and responsibility to manage and direct the affairs of the organization.

Recognizing these facts, the Bar should neither forego taking positions on issues because some members may disagree, nor should it overlook the opinions and beliefs of dissenting members. Members who disagree with positions taken by the Bar can, when appropriate, seek a pro rate refund of dues as provided in the By-Laws. In addition, the right of those members to express their views in *The Montana Lawyer*, and to attempt to change or implement a policy through elections and through the referendum and annual meeting resolution procedures provided in the By-Laws is expressly recognized.

The State Bar may adopt a position on an issue and may take action to further that position, including by:

1. Majority vote of the State Bar Executive Committee.
2. Referendum of the membership on the issue adopted as provided in the By-Laws and Policies of the Bar;
3. Resolution of the membership at the annual meeting, as provided in the By-Laws and Policies of the Bar;
4. Resolution adopted by 2/3 vote of the full membership of the Board of Trustees;
5. Resolution adopted by a 2/3 vote of the full membership of the Executive Committee when an issue arises in such a way that it is impractical to have consideration by the full Board. All such decisions will be reported to the full Board at its next meeting.

If a position is adopted by referendum or resolution, the Board of Trustees may by majority vote determine what, if any, further action the Bar should take with regard to that position. Notice of any position adopted by the Bar shall be given in the next issue of *The Montana Lawyer*.

Whichever decision-making procedure is followed, the State Bar may take a position on issues that arise from the following areas:

- A. Issues relating to the regulation and discipline of attorneys;
- B. Issues relating to the functioning of the courts, and to judicial efficiency and efficacy;
- C. Issues relating to the availability of legal services;
- D. Issues relating to attorney client trust accounts;
- E. Issues relating to the education, ethics, integrity and regulation of the legal profession;
- F. Issues relating to law reform, adoption of uniform laws and statutory improvement.

If an issue(s) falls outside of the preceding list, the State Bar may take a position if:

- i. The issue is of great public interest;
- ii. Lawyers are especially suited to evaluate and explain the issue to the public, and;
- iii. The subject matter affects the rights of those likely to come into contact with the legal system.

The Bar should avoid, to the extent possible, those issues which carry the potential for deep philosophical or emotional division among the membership. The Bar will not take a position in, nor make a contribution of any kind to, any campaign for political office, but may do so with regard to initiatives and referenda.

### 3-103 LOBBYING BY SECTIONS

Sections may propose legislation, appear at or submit written testimony to legislative committee hearings, or engage in any other activity to support or oppose legislation under the conditions provided in this section.

1. A Section may propose legislation that relates to the purposes of

the Section as reflected in the Section's bylaws.

2. If a Section wishes to propose legislation, it must, no later than fourteen days prior to the Board of Trustees' December meeting preceding the next legislative session, submit to the Executive Director a request for approval. The request must include a detailed description of the objective of the legislation to be proposed and a final draft of the bill as it will be submitted to the legislative drafting process. The Executive Director will place the request on the agenda of the December Trustees' meeting. At the meeting, a representative of the Section must appear and explain the proposal. The Section may secure the introduction of the bill only if the Board of Trustees votes to approve the request. If approved, then the Section may testify in support of and lobby for the passage of the proposed legislation.

- 2.1 The Section must inform the Executive Director of all committee hearings on the bill and any significant amendments the Section proposes to offer or support.

- 2.2 The Section must comply with any directions it receives from the Executive Committee with regard to the Section's activities related to the bill.

3. A Section must inform the Executive Director of its intention to testify or lobby in favor of or against any legislation. The Section must comply with any directions it receives from the Executive Committee related to the Section's activities regarding the bill.

4. In all legislative contacts, the Section must clearly explain that it is acting on behalf of the Section and not the State Bar as a whole, unless otherwise authorized by the Executive Committee in advance.

5. No membership dues funds will be spent on these activities, but a Section may spend its own dues as provided in the By-Laws.

6. The proposed legislation must first be presented to all Section members for a vote of approval by a majority vote of the members of the Section voting. Notice of the content of the proposed legislation must be mailed or emailed to all members of the Section at least two (2) weeks before the vote. The approval vote may occur at a Section meeting or by mail ballot or by email ballot, provided that if a vote at a Section meeting occurs, then all Section members not attending the meeting shall be afforded the opportunity to vote via mail or email ballot. The outcome of the vote must be presented to the Executive Director in conjunction with the request for approval as set forth in Paragraph 2.1.

7. Nothing in this policy is intended to prohibit members of the State Bar from sponsoring or supporting particular legislation, but to restrict the suggestion or implication that the State Bar of Montana or any other one of its sections or committees sponsor or support particular legislation.

### 3-104 OBJECTIONS TO USE OF DUES

- (a) Use of dues. The purposes of the State Bar of Montana are set out in Article III of its Constitution, the Preamble of the By-Laws of the State Bar of Montana, the 1974 Order unifying the State Bar in In re President of the Montana Bar Association 163 Mont. 523, 518 P.2d 32 (1974) and the Order granting a dues increase in In re the Petition of the State Bar of Montana for a Dues Increase, 2001 MT 108, and the Order granting a dues increase in In re the Dues of the State Bar of Montana, 00-319 Order filed February 20, 2018. The State Bar of Montana may not engage in political or ideological activities involving the expenditure of compulsory membership dues unless the Board of Directors or the Executive Committee determines that the activity is reasonably related to the Bar's stated purposes.

- (b) Publication of Expenditures and Activities. The State Bar shall publish annually a statement setting out the total amount of any expenditures that it has made for political or ideological purposes. In addition, the Bar shall publish notice of any adoption of a legislative position, whether in support or in opposition, in the next feasible issue of *The Montana Lawyer* after the meeting at which the position was adopted.

- (c) Objections. An active member of the State Bar of Montana may, within forty-five (45) days of the date of publication, file with the Executive Director a written objection to a particular position or political or ideological expenditure, or the failure of the Bar to properly classify a particular expenditure as political or ideological. Failure to object within this time period shall constitute a waiver of any right to object to the particular issue or expenditure.

- (1) After a written objection has been received, the Executive Director shall promptly determine the pro rata amount to the objecting member's dues at issue and such amount shall be placed in an escrow pending

determination of the merits of the objection.

(2) Up to the deadline for receipt of written objections, the Board of Trustees shall have forty-five (45) days in which to decide whether to give a pro rata refund to an objecting member or to refer the action to arbitration.

(d) Arbitrator. Any objections to a legislative position or a political or ideological expenditure of the State Bar may be referred by the Board of Directors to an arbitrator, who shall be mutually selected by the State Bar of Montana and objecting member(s). If the parties are unable to agree on an arbitrator, the First Judicial District Court of the State of Montana shall appoint the arbitrator.

(e) Procedures for Arbitration. Upon a decision by the Board of Trustees that the matter shall be referred to arbitration, the State Bar shall promptly prepare a written response to the objection and serve a copy on the objecting member(s). Such response and objection shall be forwarded to the arbitrator as soon as the arbitrator is selected. The arbitrator shall thereafter hold a hearing and decide whether the legislative matters or expenditures at issue are constitutionally appropriate for funding from mandatory State Bar dues.

(1) The arbitrator's jurisdiction shall be limited to determining whether the legislative matter or expenditure at issue was within those acceptable activities for which compulsory dues may be used under applicable constitutional law; and if so, the amount of the pro rata rebate to the objecting member(s).

(2) The proceedings shall be informal in nature and shall not be governed by the rules of evidence. The decision of the arbitrator shall be binding as to the objecting member(s) and the State Bar. If the arbitrator concludes that the expenditure at issue is inappropriately funded from mandatory dues, the arbitrator shall order a refund of the pro rata amount of dues to the objecting member(s). The arbitrator's award may be confirmed, vacated, modified, corrected, stayed or appealed pursuant to Mont. Code Ann. § 27-5-311, et seq.

(3) The arbitrator shall render a final written report to the objecting member(s) and the Board of Trustees within forty-five (45) days of the selection of the arbitrator.

(4) In the event the arbitrator orders a refund, the State Bar shall provide the refund within thirty (30) days of the date of the arbitration report, together with interest calculated at the statutory rate from the date on which the objecting member(s) dues payment was received.

(f) Cost of Arbitration. The arbitrator's fee and expenses shall be borne by the State Bar unless the arbitrator finds that the objection lacked merit, in which case the objecting member shall bear the entire cost of the arbitration, including the arbitrator's fee and expenses. Each party shall bear their own attorney's fees and expenses incurred in preparing for the arbitration or appeal.

### 3-105 USE OF ORGANIZATION NAME AND LOGO

(a) Purpose and Objective. The State Bar of Montana's name, logo, and other marks (collectively "the marks") are valuable property of the State Bar of Montana, protectable under state and federal law. In order to avoid inadvertent or purposeful misuse of the marks by external persons or entities, the Board of Trustees adopts the following policy.

(b) Impermissible Uses. Except upon the express, written permission or license of the State Bar of Montana, no person or entity may use the marks for commercial purposes. Such commercial purposes include without limitation: use to indicate endorsement by the State Bar of Montana of products or services,

(c) Permissible Uses. The following uses of the marks is automatically permitted (and an implied license given) in the following limited circumstances:

(1) by members of the State Bar of Montana (including firms or associations of members) to indicate membership affiliation with the State Bar of Montana without indication or the appearance of endorsement by the State Bar of Montana of the member's products or services;

(2) by persons or entities for non-commercial purposes (i.e. for information or comment) to provide a webpage link or other contact information of the State Bar of Montana;

(3) by ABA-accredited educational institutions and educators therein for purposes of instruction; and

(4) by organizations currently approved by the Board of Trustees under 2-121.

(d) Protection of the Marks. The State Bar of Montana, through its

Executive Committee, shall take reasonable measures to protect the State Bar of Montana's interests in the marks, including but not limited to:

(1) seeking trademark registration under state or federal law;

(2) requesting all users of the marks to use a trademark disclaimer (superscript "TM" for trademark, "SM" for service mark or "®" for a federally-registered mark) where appropriate to indicate the State Bar of Montana's claim of trademark rights in the marks, and as a condition of the use of the marks (whether expressed or implied);

(3) requesting unauthorized users of the marks to cease and desist such use.

### 3-106 SOCIAL NETWORKING

(a) Administering the social networking site.

Each State Bar section, committee, officer or entity desiring a social network presence will designate a representative to serve as its administrator. Site administration, including set up, content development and management, and administration of these policies, is the responsibility of the sponsor which shall appoint an individual to administer the social network site ("Site Administrator"). The Site Administrator will provide the State Bar staff liaison with administrative access to the social network in the event emergency assistance is needed. Entities are responsible -- in conjunction with their respective Site Administrators and all those individuals participating in a social network established under this policy -- for complying with these guidelines.

(b) Guidelines for social networking.

Be professional, respectful, and discreet in online dialog. Represent the State Bar and your profession well. Exercise good judgment. State Bar members who fail to do so, or who fail to comply with these guidelines, may not only forfeit the right to participate in social networking activities sponsored by the State Bar, but may also be subject to penalties and discipline for failing to adhere to applicable Rules of Professional Conduct, as well as civil or criminal liability and penalties, as warranted.

1. Be responsible. Assume personal responsibility for all material posted. All statements must be true and not misleading. Carefully consider content; what is published will be widely accessible for some time and, in some cases, indefinitely. Protect poster's privacy and the privacy of others, and adhere to all statutory prescriptions and Professional Rules of Conduct governing the privacy of individuals and confidential information of clients.

2. Be upfront, identify self. Honesty - or dishonesty - will be quickly noticed in the social networking environment. Use poster's real name, and, if relevant, role or interest in the topic discussed. When appropriate, make it clear poster is speaking for one's self and not on the State Bar's behalf.

3. Be civil, respectful. It's okay to disagree with others, but do not use defamatory, abusive, threatening, offensive, or obscene language or post illegal material.

4. Be quick to correct an error. If a mistake is made, admit it. Quickly provide the correct information. If appropriate, modify an earlier post to make it clear all errors are corrected.

5. Keep it relevant, add value. Write about what the poster knows. Information can add value if it contributes to the legal community's knowledge or skills, improves the legal system or public understanding of the legal system, or builds a sense of community.

6. Follow copyright and fair use laws. Always give people proper credit for their work. Make sure to have the right to use material with attribution before publishing. It's a good practice to link to others' work rather than reproducing it on another site. When in doubt, as to the proprietary nature of material, don't use it. Recognize the potential professional and legal consequences of any failure to follow applicable laws governing the use of others' material.

7. Protect proprietary and client information. Do not discuss or misuse proprietary or confidential information, and follow all professional and ethical rules governing the disclosure of information shared by clients. When in doubt, leave it out.

8. Refrain from endorsements of political candidates. The activities of the State Bar are defined by Montana Supreme Court rules, and those rules apply to social networking activity. As a membership organization, the State Bar needs to avoid even the appearance that it directly or indirectly endorses or financially supports candidates for political office.

9. Comply with Montana rules governing lawyer advertising.

Comply with all restrictions governing legal advertising when posting content to any social network, including one being administered by an Entity.

10. Do not violate antitrust laws. Antitrust laws prohibit postings that encourage or facilitate agreements between State Bar members 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.

11. Abide by the social network's rules. By joining a particular social network, agree to abide by that community's terms of use, so review those terms carefully.

(c) Using the State Bar's name and/or logo.

State Bar entities may incorporate the State Bar's name and/or logo into their social networking identity with prior approval from the State Bar. To create consistency and community on the Web, the State Bar has established standard logo templates, disclaimers, and naming conventions. The Site Administrator for an Entity must work with assigned staff liaison from the State Bar to coordinate approval, the development of the social network graphic, and other site requirements. See Policy 3-105.

(d) Enforcing this policy.

The State Bar does not actively monitor these sites for inappropriate postings. If an inappropriate posting is brought to the attention of the State Bar, however, the State Bar will take appropriate action to enforce this policy.

12. The Executive Committee retains the authority to direct removal of posted material which violates this policy. If a social networking site under the authority of this section repeatedly violates this policy, the Executive Committee may direct or effect removal of the site.

***Amended December 7, 2018.***