

Oregon State Bar

# BAR LEADER

## Handbook 2010

### COMMITTEES

#### Includes

Bylaws  
Procedures  
Deadlines  
Forms  
Electronic Services



## Mission

The mission of the Oregon State Bar is to serve justice by promoting respect for the rule of law, by improving the quality of legal services, and by increasing access to justice.

### Functions of the Oregon State Bar

**1** We are a regulatory agency providing protection to the public.

**2** We are a partner with the judicial system.

**3** We are a professional organization.

**4** We are a provider of assistance to the public.

**&** And the bar does this as a “public” corporation – as an instrumentality of the Oregon **Supreme Court.**

### *Values of the Oregon State Bar*

#### **Integrity**

Integrity is the measure of the bar’s values through its actions. The bar’s activities will be, in all cases, consistent with its values.

#### **Fairness**

The bar embraces its diverse constituencies and is committed to the elimination of bias in the justice system.

#### **Leadership**

The bar will actively pursue its vision. This requires the bar and all individual members to exert leadership to advance their goals.

#### **Promote the Rule of the Law**

The rule of law is the premise of the democratic form of government. The bar promotes the rule of law as the best means to resolve conflict and achieve equality. The rule of law underpins all of the programs and services the bar provides.

#### **Accountability**

The bar is committed to accountability for its decisions and actions and will provide regular means of communicating its achievements to its various constituencies.

#### **Excellence**

Excellence is a fundamental goal in the delivery of programs and services by the bar. Since excellence has no boundary, the bar strives for continuous improvement. The bar will benchmark its activities to organizations who exhibit “best practices” in order to assure high quality and high performance in its programs and services.

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# Questions & Answers

(or everything you always wanted to know but were afraid to ask)

Following you will find brief answers to some of the most commonly asked questions from Oregon State Bar (“OSB”) leaders. Additional detail on each area can be found in the handbook.

**1. How do I get an article in the Bulletin?**

Please see page 6 for information. For further assistance, contact Paul Nickell, Ext. 340.

**2. Who is Teresa Schmid and what does she do? How do I get in touch with her?**

Teresa Schmid is the Executive Director of the OSB and may be reached at Ext. 312. She is employed by the BOG to serve as the bar’s chief administrative officer, overseeing the bar’s programs, activities, staff and general operations. [Please see the OSB Membership Directory or visit the OSB web site at [www.osbar.org](http://www.osbar.org) for a current OSB staff list]

**3. How do I know who my Board of Governors’ contact is?**

Each committee and section has an OSB staff liaison and a Board of Governors’ contact. These are listed on your group’s roster. Your BOG contact is your communication link with the BOG. Most BOG Contacts do not attend meetings, although many do try to attend the first meeting of the year. Feel free to contact your BOG contact.

**4. If a section or committee needs Board of Governors’ approval, how do we proceed?**

A listing of Board meeting dates is shown on page 10. Contact Teresa Wenzel, Executive Assistant, at Ext. 386, 16 days prior to the board meeting to get an item placed on the agenda.

**5. May we file an amicus curiae brief on behalf of the section or committee?**

No, amicus briefs must first be approved by the BOG, whether to be filed on behalf of a section or the bar itself. Specific restrictions for filing also exist. Please contact Sylvia Stevens, at Ext. 359, for assistance. [Bar Bylaw 2.105, page 12.]

**6. Our committee or section wants to hold all of its meetings in Portland. Can we do this?**

Committees and sections are encouraged to schedule some meetings away from the Portland area [please see Guidelines for Meetings, page 30]. The committee or section should develop its meeting schedule to accommodate all of its members.

**7. Who maintains the committee rosters and section executive committee rosters and how do I get a meeting notice sent out?**

The OSB Member Services Department maintains committee rosters and section executive committee rosters. Committees should call ext. 426 and sections ext. 385, at the OSB to provide the pertinent information regarding your meeting. An agenda and minutes will be distributed prior to the meeting. The bar encourages sections and committees to send e-mail notification of meetings to save on postage costs. E-mail replies as to meeting attendance can be submitted to the secretary.

## Committees

**1. Several of our committee members who live outside the tri-county area have trouble making our meetings. Can we patch them in by a conference call and be reimbursed by the OSB?**

The OSB budget includes a line item to cover committee telephone conference calls for use by members outside the tri-county area when that member finds it impossible to attend the meeting in person. Each committee is assigned its own toll-free number to call in and enter the committee’s passcode. No prior arrangements need to be made to schedule a phone conference.

**2. Several committee members have not attended any meetings. Is there a rule about removing these members from a committee?**

Yes, Bar Bylaw 14.4 outlines committee membership including removal of a member who is unable to participate fully in the committee.

**3. Our committee would like to take a position on a bill before the Legislature. Do we need BOG approval to do this?**

Yes. [Please see Bar Bylaw, Article 12, pages 22-23.] Every effort is made to minimize restrictions upon committees. However, routine activity is usually processed and approved quickly. Contact Susan Evans Grabe at the OSB at Ext. 380, Matt Shields, Ext. 358, or David Nebel, Ext. 317, for assistance.

**4. Does my committee have any funds?**

No, committees have no funds and can incur no indebtedness or obligations without specific approval by the Executive Director.

**5. Other than the December 1 annual report, are there other reports I must file with the bar?**

Yes, the Initial Committee Report must also be completed by February 1. [See page 31.]

# Whom to Call with Questions

Broadcast e-mails . . . . .	Sarah Hackbart, ext. 385	House of delegate questions . . . . .	Teresa Wenzel, ext. 386
Brochures, directories, etc. . . . .	Anna Zanolli, ext. 414	Legislative matters. . . . .	Susan Grabe, ext. 380
Bulletin editor. . . . .	Paul Nickell, ext. 340	. . . . .	David Nebel, ext. 317
CLE co-sponsorship. . . . .	Karen Lee, ext. 382	. . . . .	Matt Shields, ext. 358
CLE seminar registration services . . . .	Kes Joerg, ext. 326	List serves . . . . .	Michelle Casney, ext. 384
CLE publication authors . . . . .	Linda Kruschke, ext. 415	Mailing List. . . . .	ext. 411
CLE seminars speakers. . . . .	Karen Lee, ext. 382	MCLE sponsor questions . . . . .	Denise Cline, ext. 315
Cash receipt questions . . . . .	Michele Peterson, ext. 305	Payment of invoices . . . . .	Michele Peterson, ext. 305
Committee leadership opportunities . . . . .	Danielle Edwards, ext. 426	Payroll . . . . .	Cathi Pittman, ext. 302
Committee meeting notices & room reservations . . . . .	Michelle Casney, ext. 384	Rosters, committee lists . . . . .	Michelle Casney, ext. 384
Design center services . . . . .	Anna Zanolli, ext. 414 (newsletters, brochures, directories, etc.)	Rosters, section lists . . . . .	Sarah Hackbart, ext. 385
Distribution of financial statements . . . . .	Michelle Peterson, ext. 305	Section budget questions. . . .	Michelle Peterson, ext. 305
General accounting questions . . . . .	Michelle Peterson, ext. 305	Section bylaw questions. . . . .	Sarah Hackbart, ext. 385
General committee questions . . . . .	Michelle Casney, ext. 384	Section contracts. . . . .	Helen Hirschbiel, ext. 361
General section questions . . . . .	Sarah Hackbart, ext. 385	Section meeting notices & room reservations . . . . .	Sarah Hackbart, ext. 385
		Web site services . . . . .	Anna Zanolli, ext. 414

## OSB Member Services Staff

503-620-0222 or 1-800-452-8260

### **Margaret Robinson**

Member Services Department Manager . . . . .Ext. 409

### **Frank Garcia**

Diversity Program Administrator . . . . .Ext. 337  
Administers the Affirmative Action Program.

### **Danielle Edwards**

Member Services Administrator . . . . .Ext. 426  
Committee volunteer opportunities and appointments,  
public member recruitment.

### **Emily Yip**

Diversity Program Assistant . . . . .Ext. 338  
Provides administrative support to  
the Affirmative Action Program.

### **Shelley Dobson**

*Member Services Specialist . . . . .Ext. 404*  
*New Lawyers Division and Leadership College.*

### **Sarah Hackbart**

Member Services Section Specialist . . . . .Ext. 385  
Section administration and rosters.

### **Michelle Casney**

Member Services Assistant . . . . .Ext. 384  
Public meeting notice, committee meeting notices,  
local bar associations and specialty bar assistance.

# Commonly Asked MCLE Questions & Answers

## What is MCLE?

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MCLE is the acronym for the Minimum Continuing Legal Education program. The Rules and Regulations governing MCLE and various MCLE forms can be found on the bar's web site at [www.osbar.org](http://www.osbar.org).

## What is the best way to contact the MCLE staff?

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We are available by phone, fax or e-mail:

### MCLE Department:

Phone: 503-620-0222 or 1-800-452-8260, ext. 368  
Fax: 503-684-1366

### Denise Cline, MCLE Administrator

Ext. 315, E-mail: [dcline@osbar.org](mailto:dcline@osbar.org),  
Fax: 503-598-6915

### Jenni Abalan, MCLE Assistant

Ext. 336, E-mail: [jabalan@osbar.org](mailto:jabalan@osbar.org),  
Fax: 503-598-6936

## How and when do I submit applications for accreditation of programs and applications for teaching or research?

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Use MCLE Form 2 for accreditation of a live or group replay CLE. Be sure to include all information requested on the form and, if applying as a sponsor, include the program fee. See MCLE Rule 4.5 and Regulation 4.50 for details.

OSB sections may pay the sponsor fee using a transfer of funds form signed by the section treasurer. Applications will not be processed until all requested information is submitted. The accreditation process takes approximately 30 days from the date the MCLE office receives the application. Applications must be submitted in advance of the program if you wish to advertise that it is accredited and for how many credits. Otherwise, applications must be submitted within 30 days after the program.

## What programs qualify for MCLE credit?

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MCLE Rule 5 sets out the accreditation standards that are used by the MCLE Department when reviewing applications for accreditation. Programs must have "significant intellectual or practical content" designed to enhance or improve competence as a lawyer. Accreditation is available for programs dealing with substantive law, personal and practice management, ethics, professionalism and diversity.

## What kind of programs qualify for ethics credit?

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MCLE Rule 5.5(a) states: "In order to be accredited as a legal ethics activity, an activity shall be devoted to the study of judicial or legal ethics and professional responsibility or professionalism and shall include discussion of applicable judicial conduct codes, disciplinary rules or statements of professionalism.

## Are there requirements for program length?

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To qualify for credit, a program must be at least 30 minutes in length. Programs are given one hour of credit for each 60 minutes of actual instruction, except that there can be a break of not more than 15 minutes in a three hour program.

# Oregon Law Foundation and the IOLTA Program

## Fact Sheet 2010

### **IOLTA Program**

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The Interest on Lawyers' Trust Accounts (IOLTA) program is an innovative way to supply a public good. Client funds that are too small in amount or held for too short of a time to earn interest for the client, net of bank charges or administrative fees, are placed in a pooled interest-bearing trust account. The interest from these accounts is remitted by the financial institutions to the Oregon Law Foundation, a charitable, tax-exempt entity. Financial institutions play a significant role in the success of the IOLTA program. The amount of funding generated through IOLTA each year is dependent upon several factors, including interest rates and bank-imposed service fees. You can help the Oregon Law Foundation by establishing your IOLTA account at (or moving your IOLTA account to) a bank that is committed to maximizing the rate of return on IOLTA accounts. The Oregon Law Foundation's "Leadership Banks" have shown such a commitment. For more information on the Oregon Law Foundation and to see the Oregon Law Foundation's 2010 "Leadership Banks" please go to [www.oregonlawfoundation.org](http://www.oregonlawfoundation.org).

### **IOLTA Income**

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Due to falling interest rates IOLTA income for 2009 totaled only \$1,00,000, only 30% of what was received in 2007. Because interest rates are predicted to stay low in 2010 IOLTA income will continue to decrease and the 2010 total is projected to be the same as 2009.

### **2010 Grantees**

For 2010 the Foundation awarded \$1,800,000 in grants that greatly benefited the economically and socially disadvantaged citizens of Oregon. Grants totaling \$1,334,575 were made to the legal aid offices which are Legal Aid Services of Oregon, Center for Non-Profit Legal Aid (Jackson County), Oregon Law Center and the Lane County Law and Advocacy Center. Other direct service grants totaling \$446,925 were made to Immigration Counseling Service, Oregon Advocacy Center, St. Andrew Legal Clinic, Multnomah Volunteer Lawyers' Project, Juvenile Rights Project, Northwest Justice Project and Hood River Legalization.

In addition to the Foundation's focus of direct service to economically disadvantaged Oregonians, the Foundation funds legal education that benefits all citizens and promotion of diversity in the Legal profession. For 2010 \$13,500 was awarded to Classroom Law Project, and \$5,000 to OSB Affirmative Action OLIO program.

### **Grant Application**

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To be considered for an OLF grant, application must be received not later than October 1. Applications are available in August either by request or they can be downloaded from our website [www.oregonlawfoundation.org](http://www.oregonlawfoundation.org). The Board makes grants once each year, in November, for payments to be made in four equal installments. In the absence of special circumstances, the funding period for successful applicants is one year. Eligibility considerations and requirements; the focus of the Foundation continues to be support of access to justice in Oregon by obtaining and distributing funds to provide legal services to persons of lesser means.

For further information, please contact the Oregon Law Foundation Executive Director, Judith Baker, at extension 323 at the Oregon State Bar.

# Oregon State Bar Bulletin

## 2010 Bulletin Editorial/Advertising Deadlines

Issue	Bulletin Deadline	Bar News Deadline	Mailed
January	November 26, 2009	December 19, 2010	January 6, 2010
February/March	January 15, 2010	February 5, 2010	March 5, 2010
April	February 12, 2010	March 5, 2010	April 2, 2010
May	March 19, 2010	April 9, 2010	May 7, 2010
June	April 16, 2010	May 7, 2010	June 4, 2010
July	May 21, 2010	June 11, 2010	July 9, 2010
August/September	July 16, 2010	August 6, 2010	September 3, 2010
October	August 13, 2010	September 3, 2010	October 1, 2010
November	September 17, 2010	October 8, 2010	November 5, 2010
December	October 15, 2010	November 5, 2010	December 3, 2010

## Editorial and Advertising Guidelines Oregon State Bar Bulletin

The Bulletin is published for members of the Oregon State Bar (OSB). The Bulletin is published monthly and distributed during the first week of the month, except for double issues in February-March and August-September. It is not a consumer magazine, nor a law library text/review book. The purpose of the Bulletin is to provide the members of the Oregon State Bar with information that will directly affect their practice of law in Oregon, will aid and improve their business, and will keep them informed on activities and issues in the legal profession.

### Deadlines

Contact the Oregon State Bar Bulletin editor at (503) 620-0222, ext. 340, or [editor@osbar.org](mailto:editor@osbar.org). The in-state toll-free line is 1-800-452-8260.

### Classified Advertising

Classified advertisements are available for purchase by both OSB members and non-members. Firms or organizations offering professional employment opportunities or services are available to OSB members and non-members at the same rate. Non-position and non-service advertising is provided to OSB members at a reduced rate.

### Lawyer Announcements

Paid advertising space is available for members to announce changes in law firms or practices. Such advertising is available only in the Bulletin, and only to members of the Oregon State Bar, or their law firms or offices.

### Rates

For rates and other information, contact the Oregon State Bar advertising coordinator at (503) 620-0222, ext. 348, or [advertising@osbar.org](mailto:advertising@osbar.org).

# OSB Electronic Services

## Casemaker™ Online Web Library

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The Casemaker™ Web Library contains a library of Oregon, and other state and federal resources. The library permits search and browse functions for legal research and is a valuable membership benefit. An online tutorial and user manual are also located on the website via the member login page.

## Membership Fees and Section Enrollment

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View and make payments for your membership and section fees online, or print your statement and mail your payment to the bar. Also, view your section's current membership roster.

## Member Profile Update

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You can change your address online through the member login page. The online Member Directory is updated daily.

## OSB Online Voting

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Online voting is available to members who have listed an e-mail address as part of their permanent bar record. Electronic elections offer convenience to members, save money, and increase member participation.

## Telephone Conferencing for Committees and Sections

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Premiere is the conference call provider for the Oregon State Bar. Groups utilizing this service have service available 24 hours a day, seven days a week, with no prior set-up required.

Sections and committees have individualized toll-free numbers along with the conference ID number.

The numbers are included on meeting notices for members who occasionally call into a meeting.

Conference call services continue to be free to Oregon State Bar Committees. Sections continue to be charged a minute rate for conference calls.

## Web Conferencing

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The Oregon State Bar has contracted with Premiere, a provider of web conferencing services. Premiere is a full-featured web conferencing service that lets you easily conduct online web and audio events from start to finish for virtually any size audience. Premiere allows you to organize and conduct meetings online, view and share documents.

Web-conferencing is available at no cost to Oregon State Bar Committees. Section Executive Committees will pay an hourly fee, as yet to be determined.

If you would like more information about web-conferencing services contact Danielle Edwards, Member Services Administrator, 1-800-452-8260, ext. 426, 503-431-6426 or dedwards@osbar.org.

## Web Surveys

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The Oregon State Bar uses a variety of services to conduct online surveys for the bar and sections. Pricing is based on the length and type of survey desired, and the bar can provide a quote per your section's specific needs. If you would like more information about web surveys, contact Anna Zanolli, Design Center Supervisor, 1-800-452-8260, ext. 414, 503-431-6414 or azanolli@osbar.org.

# Electronic Communication Policies

## Member Services Department, Oregon State Bar

The Oregon State Bar Member Services Department provides electronic communications such as broadcast e-mails, list serves and broadcast faxes to bar groups. These groups consist of sections, committees and local bar associations. These services provide cost-effective communication methods to disseminate information regarding CLE seminars and group activities.

### **BROADCAST E-MAIL**

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Broadcast e-mails are for official section, local bar association and committee business only. A typical broadcast e-mail announces meetings, CLE seminars, conferences, symposiums or networking opportunities. Broadcast e-mail services from the Member Services Department are not available to express political views, job announcements, solicitations to OSB members to join sections, or to purchase products.

The following conditions apply to the sending of broadcast e-mails:

1. Requests for broadcast e-mails must be received by Member Services a minimum of two (2) business days prior to distribution. Such requests must indicate the group(s) to receive the e-mail and the date by which the e-mail is to be sent.
2. The information to be sent must be in a single document, no more than one page in length and include a subject line.
3. Attachments are not included in broadcast e-mails, all text must be embedded in the body of the e-mail. However a link to a CLE brochure can be placed into the broadcast e-mail.
4. The broadcast e-mail text must designate the person who is to receive e-mail replies.
5. Section e-mails may include the sponsoring section and up to two additional sections for free. If a section e-mails to more than two additional sections, a charge of \$25 per additional section will be assessed. E-mails to the total bar membership are not allowed.
6. Local bar association broadcast e-mails may be sent to all lawyers in a particular county as well as surrounding counties.

7. Unless the broadcast e-mail is county-wide, local bars must provide a current list of members with the broadcast e-mail request.
8. Sections, committees and local bars utilizing broadcast e-mails to market a CLE seminar may send an initial announcement and no more than two reminders per seminar.
9. Bar committees may utilize broadcast e-mails for meeting notices, seminar announcements and legislative information.

All broadcast e-mail requests are subject to review and approval by Member Services staff.

### **LIST SERVES**

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Upon request, the Member Services Department will create an Executive Committee or full section list serve or both. OSB committees may also utilize list serves.

The purpose of the list serve is to facilitate communication among members of the group. Note that list serves are a private list: participation is open only to members of the group who have e-mail addresses registered with the Bar.

Once established, each Section Executive Committee is responsible for monitoring their own section list serves and must work with the OSB Member Services Department to remove or change any members list serve status. A copy of the standard list serve welcome letter is in the current Bar Leader Handbook..

### **BROADCAST FAXES**

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Broadcast faxes may be utilized by local bar associations only. This support service is provided by Member Services to local bars at no cost. Requests for broadcast e-mails may stipulate that broadcast faxes be sent to members who do not have an e-mail address registered with the bar.

For the current status of these services, contact Sarah Hackbart, Member Services Section Specialist, 503-431-6385, 1-800-452-8260, ext. 385 or shackbart@osbar.org.

# Members of the Board of Governors

## Officers

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**President: Kathleen Evans**  
**President – Elect: Stephen V. Piucci**

## Members

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### *Terms expiring 2010*

**Kathleen A. Evans**  
 969 13th St SE  
 Salem, OR 97302  
 Phone: (503) 588-5670  
 kathy@kevanslaw.com

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 energlaw@aol.com

**Karen Lord, Public Member**  
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 Phone: (503) 585-7149  
 karenlord@gmail.com

**Vacant Seat**  
**This region 5 seat will be filled  
 by appointment.**

### *Terms expiring 2011*

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**Derek C Johnson**

Johnson Clifton et al  
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 Eugene, OR 97401  
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 djohnson@jclslaw.com

**Ethan D Knight**

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 ethan.knight@usdoj.gov

**Maureen O'Connor, Public Member**

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**Teresa Schmid, Executive Director**

Oregon State Bar  
 16037 SW Upper Boones Ferry Rd  
 PO Box 231935  
 Tigard, OR 97281-1935  
 Phone: (503) 620-0222 or 800-452-8260 ext. 346  
 tschmid@osbar.org

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## 2010 Board Meeting Schedule

Committee Meetings at OSB Center	Board Meeting	Locations	Events
January 15	February 18-20 <i>Disciplinary Counsel</i>	j. james Restaurant Salem	Lunch with Supreme Court
		Oregon Garden Silverton	President's Reception, Dinner with ONLD, Leadership College
March 19	April 29-30 <i>Communications</i>	Oregon State Bar Center	Board Meeting, Joint PLF Mtg.
May 14 <i>Past BOG Dinner</i>	June 17-18 <i>Legal Publications</i>	Geiser Grand Baker City	Board Meeting, Regional Bar Social
July 16	August 12-13 <i>Public Affairs</i>	Oregon State Bar Center	HOD Agenda Approval
September 24	October 29 (HOD)	Oregon State Bar Center	HOD Annual Meeting (1:30 p.m.)
	November 11-14 <i>Finance &amp; Operations</i>	Timberline Lodge <i>Timberline</i>	BOG Planning Retreat, Regional Bar Social

# Bar Bylaws

## Article 14 – Committees

### Section 14.1 Standing and Special Committees

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Standing or special committees of the Bar or any member or officer of those committees may be appointed or discharged by the President or the Board.

### Section 14.2 Joint Committees

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The Board has from time to time agreed to create joint committees between the Bar and other professional groups to develop better understanding between the two groups and to assist in resolving problems of mutual concern. These joint committees comprise a certain number of bar members and a certain number of members of other professional associations. All Bar Bylaws relating to committees apply to these joint committees. Lawyer members who participate in these joint committees are prohibited from engaging in any activity that seeks to restrain other groups of professionals from engaging in lawful professional activities.

### Section 14.3 Committee Responsibilities

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Committees are established so that members can study issues within the committee's charge and make recommendations to the Board. Before January 1 of each year the Board will forward a committee charge to the chair of each committee. This charge outlines the committee's ongoing general activities as well as specific issues to be considered for the year. The Board will consult with the previous committee members before adopting the committee charge. Committees may also recommend issues to the Board to be included in the charge at any time.

### Section 14.4 Membership

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All members of standing committees must be active members of the Bar. All members of standing committees typically serve on a three-year rotating basis. The Board may reappoint members to a committee, if the Board makes a finding of extraordinary circumstances that warrant a reappointment. Each year the Board appoints new members constituting one third of each committee. Terms begin on January 1. The Board will solicit member preference for serving on committees throughout the year. The Board appoints members to fill vacancies that occur throughout the year. These vacancies occur because members resign or are unable to participate fully in the committee. The board may appoint advisory members or public members, as it deems appropriate.

### Section 14.5 Financial Issues

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Committees have no budget; although they may make recommendations regarding the expenditure of funds already budgeted in a particular program area. A committee cannot incur any expense without prior authorization from the Executive Director.

### Section 14.6 Legislation

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Each committee must designate a member of the committee as a contact for legislative information and involvement. This member is to work with and coordinate all activities with the Director of Public Affairs and the Public Affairs Committee of the Board.

### Section 14.7 Administrative Services

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The Bar's meeting rooms will be available on a first-come first-served basis. All committees are encouraged to use the Bar's meeting rooms whenever possible. The Bar will assist committees with providing meeting notices in accordance with the requirements of the Public Meetings Law. If the Bar does not produce the meeting notice, the committee member who produces the notice must provide a copy to the Bar. The Bar will assign a bar liaison to each committee. The bar liaison serves as a resource of information for the committee. Each committee will have a contact person who is a member of the Board. It is not anticipated that the board member will attend the meetings of the committee on a regular basis.

### Section 14.8 Committee Reports

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Each committee must file an annual report of its activities with the Executive Director for the preceding year by December 1 of each year. Other reports may be required from time to time.

### Section 14.9 Quorum for Meetings

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A quorum, consisting of a majority of the committee members, is required for the transaction of committee business. No recommendation of a committee to the Board of Governors is valid if made without a quorum present, but the absence of a quorum does not preclude a committee from studying or discussing any issue within the committee's charge. Action of the committee will be by majority vote of those voting.

# Miscellaneous Bar Bylaws

The current version of this document is maintained on the bar's website: [www.osbar.org](http://www.osbar.org)

## Subsection 2.105 Amicus Curiae Briefs

A section or committee that wishes to enter an *amicus curiae* appearance before any trial court or appellate court must obtain prior approval from the Board. The request must be in writing and must include a synopsis of the question involved, the posture of the case, the position to be taken in the *amicus* appearance, and the anticipated cost of appearing *amicus curiae* including lawyer fees, if any. The question involved must directly or substantially affect admission to the practice of law, the discipline of members of the bench or bar, the method of selecting members of the judiciary or other questions of substantial interest to the Bar or a committee or section. The Board will determine whether the question involved can be adequately presented to the court without the *amicus* appearance of the committee or section. All costs for appearance by a section must be paid by the section; if the Board approves the filing of an *amicus* appearance by a committee, the Bar will pay any costs for the appearance.

## Section 2.6 Conflicts of Interest

Bar officials are subject to the provisions of ORS Chapter 244, the Government Standards and Practices Act. Nothing in this section is intended to enlarge or contradict the statutory provisions as they may apply to bar officials.

## Subsection 2.600 Definitions

As used in Section 2:

- (a) "Actual conflict of interest" means that the person, a relative of the person or a business with which the person or a relative of the person is associated will derive a private pecuniary benefit or detriment as a result of an action, decision or recommendation of the person in the course of bar-related activities.
- (b) "Bar official" means members of the Board of Governors; appointees of the Board of Governors, including members of standing committees, Local Professional Responsibility Committees, bar counsel panels, and the State Professional Responsibility Board; section officers and executive committee members; and bar staff.
- (c) "Business" means any corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, self-employed person and any other legal entity operated for economic gain, but excluding any income-producing not-for-profit corporation that is tax exempt under IRC §501(c) with which a bar official is associated

in a non-remunerative capacity.

(d) "Business with which the person is associated" means any business of which the person or the person's relative is a director, officer, owner, employee or agent or any corporation in which the person or the person's relative owns or has owned stock worth \$1,000 or more at any point in the preceding year.

(e) "Potential conflict of interest" means that the person, a relative of the person or a business with which the person or a relative of the person is associated, could derive a private pecuniary benefit or detriment as a result of an action, decision or recommendation of the person in the course of bar-related activities.

(f) "Relative" means the bar official's spouse, any children of the bar official or the bar official's spouse and siblings and parents of the bar official or the bar official's spouse.

## Subsection 2.601 Prohibited Actions

Regardless of whether an actual or potential conflict is disclosed:

- (a) No bar official may use or attempt to use the person's official position to obtain any financial gain or the avoidance of any financial detriment that would not otherwise be available to the person, but for the bar official's holding of the official position, except official salary, reimbursement of expenses for official activities or unsolicited awards for professional achievement for the bar official or a relative of the bar official or for any business with which the bar official or the bar official's relative is associated.
- (b) No bar official may attempt to further the personal gain of the bar official through the use of confidential information gained by reason of an official activity or position.
- (c) No bar official may solicit or receive, during any calendar year, any gift or gifts with an aggregate value of more than \$100 from any single source that could reasonably be known to have an interest in any matter concerning which the official has any authority or responsibility.
- (d) No bar official may solicit or receive a promise of future employment based on an understanding that any official action will be influenced by the promise.

### **Subsection 2.602 Disclosure of Conflict**

When met with an actual or potential conflict of interest, a bar official must disclose the conflict and take any other action required by this bylaw.

(a) If appointed by the Executive Director, the bar official must notify the Executive Director of the nature of the conflict and request the Executive Director to dispose of the matter giving rise to the conflict. Upon receipt of the request, the Executive Director will designate within a reasonable time an alternate to dispose of the matter, or will direct the bar official to dispose of the matter in a manner specified by the Executive Director.

(b) If the bar official is the Executive Director, she/he must notify the Board of Governors, through the President, of the nature of the conflict and request the Board of Governors to dispose of the matter giving rise to the conflict. Upon receipt of the request, the President will designate within a reasonable period of time an alternate to dispose of the matter, or will direct the Executive Director to dispose of the matter in a manner specified by the Board of Governors.

(c) If the bar official is elected to or appointed by the Board of Governors or other appointing authority to serve on a board, committee, council, commission or other public body, the bar official must:

(1) When met with a potential conflict of interest, announce publicly the nature of the potential conflict prior to taking any action thereon in the capacity of a bar official; (2) when met with an actual conflict of interest, announce publicly the nature of the actual conflict, and refrain from participating in any discussion or debate on the issue out of which the actual conflict arises or from voting on the issue, except that if the bar official's vote is necessary to meet a requirement of a minimum number of votes, the bar official may vote, but may not participate in any discussion or debate on the issue out of which the actual conflict arises.

(d) When a bar official gives notice of an actual or potential conflict of interest under subsection 2.602(c), the conflict must be recorded in the minutes or other official record of the board, committee, council, commission or other public body on which the official serves, together with an explanation of how the conflict was resolved. If there are no minutes or other official record, then the bar official, in addition to the disclosure to the board, committee, council, commission or other public body, must disclose the conflict in writing to the Executive Director.

(e) No decision or action of the any bar official or of any board, committee, council, commission or other public body on which the official serves is invalid or voidable solely by reason of the failure to disclose an actual or potential conflict of interest.

### **Subsection 2.603 Board Members as Witnesses in Bar Proceedings**

As provided in BR 5.3(c), a current member of the Board of Governors must not testify as a witness in any bar admission, discipline or reinstatement proceeding except pursuant to subpoena. If requested by a party to be a witness in a bar proceeding, board members should urge the party to present the anticipated testimony through other witnesses. However, the parties ultimately decide whether a board member will be subpoenaed to testify as a witness in a bar proceeding.

## **Article 4 Awards**

### **Section 4.1 General Policy**

The Board will select award recipients from among the nominations received from local bars, committees, sections, individual members, affiliated groups and bar groups.

### **Section 4.2 President's Membership Service Award**

The criteria for the President's Membership Service Award is as follows: The nominee must have volunteered his or her time for the activity in which he or she was involved; the nominee must be an active member of the Bar; the nominee must have made a significant contribution to other lawyers through efforts involving Continuing Legal Education programs or publications, committees, sections, boards or the Bar's legislative/public affairs process or similar activities through local bar associations or other law-related groups.

### **Section 4.3 President's Public Service Award**

The criteria for the President's Public Service Awards is as follows: The nominee must have volunteered his or her time for the activity in which she or he was involved; the nominee must be an active member of the Oregon State Bar; the nominee must have made a significant contribution to the public through efforts involving pro bono services; coordination of local public service law-related events, such as those associated with Law Day; service with community boards or organizations or similar activities that benefit the public.

### **Section 4.4 President's Affirmative Action Award**

The criteria for the President's Affirmative Action Award is as follows: The nominee must be an active member of the Bar or be an Oregon law firm; the nominee must have made a significant contribution to the goal of increasing minority representation in the legal profession in Oregon through progressive employment efforts, innovative recruitment and retention programs, advocacy or other significant efforts.

### **Section 4.5 President's Special Award of Appreciation**

The President's Special Award of Appreciation is a discretionary award of the President of the Bar, with the concurrence

of the Board, to be presented to a person who has made recent outstanding contributions to the bar, the bench and/or the community. The award will be made in conjunction with the OSB Awards Dinner or House of Delegates events within the following guidelines. In any given year, there may be no award, one award or more than one award. The recipient may be a lawyer or a non-lawyer. The President will present his or her proposed award recipient to the Board at the same time the Board considers the Bar's other awards.

#### **Section 4.6 Award of Merit**

The Award of Merit is the highest honor that the Bar can bestow. The recipient may be (1) an Oregon lawyer who has made outstanding contributions to the bench, the bar and the community-at-large, and who exhibits the highest standards of professionalism or (2) a non-lawyer who has made outstanding contributions to the bar and/or bench, and who exhibits the highest standards of service to the community-at-large. The award does not have to be granted every year and only one award may be bestowed in any year.

#### **Section 4.7 Wallace P. Carson, Jr. Award for Judicial Excellence**

The Wallace P. Carson, Jr. Award for Judicial Excellence honors a member of the state's judiciary. The criteria for the award are as follows: 1) a current or retired state court judge or federal judge; 2) who has made significant contributions to the judicial system; and 3) who is a model of professionalism, integrity, and judicial independence.

#### **Section 4.8 President's Public Leadership Award**

The criteria for the President's Public Leadership Award is as follows: The nominee must not be an active or inactive member of the Oregon State Bar and the nominee must have made significant contributions in any of the areas described in the President's Awards (Section 4.2-4.4 above).

#### **Section 6.3 Rights of Members**

Subject to the other provisions of these policies, all active members have equal rights and privileges including the right to hold an office of the Bar, the right to vote, and the right to serve on bar committees. Inactive members may be members, but not officers, of sections. Suspended members may remain members of or join sections during the term of their suspensions, but may not hold an office of the Bar, vote or serve on the Board of Governors, in the House of Delegates or on any bar committee or section executive committee.

### **Article 10 Diversity**

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The Bar respects the diversity of its membership and its employees. Bar entities, including, but not limited to standing committees, section executive committees and Continuing Legal Education programs and publications, should reflect this diversity. "Reflect," as used in this article, does not require the

application of strict quotas, but requires a good faith attempt to achieve representative participation. Reports of such efforts may be required of bar entities. In addition, no bar entity may discriminate on the basis of race, religion, color, gender, sexual orientation, geographic location, age, handicap or disability, marital, parental or military status or other classification protected by law. No professional, business or social functions of the Bar, or any of its sections, committees, affiliates or other authorized entities may be held at any private or public facility, which discriminates, based upon the terms listed above. Furthermore, advertisements or solicitations for employment must offer equal employment opportunities. The United States Armed Forces are exempt from this policy as it regards advertisements in the bar's communications.

#### **Section 11.3 Media Relations**

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

#### **Subsection 16.200 Reduced and Complimentary Registrations**

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Complimentary admission to CLE seminars is available to the following OSB lawyer members: lawyer-legislators, 50-year members, judges, and judicial clerks. Complimentary admission does not include the cost of lunch or other fee-based activities held in conjunction with a CLE seminar. For purposes this policy, "judges" means full or part-time paid judges and referees of the Circuit Courts, the Court of Appeals, the Tax Court, the Supreme Court, and of tribal and federal courts within Oregon. Complimentary registration at any event for judicial clerks will be limited to one clerk for each trial court judge and two clerks for each appellate court judge. The CLE Seminars Department may provide a reduced registration fee for new admittees as defined in the Minimum Continuing Legal Education rules, non-lawyer employees of lawyers or law firms, other non-legal professionals and law students. Tuition assistance may be made available on the basis of financial need. The CLE Seminars Department may provide video tapes of CLE seminars, at cost, to the state court administrator or other appropriate distribution source, limited to one copy of the tapes for each seminar. The state court administrator may choose the seminars that he or she wishes to acquire. The policy also applies to federal court libraries in Oregon.

# Governmental Relations and Public Affairs

## Public Affairs Mission

The Public Affairs Department works to apply the knowledge and experience of the legal profession to the public good by advising governmental bodies, proposing legislation for law improvement, and advocating on matters that affect the legal profession.

What is the OSB Public Affairs Program?

The Public Affairs Program:

- Provides legal expertise and assistance to lawmakers;
- informs bar leaders, members and government bodies on bar related legislation and public policy issues;
- assists bar groups with law improvement projects; and
- influences major issues affecting the legal profession and justice system.

The bar recognizes the diverse membership of the organization and tries to “avoid committing bar funds to issues which are divisive or result in creating factions within the profession.”

The Public Affairs Committee of the Board of Governors oversees the work of the program, and makes recommendations to the Board of Governors on public policy issues.

## BOG – Public Affairs Committee Members

**Steve Piucci, Chair, *Portland***

Derek Johnson, Vice-Chair, *Portland*

Ann Fisher, *Portland*

Gina Johnnie, *Salem*

Kellie Johnson, *Portland*

Audrey Matsumonji, *Gresham*

Steve Larson, *Portland*

## Department Contact

If you have any questions or would like to talk about legislative activity, please feel free to contact the Public Affairs Department staff.

**Camille Greene, Administrative Assistant**

503-431-6376

1-800-452-8260, ext. 376 (only within OR)

cgreene@osbar.org

*Also please visit the bar's legislative web pages at: [www.osbar.org/publicaffairs](http://www.osbar.org/publicaffairs)*

## 2009 in Review

The 2009 legislative session commanded much of the attention and energy of the public affairs staff when it convened on January 12 to its adjournment on June 29. Since adjournment, staff has been monitoring interim activities, produced the *2009 Legislation Highlights* review of the legislature's work, and begun to work with sections and committees to develop legislative proposals for the 2011 session.

The severe economic crisis facing the state and the nation as the legislature convened forced the Board of Governors to focus its priorities on maintenance of the justice system at a level that avoided court closures and dramatic curtailment of court services, maintained at least some movement on long term technology and court facility projects, and provided support for legal services to the poor. This was achieved:

- The Oregon Judicial Department (OJD) will sustain a cut of roughly 7.5 percent from its essential budget level for the 2009-11 biennium. This is a substantial, but manageable reduction, enabling all state courts to remain open five days a week. New income from temporary filing fee increases is being used to backfill what was originally to be a 10 percent reduction.
- The OJD will also receive funding to continue implementation of the eCourt (electronic court) program, including funds for debt service and proceeds on new bonds for implementation itself.
- The legislature also authorized the Department of Administrative Services to issue lottery revenue bonds for repairs of county court facilities, generating over \$11 million for 32 deferred maintenance projects that can be started and completed quickly.
- Indigent defense will receive part of the revenue from increased filing fees, and civil legal services programs for low income Oregonians will receive \$1 million from the General Fund in addition to ongoing income from filing fees.

Public affairs staff also worked to pass 24 of 28 law improvement proposals brought forward by 12 different bar groups. These measures are generally designed to make the legal system and its components work better.

During the session, the public affairs staff acted as a conduit for information between the legislature and interested bar groups, and as the point of contact between bar groups and the Public Affairs Committee. Members representing the bar or specific sections supported or

opposed a broad range of bills brought forward by others and lent expertise to improve measures that the legislature considered.

During the session staff also organized several events to acquaint lawyers with the legislative process and to put lawyers in touch with their legislators on issues of importance to the justice system. The department staffed a Leadership College program in February, featuring a trip to the Capitol and several presentations by legislators and lobbyists about how lawyers can be most effective in relating to the legislature. In March, the Public Affairs Committee organized a Day at the Capitol at which lawyers met with their legislators to discuss the importance of an adequate court system to the citizens of Oregon and to businesses that operate within the state.

Since the end of the session, the public affairs staff worked with volunteer authors and editors to produce a comprehensive review of the 2009 session designed to apprise practitioners of changes in virtually all practice areas—*2009 Legislation Highlights*. The staff also organized a half day CLE on the legislature's work, the faculty of which was by and large lawyers who serve in the legislature. To prepare for the February 2010 session and the 2011 regular session, public affairs staff has met with section executive committees and other bar groups to discuss the process by which groups may submit legislative proposals for bar sponsorship, and offered to help these groups through the process.

Staff monitors the work of interim legislative committees, task forces and work groups. Of special interest to lawyers this interim are the Joint Committee on Justice System Revenues, which promises to review court filing fees and fines from top to bottom, and the ongoing OJD advisory groups giving input and overseeing the implementation of the eCourt program.

Public affairs staff continues to be the liaison between the bar and the Council on Court Procedures (COCP) and between the bar and the Oregon Law Commission (OLC). The COCP is a statutorily created group charged with maintaining the Oregon Rules of Civil Procedure in good working order and proposing suggested improvements which go into effect unless changed by the legislature. The OLC is also a statutory group, but with a broader charge of general law reform, simplification, modernization and consolidation when appropriate.

## State Elected Officials with Legal Training

### 13 Legislators with Legal Training in the 2009 Legislative Session

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#### Oregon Senate:

Suzanne Bonamici (D), District 17, NW Portland, NE Washington County

Peter Courtney (D), District 11, Keizer, Gervais, Woodburn

Elizabeth "Betsy" Johnson (D), District 16, Scappoose\*

Dave Nelson (R), District 29, Pendleton\*

Floyd Prozanski (D), District 4, Parts of Lane, Douglas and Coos Counties

#### Oregon House of Representatives:

Phil Barnhart (D), District 11, Central Lane and Linn Counties

Brent Barton (D), District 51, Clackamas

Cliff Bentz (R), District 60, Ontario

Chris Garrett (D), District 38, Lake Oswego, SW Portland

Nick Kahl (D), District 49, Wood Village, Gresham\*\*

Dennis Richardson (R), District 4, Central Point, Rogue Valley

Jefferson Smith (D), District 47, Mid-Multnomah County

Judy Stiegler (D), District 54, Bend

\* Indicates law degree but not licensed to practice in Oregon.

\*\* Indicates law student.

#### Statewide Office

Ted Kulongoski (D), Governor

John Kroger (D), Attorney General

Kate Brown (D), Secretary of State

Brad Avakian, Commissioner of the Bureau of Labor and Industries

#### Information Numbers

Legislative Committees .....(503) 986-1813  
 House Democratic Office.....(503) 986-1900  
 House Republican Office .....(503) 986-1400  
 Senate Republican Office .....(503) 986-1950  
 Senate Democratic Office.....(503) 986-1700  
 Legislative Counsel .....(503) 986-1243

Distribution Center  
 (for copy of legislative bills).....(503) 986-1180  
 www.leg.state.or.us

Oregon State Bar,  
 Government Relations ..... (503) 620-0222 ext. 376

#### **Governor's Legal Counsel,**

Joseph O'Leary ..... (503) 378-8636

### **2009-2011 Interim Joint Judiciary Committees**

#### **Senate**

Sen. Floyd Prozanski, Chair  
 Sen. Brian Boquist, Vice Chair  
 Sen. Suzanne Bonamici  
 Sen. Jackie Dingfelder  
 Sen. Doug Whitsett

#### **House**

Rep. Jeff Barker, Chair  
 Rep. Judy Stiegler, Vice Chair  
 Rep. Gene Whisnant, Vice Chair  
 Rep. Brent Barton  
 Rep. Kevin Cameron  
 Rep. Chris Garrett  
 Rep. Wayne Krieger  
 Rep. Andy Olson  
 Rep. Jefferson Smith  
 Rep. Carolyn Tomei

### **2009-2011 Interim Joint Ways & Means**

Sen. Peter Courtney, Co-Chair  
 Sen. Betsy Johnson, Vice Chair  
 Sen. Alan Bates  
 Sen. Chris Edwards  
 Sen. Joanne Verger  
 Sen. Rod Monroe  
 Sen. Jackie Winters  
 Sen. David Nelson  
 Sen. Doug Whitsett  
 Sen. Chip Shields  
 Sen. Fred Girod

Sen. Jeff Kruse  
 Rep. Peter Buckley, Co-Chair  
 Rep. Nancy Nathanson, Vice Chair  
 Rep. David Edwards  
 Rep. Jeff Barker  
 Rep. Bill Garrard  
 Rep. George Gilman  
 Rep. Bob Jensen  
 Rep. Betty Komp  
 Rep. Tina Kotek  
 Rep. Dennis Richardson  
 Rep. Jean Cowen  
 Rep. Greg Smith

### **Justice System Revenues**

Sen. Joanne Verger, Co-Chair  
 Rep. Nancy Nathanson, Co-Chair  
 Sen. Suzanne Bonamici  
 Sen. Doug Whitsett  
 Rep. Cliff Bentz  
 Rep. Chris Garrett  
 Douglas Bray  
 Christopher Kent  
**Staffing:**  
 Erin Seiler  
 Mike Reiley

# The Political Process: Roles and Responsibilities

## 1.0 Introduction

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In the public policy arena, the bar plays a significant role in the evaluation and consideration of administration of justice issues in the legislative and political processes. The board encourages bar groups to be involved in legislative activities within their jurisdiction, subject to the bar's legislative guidelines and relevant election laws. There is a long tradition of lawyers working through the bar process to improve the quality of laws in the state of Oregon. The bar's law improvement program has served to raise the credibility of lawyers as a resource for expertise in a wide variety of areas.

The Oregon State Bar Board of Governors guidelines for legislative and political activity are set forth in BOG Bylaws Article 12. The guidelines are drawn from the bar's statutory purposes, constitutional limits on the use of mandatory membership fees, and election law limits on the activities of public employees. They also reflect the recognition that the Oregon State Bar has a diverse membership with differing views on many subjects.

## 1.1 Statutory Authority

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By way of background, the Oregon State Bar is a "public corporation and an instrumentality of the Judicial Department of the government of the State of Oregon..." ORS 9.010(1). Although the board has statutory authority to "at all times direct its power to the administration of the science of jurisprudence and the improvement of the administration of justice" (see ORS 9.080(1)), its actions are still constrained by other applicable law, including *Keller v. State Bar of California*, 496 U.S. 1 (1990). As a state entity, the bar's funds are subject to audit by the Secretary of State pursuant to ORS 297.210 and, for purposes of the expenditure of bar resources, bar "funds" are considered "public funds" and board members may be subject to the restrictions on the expenditure of public funds under ORS 294.100 as public officials.

As a mandatory membership organization, the Oregon State Bar cannot engage in the wide-range of activities allowed voluntary organizations. Even though the bar is partially funded by membership fees as opposed to state general fund revenues, its unique statutory composition makes it subject to various laws. Thus, in pursuing any activity, the expenditure of public funds by the board must be related to the purposes for which the bar exists. If it is not, the public officials who permit the unauthorized expenditure may be subject to personal liability under ORS 294.100 if the expenditure constitutes malfeasance or wanton neglect of duty.

## 1.2 Keller Standard

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The U.S. Supreme Court's decision in *Keller v. State Bar of California* set the parameters for what a mandatory state bar can do under the First Amendment. In *Keller*, a member of the California bar contested the bar's use of compulsory dues to support and/or advocate "political or ideological" views in violation of his First Amendment rights. The U.S. Supreme Court held that a mandatory state bar's use of compulsory dues to finance political and ideological activities violates the First Amendment rights of dissenting members when such expenditures are not "necessarily or reasonably incurred" for the purpose of regulating the legal profession or improving the quality of legal services.

The court did not establish a particularly clear standard on what constitutes permissible or impermissible dues-financed activities. However, it stated that the extreme ends of the spectrum were endorsing or advancing gun control or a nuclear weapons freeze which were prohibited on the one hand and disciplining bar members or adopting changes to the profession's ethics code as acceptable on the other hand. We believe the broad middle area of law improvement is appropriate if it is germane to the bar's role in improving the quality of legal services to the people of the State of Oregon or relates to the regulation of the legal profession. The Board of Governors has set the scope of OSB permitted activities under *Keller* in BOG Bylaws Article 12.

Additionally, the bar's guidelines for legislative and policy activities require that the Board of Governors "endeavor to respect the divergent opinions of subgroups within the profession" and make reasonable efforts to "avoid committing bar funds to issues which are divisive or result in creating factions within the profession." See BOG Bylaws Article 12.

## 1.3 Oregon Election Law

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Bar employees are not public employees within the meaning of ORS 260.432. Therefore, bar staff may participate in advocacy efforts on behalf of the bar.

## 1.4 OSB Board Member (“Elected Official”) Roles and Responsibilities

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The board may do the following:

- 1) Advocate support or opposition to a measure or candidate. A board member may use staff-prepared informational and advocacy materials.
- 2) Use public (bar) resources and staff to develop and distribute material on the effects of an initiative measure on the bar and the justice system.
- 3) Take a position on an initiative measure. Public announcement of the board’s position by way of a press release is permissible.
- 4) Provide, at bar expense, a content neutral forum at which proponents and opponents of an initiative measure may present their views.
- 5) Personally campaign for or against a measure.

## 1.5 Recent bar activities

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In 2006 the Board of Governors reviewed its policy on involvement in the initiative and electoral process and substantially expanded the scope of its activities.

In 2008 the Board of Governors and House of Delegates passed resolutions opposing both Measures 51 and 53, imposed limits on contingency fees and created additional sanctions for “frivolous pleadings.” The bar worked closely with other interest groups to oppose the measure and was ultimately successful when the initiatives were withdrawn by the petitioners after challenges were made to their signature gathering procedures.

The Board of Governors also voted to oppose Measure 59 which would have created an unlimited deduction for federal income taxes on individual taxpayers’ state tax returns. This measure failed by a wide margin.

## 1.6 OSB Section/Committee Roles and Responsibilities

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Sections and committees of the bar operate under the umbrella of the bar and thus are subject to the same legal constraints as the board. In light of the political restrictions outlined above, here are some examples of activities that are permitted and some that are restricted:

- 1) Bar groups can develop legislation for sponsorship to be included in the bar’s legislative package or take positions on legislation that fall within *Keller* and legislative guidelines subject to OSB Public Affairs Committee approval.
- 2) Bar groups may take positions or respond to public policy activities on legislation. OSB Section/Committee leaders cannot use bar funds to advocate a position on a ballot measure, unless approved by the BOG or HOD. This means money, staff time during working hours, travel allowances, facilities or equipment. Section/committee members or officers cannot ask staff to research or write a speech designed to support or oppose a ballot measure or charge travel expenses for attending a meeting at which such a position is advocated.
- 3) Bar groups may coordinate or liaison with any group to engage in information gathering on issues involving the bar, the judicial system, the judicial department budget and issues relating to the administration of justice.
- 4) Bar groups may take a position for or against an initiative or referendum, with prior BOG approval. Bar groups may not advocate a political position for or against a candidate.

# OSB Legislation Contacts — 2010

(Please note this contact list is subject to change)

Below is a list of bar legislative contacts. If you have particular questions or comments regarding legislation we encourage you to contact the appropriate person. Please contact Camille Greene at 431.6376 or [cgreene@osbar.org](mailto:cgreene@osbar.org) if a contact assignment changes.

(\* indicates person is also the section/committee chair)

Administrative Law .....	Frank Mussell ..... Janice Krem	Debtor/Creditor .....	David Hercher
Admiralty .....	John Dudrey	Disability Law .....	Sherri Rita
Affirmative Action .....	Frank Garcia (OSB)	Diversity .....	Tony A. Padilla
Agriculture.....	Tim Bernasek*	Elder Law .....	Mike Schmidt
Alternative Dispute Resolution .....	Bill Boyd ..... Scott Bellows ..... Robert Banks*	Energy, Telecom & Utility.....	David F. White
Animal Law .....	Scott Beckstead	Environmental Law .....	David Ashton ..... Michael R. Campbell
Anti-Trust .....	Joseph N. Eckhardt	Estate Planning .....	Bill Brewer ..... Penny Serrurier* ..... Eric Vetterlein ..... Chuck Mauritz
Appellate Law .....	Marc Brown ..... Ryan Kahn ..... Keith M. Garza ..... Jeff Dobbins	Family Law .....	David Gannett ..... Sean E. Armstrong
Aviation .....	Richard Vial ..... Thomas J. Flahertys ..... Rod Boutinx	Adoption Law Subcommittee.....	Robin Pope
Bar Act and Bar Priorities .....	Gerry Gaydos ..... Susan Grabe (OSB)	Government Law .....	Karen Williams*
Business Law .....	Chris Hall	Health Law .....	Lauren Rhoades
Business Litigation .....	Keith Dubanevich	Indian Law .....	Craig Dorsay
Civil Rights .....	Sean Driscoll	Intellectual Properties.....	Kelly Luzania ..... Anna McCoy*
Computer and Internet Law .....	Paula Holm Jensen	International Law .....	Kimball Ferris*
Constitutional Law.....	Greg Chaimov	Judicial Administration and Funding .....	Jennifer Gales* ..... Eric Waxler
Construction Law .....	Darien S. Loiselle	Juvenile Law .....	Cathy Ouellette ..... Thomas P. Cleary
Consumer Law.....	Keith Karnes	Labor & Employment .....	Rich Meneghello
Corporate Counsel .....	Dan J. Field	Law Practice Management.....	David L. Carlson
Criminal Law .....	Tim Sylwester ..... Rebecca Duncan	Legal Ethics .....	Sylvia Stevens (OSB)
		Legal Services .....	Judith Baker (OSB)

Litigation .....	Lindsey Hughes
Military Assistance Panel.....	Jesse Barton
.....	Mike Mendelson
.....	Velda Rogers*
Pro Bono.....	David J. Petersen*
.....	Cathy Petrecca
Procedure and Practice .....	Courtney Dippel
Product Liability .....	Jeffrey Bowersox
Professional Liability .....	Barbara Fishleder
.....	Ira Zarov
Public Service & Information .....	Kay Pulju (OSB)
Quality of Life .....	Ellen K. Jones*
Real Estate and Land Use	
Real Estate .....	Greg Nelson
Land Use .....	Chris Crean..
.....	Laurie Craghead
Securities Regulation.....	David Matheson
.....	Timothy DeJong
.....	Gustavo Cruz, Jr.*
Sole and Small Firm Practitioners.....	Kelly Doyle
.....	Velda Rogers
.....	Donna G. Goldian
Sustainable Future.....	Michelle Slater
Taxation.....	Robert Manicke
Unlawful Practice & Independent Paralegals .....	J. O'Shea Gumusoglu*
.....	Helen Hirschbiel (OSB)
Workers' Compensation .....	Jennifer Roumell

## LAW IMPROVEMENT QUESTIONS

.....	David Nebel (OSB)
.....	Susan Grabe (OSB)

## OTHER INTEREST GROUPS

Access to Justice .....	Judith Baker (OSB)
Bar, Press and Broadcasters .....	Dan Keppler,
.....	Kateri Walsh (OSB)
New Lawyers Division .....	Jessica Cousineau

# Bar Bylaws

## Article 12 – Legislation and Public Policy

(Effective Nov. 1, 2003)

### Section 12.1 Guidelines

Bar legislative or policy activities must be reasonably related to any of the following subjects: Regulating and disciplining lawyers; improving the functioning of the courts including issues of judicial independence, fairness, efficacy and efficiency; making legal services available to society; regulating lawyer trust accounts; the education, ethics, competence, integrity and regulation of the legal profession; providing law improvement assistance to elected and appointed government officials; issues involving the structure and organization of federal, state and local courts in or affecting Oregon; issues involving the rules of practice, procedure and evidence in federal, state or local courts in or affecting Oregon; or issues involving the duties and functions of judges and lawyers in federal, state and local courts in or affecting Oregon.

### Section 12.2 Initiation of Legislation

#### Subsection 12.200 House of Delegates and Membership

The Bar must sponsor legislative proposals approved by the House of Delegates or through a membership initiative to the Legislative Assembly directly following the House or membership action. Legislation not enacted may not be sponsored in the following session unless resubmitted by one of the methods set forth above or by action of the Board.

#### Subsection 12.201 Board of Governors

The Board may sponsor legislative proposals to the Legislative Assembly on its own initiative. The Board and its Public Affairs Committee has the authority between meetings of the House of Delegates to act on legislative and public policy matters pursuant to the guidelines established.

### Section 12.3 Legislative Process

Because of the nature of the legislative process, the Board or its Public Affairs Committee retains the right to set priorities regarding the enactment of legislation, to propose

amendments or consent to amendments to legislation and to sponsor or take positions on appropriate legislation. In so doing, the Board will make a reasonable effort to do the following:

Encourage as wide a participation of the membership as possible in formulating positions on legislative issues; inform members, especially sections and committees, of the Bar's legislative positions; respect divergent opinions of subgroups within the legal profession; provide assistance to bar sections and committees; avoid committing bar funds to issues that are divisive or result in creating factions within the profession; present major issues to the House of Delegates for approval; ensure that the Public Affairs Committee encompasses a balance of interest within the Bar and ensure that the Public Affairs Committee consults frequently with the Board.

### Section 12.4 Committees and Sections

Any committee or section wishing to sponsor legislation or take a position on any rule or public policy issue will inform the Public Affairs Program, and through that office, the Board, of the exact nature of the legislation proposed. A copy of the bill, proposed rule or policy will be presented for consideration and approval of the Board. A committee or section of the Bar may not represent to the legislature or any individual, committee or agency thereof, a position or proposal or any bill or act, as the position of that committee or section of the Bar without the majority approval of the members of that committee or, in the case of a section, the executive committee and the prior approval of the Board, except as follows. During a legislative session or during the interim, a bar committee or the executive committee of any section must contact the Bar's Public Affairs Program before taking any position on a bill, rule or public policy issue within its general subject area. The chair of the Board's Public Affairs Committee will determine, within 72 hours of notice of the issue, whether it is appropriate for the Bar to take an official position or to allow the section or committee to take a position as requested. The full Public Affairs Committee or the full Board may be consulted before a final decision is made. Bar staff and the Public Affairs Committee of the Board will make every effort to accommodate committees and sections that wish to express positions on relevant issues.

The Public Affairs Program shall be kept informed about the status of such positions and related activities.

## **Section 12.5 Professional Liability Fund Legislation**

The Professional Liability Fund (“PLF”) may not present to the legislature or any individual, committee or agency thereof, a position or proposal or any bill or act, as the position of the PLF without the majority approval of the Board of Directors of the PLF and the prior approval of the Board of Governors, except as is provided in Section 12.4 of the Bar’s Bylaws.

## **Section 12.6 Objections to Use of Bar Dues**

### **Subsection 12.600 Submission**

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

### **Subsection 12.601 Refund**

If the Board agrees with the member’s objection, it will immediately refund the portion of the member’s dues that are attributable to the activity, with interest paid on that sum of money from the date that the member’s fees were received to the date of the Bar’s refund. The statutory rate of interest will be used. If the Board disagrees with the member’s objection, it will immediately offer the member the opportunity to submit the matter to binding arbitration between the Bar and the objecting member. The Executive Director and the member must sign an arbitration agreement approved as to form by the Board.

## **Subsection 12.602 Arbitration**

If an objecting member agrees to binding arbitration, the matter will be submitted to the Oregon Senior Judges Association (“OSJA”) for the designation of three active-status retired judges who have previously indicated a willingness to serve as volunteer arbitrators in these matters. The Bar and the objecting member will have one peremptory challenge to the list of arbitrators. The Bar and the objecting member must notify one another of a peremptory challenge within seven days after receiving the list of proposed arbitrators. If there are no challenges or only one challenge, the OSJA will designate the arbitrator. The arbitrator will promptly arrange for an informal hearing on the objection, which may be held at the Oregon State Bar Center or at another location in Oregon that is acceptable to the parties and the arbitrator. The hearing will be limited to the presentation of written information and oral argument by the Bar and the objecting member. The arbitrator will not be bound by rules of evidence. The presentation of witnesses will not be a part of the hearing process, although the arbitrator may ask the state bar representative and the objecting member and his or her lawyer, if any, questions. The hearing may be reported, but the expense of reporting must be borne by the party requesting it. The Bar and the objecting member may submit written material and a legal memorandum to the arbitrator no later than seven days before the hearing date. The arbitrator may request additional written material or memoranda from the parties. The arbitrator will promptly decide the matter, applying the standard set forth in *Keller v. State Bar of California*, 496 U.S. 1, 110 S. Ct. 2228, 110 L. Ed. 2d 1 (1990), to the expenditures to which the member objected. The scope of the arbitrator’s review must solely be to determine whether the matters at issue are acceptable activities for which compulsory fees may be used under applicable constitutional law. In making his or her decision, the arbitrator must apply the substantive law of Oregon and of the United States Federal Courts. The arbitrator must file a written decision with the Executive Director within 14 days after the hearing. The arbitrator’s decision is final and binding on the parties. If the arbitrator agrees with the member’s objection, the Bar will immediately refund the portion of the member’s dues that are reasonably attributable to the activity, with interest at the statutory rate paid on the amount from the date that the member’s fees were received to the date of the Bar’s refund. If the arbitrator agrees with the Bar, the member’s objection is denied and the file in the matter closed. Similar or related objections, by agreement of the parties, may be consolidated for hearing before one arbitrator.



## Oregon State Bar Committees

The OSB committees develop, implement, and oversee many bar goals and programs. Committees are composed of OSB members appointed by the Board of Governors, who volunteer their leadership, expertise, and service to benefit the bar, the legal profession and the community. Several committees have members of the public, i.e. public members, serving on the committee.

Members who take on a leadership role in the OSB by serving on committees may find many benefits, including:

- Satisfaction from making a difference in the profession and the justice system.
- Sense of accomplishing worthwhile goals.
- Opportunity to use expertise and provide leadership.
- Stronger professional connections with other dedicated OSB leaders.
- The chance to influence the direction of the profession.
- Increased visibility in the profession.
- Enhanced knowledge in areas of particular interest.

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## Serving on the OSB House of Delegates, Committees, Sections and Task Forces Meets the OSB Aspirational Pro Bono Standard

The OSB Pro Bono Aspirational standard found at OSB Bylaw 13.1 details a category of pro bono work designed for those bar members who contribute valuable volunteer time to improve the law, the legal system and the legal profession. This category includes those lawyers who serve on the HOD, Committees, Sections and Task Forces.

We encourage you to report the hours you spent serving on the HOD Committees, Sections, and Task Forces in the annual OSB Pro Bono Roll Call, Category B. To record your hours of pro bono service go to [www.osbar.org/probono](http://www.osbar.org/probono).

## Job Descriptions: Committee Chair

- Conduct Committee Meetings.
- Schedule Committee meetings for the year.
- Determine Subcommittees.
- Plan and Schedule Activities.
- Submit Agenda's to the OSB Member Services Department to be included with the Committee meeting notice which is distributed 14 days in advance.
- February 1st – file Initial Committee Report. See page 31.
- April 1st – submit Legislative Summary and full text of proposed legislation to Board's Public Affairs Committee for approval and pre-session filing in even-numbered years prior to legislative session.
- Submit new member recommendations during the annual appointments process in September.
- December 1st – file Committee Annual Report with the Member Services Department. See page 32.

## OSB Liaison to Committees

### General

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Serve as a resource and information source on bar programs, services, and policies for bar committees.

### Specific

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At the beginning of each year, the bar liaison will contact the chair to schedule a meeting to discuss a plan of work that will allow the committee to effectively and efficiently discharge its responsibilities for the year. This will include reviewing the committee assignments made by the BOG for the committee. The chair will be encouraged to schedule all committee meetings for the year at the first meeting of the committee.

The bar liaison will attend all committee meetings. If unable to attend, the bar liaison will find a replacement. The bar liaison will actively participate in meetings offering suggestions or direction. The bar liaison will remain in telephone contact with the chair or other appropriate members of the committee on relevant issues and agendas.

The bar liaison will alert appropriate bar employees or departments of planned activities of the committee which will affect their operations. Examples: meeting dates and location, amicus brief issues, legislative issues, public service projects, desktop publishing/technology issues and surveys.

The bar liaison will facilitate communication with BOG contact and identify issues which may require board consideration or action, or interaction with other OSB committees, sections and other groups.

The bar liaison will submit copies of agendas and minutes to Member Services and assist Member Services staff, on request, in obtaining required reports and other documentation from the committee. The bar liaison will receive copies of all committee meeting notices, OSB correspondence, and updated rosters. The bar liaison will have a general knowledge of bar bylaws on committees (Bar Bylaw Article 14) and the committee assignments approved by the BOG.

The bar liaison will assist the committee chair in meeting deadlines: Annual report due December 1 and Initial Committee Report due February 1.

The bar liaison will submit a liaison report to Member Services Assistant with a copy to the Executive Director within five (5) days of the meeting. A copy will also be provided to a particular staff person if discussion included topics relevant to other staff. The next meeting date should be noted in the report.

# Member Services Procedures for Meeting Notices

An important outcome of the Member Services Department is to assure that the external customers of the department are satisfied with services received. A major part of this effort is the sending and tracking of meeting notices. The meeting notice procedure is based on the premise that notices are sent timely, efficiently and cost effectively.

Member Services will, on receipt of the necessary information, send notice of meetings with the following information the meeting date, time, location, agenda and minutes of the last meeting. Notices of meetings should be given a minimum of two weeks before the meeting date to allow ease of scheduling for members and to meet the Oregon public meeting notice requirements.

All meeting notices are sent by email and allow committee members to return attendance replies to the secretary or his/her disgree.

An important bar liaison responsibility is to assist the committee in determining both a meeting schedule and the method by which it wants to receive and reply to meeting notices, and to inform Member Services of this information. Once Member Services is informed of the schedule and meeting notice process, the bar liaison is sent a reminder that it is time to initiate the meeting notice process approximately three weeks prior to the scheduled meeting.

The method above reflects standard procedure. Allowances can be made to accommodate individual committee preferences.

# Important Dates and Deadlines for Committees

## **January 1**

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Begin committee year.

## **February 1**

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File Initial Committee Report. See page 46.

## **April 1**

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Submit Legislative Summary and full text of proposed legislation to board's Public Affairs Committee for approval and pre-session filing in even-numbered years prior to legislative session.

## **December 1**

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File an annual report which is a summary of the activities of the current year and anticipated activities for the upcoming year, together with the full text of any proposed legislation unless submitted to the OSB by the April 1 deadline.  
See page 47

## **Within 30 days of Committee meetings**

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A copy of the minutes of each meeting shall be delivered to the OSB Committee Member Services Assistant.

## **14 days prior to any scheduled Committee meeting**

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Notice and agenda shall be distributed to the Committee Member Services Assistant and to the assigned BOG contact and bar liaison.

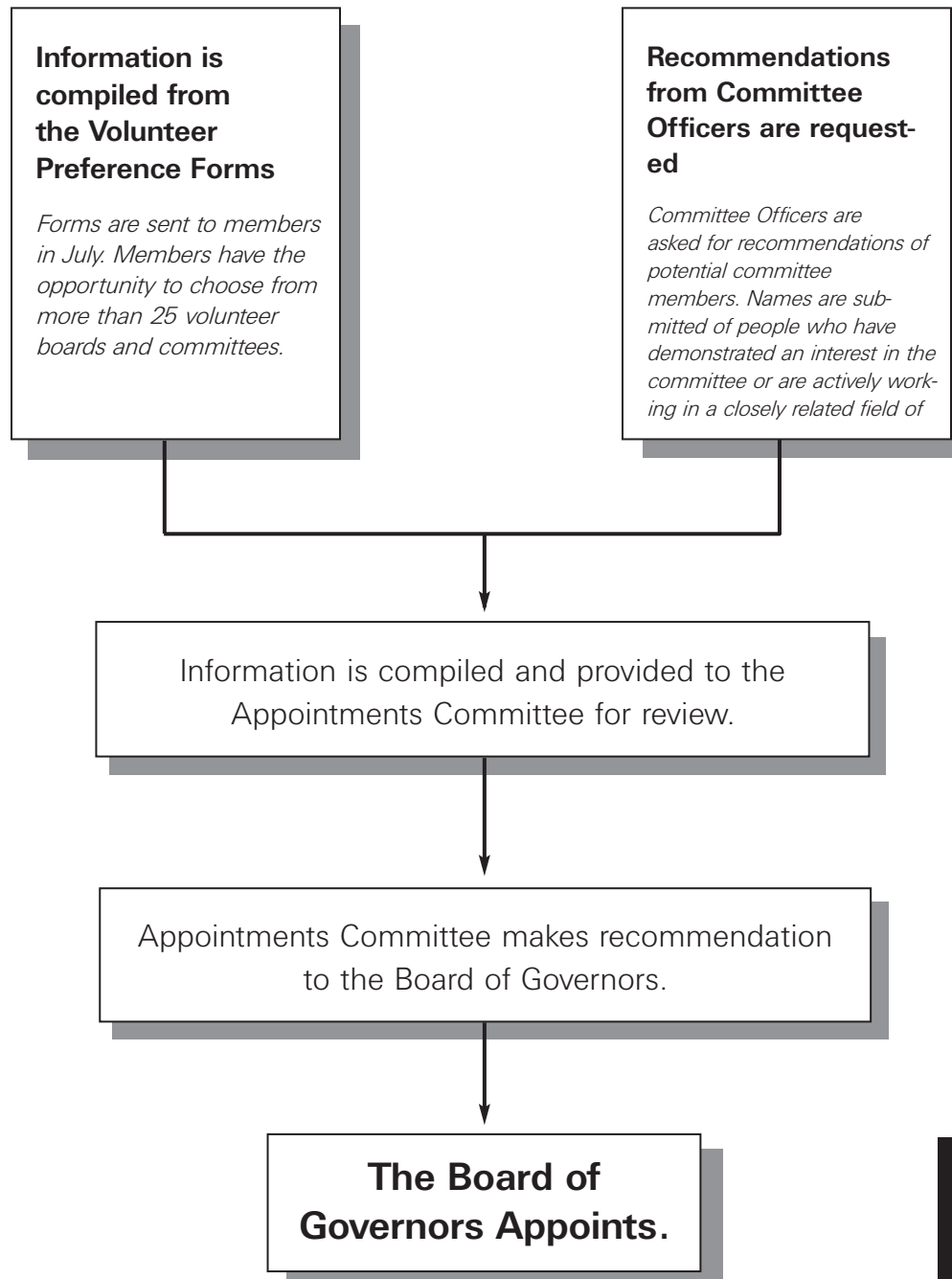
## **At least 3 days prior to any Committee distribution not handled by OSB Member Services**

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Content must be provided to the OSB Committee Member Services Assistant.

# Oregon State Bar Committee Recruitment Process

The recruitment process involves five components. This thorough process ensures that the most qualified candidates will be appointed to each committee and interest group.



# Guidelines

## For Bar Committee and Section Executive Committee Meetings

These guidelines are intended to make participation on Committees less difficult for members living outside the Portland area. Committees are urged to take these guidelines into account when meeting schedules are established.

1. Committee meetings should be limited to every six, or even eight, weeks, unless a particular committee's work load justifies more frequent meetings. Over the course of a year, a few long meetings will be less demanding on member's time than several short ones. Moreover, longer meetings may be more productive, since there is less time spent reviewing and reinventing.
2. Committees should schedule a minimum number of meetings away from the Portland area. For example, an eight meeting schedule should include five meetings in Portland, two at a moderate distance (e.g., Eugene, Bend, Newport) and one in southern or eastern Oregon (Ashland, Pendleton, John Day, etc.). Portland area members should be strongly encouraged to attend as part of their duties as committee members.
3. At least a third of the meetings should be held on Saturday. Portland meetings often require the commitment of an entire day for members living outside the Portland-Salem area. Impact on office time should be reduced by scheduling Saturday meetings.
4. Committees should explore alternatives to regular meetings, such as phone conferences, and means of participation other than attending regular meetings.
5. To schedule a meeting at the bar center, call, write, or e-mail your bar liaison with the desired date and time. Meeting space is available at the bar center at no charge and the bar will provide coffee and tea for committee and section meetings. Please note that meeting space is assigned on a first come, first served basis.

# Oregon State Bar Initial Committee Report

To be completed by the Committee chairperson. Use extra pages, if necessary

Committee Name:
1. This report must be received in the bar office no later than February 1, 2010. List Committee goals and objectives for the period ending December 31, 2010. (This will include projects that may continue beyond December 31, 2010.)
2. If subcommittees are appointed, list the subcommittees, the chairperson, and the subcommittee responsibilities.
3. Name of legislative contact(s).
4. Committee meeting schedule through December 31, 2010.
Please return to: Michelle Casney <b><i>e-mail mcasney@osbar.org</i></b> Member Services Oregon State Bar P.O. Box 231935, Tigard, OR 97281-1935

# Oregon State Bar Committee Annual Report Guidelines

## **Bar Bylaw 14.8 – Committee Reports**

Each committee must file an Annual Report of its activities with the Executive Director for the proceeding year by December 1 of each year.

The Annual Report is a valuable planning document for the future work of the group and is useful as a way to share ideas between sections and committees. The committee and section reports are compiled and available online at [www.osbar.org](http://www.osbar.org).

### **The information in the Annual Report should correspond to the Initial Committee Report and the Committee Assignment and contain the following:**

1. Committee Name.
2. A brief description of the committee activities and accomplishments for the year.
3. All matters considered by the committee and any matters not yet determined.
4. Recommendations for next year's goals and activities.
5. Any other comments.

Committee chairs should submit Annual Reports in electronic format to [mcasney@osbar.org](mailto:mcasney@osbar.org) before December 1, 2010

# Instructions to Committees

## A. MEETINGS OF COMMITTEES:

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1. **Committee Responsibilities:** Committees are the backbone of the Oregon State Bar. They are bodies to advise, study, and recommend for the Board of Governors in its oversight and policy-making responsibilities for the bar. In order for the bar to be effective, it must work through groups of people to advance mutual interests. Committees are the vehicle which provides for group analysis, creativity, and reasoned recommendations. Committees have no budget and therefore no budgetary control. Committees with involvement in program areas may, however, as a part of their advisory capacity, make recommendations for actions which would have budgetary implications.
2. **Meeting Locations:** The chairperson is urged to hold a meeting as soon as possible so that the committee may begin consideration of the matters before it. The Oregon State Bar building has a number of meeting rooms available on a first-come first-serve basis. The bar office also has information on other meeting locations both in and out of the Portland area which will be made available upon request; however, funds are not available for committee meeting expenses.
3. **Notice of Meetings:** The bar office will, on timely receipt of the necessary information, send notices of meetings with return replies to the chairperson or secretary. Notices of meetings should be given a minimum of two (2) weeks before the meeting date to allow ease of scheduling for members and to meet Oregon public meeting notice requirements. The notice of meeting will contain, besides the date, time and place of meeting, either a complete agenda for the meeting or an outline of subjects to be discussed. Meeting notice information can either be written or called into the bar office. Any meeting notice sent out by the chairperson or secretary should also be sent to the board contact and bar liaison.
4. **Public Meeting Notice:** The meetings of committees of the Oregon State Bar are subject to the Public Meetings and Public Records Laws. The bar office will provide the notice necessary if information concerning the meeting is received three weeks prior to the meeting date. Otherwise, it will be the responsibility of the Secretary of the

Committee to provide the necessary notice with a copy of such notice to the bar office for its Public Meeting Notice files. (See ORS 192.640 for further information.)

5. **Prior Approval for Programs and Expenditures:** Committees must have Board of Governor or membership prior approval before implementing any program or activity, including CLE, the taking of any position on behalf of the committee or the bar which is not covered by the provisions of Article 12 of the Bar Bylaws, the incurring of any expense or the receiving of any funds, or making application for any grant funds.

## B. MEMBERSHIP OF COMMITTEES:

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1. **Selection; Members and Officers.** Committee preference statements are mailed to each active member of the Oregon State Bar, normally in the summer. With input from each of the committee officers, the Board of Governors makes selections to fill vacancies for the following year. At that same time the Board appoints committee officers for the coming year.
2. **Terms.** Most standing committees serve on a three-year rotating basis. Each year new members constituting one-third of the committee will be appointed by the Board of Governors for three-year terms. The committee term begins January 1. No member shall serve more than one full term on the same committee nor may s/he serve on more than one committee except under rare and unusual circumstances.
3. **Vacancies.** A new member may be appointed to serve an unexpired term of a committee member. Vacancies will be filled by the Board of Governors as soon as possible following notification of such vacancy. If the committee has specific recommendations concerning persons who should be considered for membership on the committee, those recommendations should be given to the Member Services Administrator who will forward such recommendations to the Board of Governors.

(a) **Resignations.** Any committee member who resigns from a committee should give written notice to the committee chairperson and the OSB Member Services Administrator. If such person does not give written notice,

the chairperson of the committee should do so.

**(b) Non-Attendance and/or Non-Participation.** The committee chairperson may request the removal of any member who does not participate fully in the work of the committee.

4. **Advisory Members.** Each committee may appoint such advisory members or associates as it deems necessary subject to annual approval and confirmation by the Board of Governors. Such approved advisory members will be placed on the mailing list of the committee in the Oregon State Bar Office and shall receive such committee mailings as directed by the committee chairperson. Advisory members cannot vote or hold office within the committee. No advisory member shall seek to receive pecuniary gain by his/her participation.
5. **Board of Governors Contact.** The President of the Oregon State Bar will appoint a contact from the Board of Governors to each committee. Feel free to ask your Board Contact for assistance.
6. **Bar Liaison.** The Executive Director of the Oregon State Bar will appoint a bar liaison to each committee. The function of the bar liaison is to coordinate activities and provide resource assistance to the committee. The bar liaison will occupy an advisory rather than a clerical position on the committee.

### C. COMMITTEE ACTIVITIES:

1. **Committee Expense.** Since the Oregon State Bar is limited in funds and cannot pay the expenses of all committees, the Board of Governors has directed that no committee shall incur or become liable for any expense including travel unless a request has been addressed to the President of the Board of Governors or the Executive Director, and authorization for such expense has been granted prior to the time liability for the expense is actually incurred. An exception is that committee members may participate by phone if unable to attend a meeting. The OSB has a process to connect members by phone. These expenses are paid by the OSB. Special consideration will be given to advance requests for meeting room charges if bar meeting rooms or other "no charge" meeting rooms are not available.
2. **Publicity Correspondence.** If public appearances or statements by the chairperson or other officer or member of the committee seem to be necessary, authority must be obtained in advance from the Board of Governors. Official bar stationery shall not be used for committee correspondence.
3. **CLEs.** Committees are prohibited from conducting or participating in CLE seminars without the full participation and approval of the CLE department.
4. **Subject Matter for Committee Consideration.** Matters for the attention of the committee may be brought before it; a) by referral from the Executive Director or the Board of Governors; b) by action of the membership at the House of Delegates Meeting; c) direct inquiry from a member of the bar; and d) a member of the committee. Notice of matters pursuant to c) and d) must be given to the Executive Director prior to initiation of consideration and/or action by the committee. Particular attention should be given to the Board of Governors' annual committee assignments and the need for each committee to coordinate its activities with other committees, the board and bar staff.
5. **Legislation.** Committees should designate a member of the committee as a contact for legislative information and involvement. This person should work through the Public Affairs Manager of the bar to help prepare for the next legislative session and to serve as a contact person for the Public Affairs Program. Bills developed by the committee may be presented to the next session of the legislature in one of several ways. So-called house-keeping measures can often be introduced most easily through legislative counsel or individual legislators. With the approval of the Public Affairs Committee of the Board of Governors, it is also possible to have these measures introduced as official bar bills. Major bills can be sponsored by the Oregon State Bar only after being successfully presented to the membership at the House of Delegates Meeting.
6. **Conflicts of Interest.** The Board of Governors has established the following guidelines which are intended to cover the actions of committee members regardless of whether an actual or potential conflict is disclosed:
  - (a) No bar official may use or attempt to use the person's official position to obtain any financial gain or the avoidance of any financial detriment that would not otherwise be available to the person, but for the bar offi-

cial's holding of the official position, except official salary, reimbursement of expenses for official activities or unsolicited awards for professional achievement for the bar official or a relative of the bar official or for any business with which the bar official or the bar official's relative is associated.

(b) No bar official may attempt to further the personal gain of the bar official through the use of confidential information gained by reason of an official activity or position.

(c) No bar official may solicit or receive, during any calendar year, any gift or gifts with an aggregate value of more than \$100 from any single source that could reasonably be known to have an interest in any matter concerning which the official has any authority or responsibility.

(d) No bar official may solicit or receive a promise of future employment based on an understanding that any official action will be influenced by the promise. (OSB Bylaw Article 2, subsection 2.601.)

7. Minutes of the Meetings. The secretary or his/her designee must keep minutes of the meetings and provide any needed assistance to the chairperson. The minutes are to be furnished to the Oregon State Bar office no later than five days after the meeting on the form provided, which includes those present and absent, noting any approved absences.

On receipt of a copy of the minutes, the bar office staff will distribute the minutes to the (a) members of the committee; (b) the Board of Governors contact; and (c) the bar liaison. If the next meeting is scheduled within a month, the minutes should be sent with the next meeting notice.

## **D. ANNUAL REPORTS:**

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1. Annual Committee Reports. Annual committee reports shall be short and concise summaries covering the year's activities of each committee. These reports must be filed with the Member Services Department of the Oregon State Bar on or before December 1, and cover all matters determined and any pending matters of the committee. Committee annual reports should follow the committee annual report template found on page 32.

# 2010 Committee Assignments

## ACCESS TO JUSTICE ADVISORY COMMITTEE

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### General:

Work to improve the quality of programming for the Access to Justice mandatory MCLE requirement.

### Specific:

1. Articulate broad Access to Justice programming goals.
2. Define the fundamentals of a quality Access to Justice Program and help identify best practices.
3. Work with the OSB CLE Seminars Department to assure a quality Access to Justice new admittee mandatory course.
4. Work with those sections, which show an interest in incorporating Access to Justice credit into their CLE program offerings.
5. Brainstorm new and creative ideas for Access to Justice programs and share with CLE program providers.

## AFFIRMATIVE ACTION COMMITTEE CHARGE

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### General:

1. Provide input, analysis and evaluation of the program to the program manager and/or BOG.
2. Make recommendations to the program manager regarding how the program can be improved.
3. Serve as volunteers for program elements.

### Specific Program Outcomes:

1. Increase the number of AAP participants.
2. Increase the number of AAP student participants who attend and complete law school in Oregon.
3. Increase the number of AAP participants who pass the Oregon bar examination.
4. Increase number of career placements in Oregon.
5. Increase number of ethnic minority lawyers who remain in Oregon practice for at least five years.
6. Increase awareness of the value of diversity in the legal profession.

7. Solicit nominations for the OSB Award of Merit, the President's Public Service Award, Membership Service Award, Affirmative Action Awards, the Joint Bench Bar Professionalism Award and any other state, local and national awards for lawyers who make a contribution to serving the legal needs of Oregonians.

## CERTIFIED PUBLIC ACCOUNTANTS (JOINT) COMMITTEE CHARGE

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### General:

Serve as formal liaison between the members of the legal and accounting professions. Coordinate the planning and implementation of educational publications and programs.

### Specific:

1. Promote discussion groups between lawyers and CPA's on topics of interest, through roundtable events, business fairs, retreats and social events.
2. Continue drafting and editing articles for publication in the "Professional Insight" and Oregon State Bar "Bulletin".
3. Prepare guidelines to help the Unlawful Practice of Law Committee determine when accountants and other professionals are engaged in the unauthorized practice of law.
4. Solicit nominations for the OSB Award of Merit, the President's Public Service Award, Membership Service Award, Affirmative Action Awards, the Joint Bench Bar Professionalism Award and any other state, local and national awards for lawyers who contribute to serving the legal needs of Oregonians.

## CLIENT SECURITY FUND COMMITTEE CHARGE

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### General:

1. Provide input, analysis and evaluation of the program to the program manager and/or BOG.
2. Make recommendations to the program manager regarding how the program can be improved.
3. Serve as volunteers for program elements.

**Specific Program Outcomes:**

1. Conduct high quality investigations, and make prompt determinations on claims.
2. Maintain policies and procedures to assure strict compliance with statutory requirements, to meet standards of due process and fairness, and to address problem claim areas for improved loss prevention.
3. Maintain an appropriate assessment and reserve in light of changes in claims experience.
4. Continue efforts to recover money from lawyers for whom CSF claims have been paid.
5. Continue to increase member and public awareness of the Client Security Fund Program, how it operates, and the awards it makes.
6. Solicit nominations for the OSB Award of Merit, the President's Public Service Award, Membership Service Award, Affirmative Action Awards, the Joint Bench Bar Professionalism Award and any other state, local and national awards for lawyers who make a contribution to serving the legal needs of Oregonians.

Joint Bench Bar Professionalism Award and any other state, local and national awards for lawyers who contribute to serving the legal needs of Oregonians.

## **JUDICIAL ADMINISTRATION COMMITTEE CHARGE**

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**General:**

Study and make recommendations to the Board on matters concerning state judicial administration and the judiciary. Monitor and recommend improvements in technology, operation, discipline and funding within the judicial system.

**Specific:**

1. Review relevant past and future legislation affecting the justice system and its funding, and coordinate with Public Affairs Committee of BOG.
2. Continue to study and consider judicial selection and judicial campaign proposals. Support public awareness including community outreach by judges.
3. Relate the above activities to court accessibility.
4. Continue involvement in judicial appointments and new judgeships.
5. Monitor and provide recommendations to BOG regarding ballot measures and issues of special interest affecting judicial administration and Oregon Judicial Department funding.
6. Work with the Legislature, the Judicial Department, and local counties on court facilities.
7. Monitor the implementation of the Chief Justice's Oregon eCourt Program and related implementation rules, policies, and laws, provide recommendations to the BOG on issues affecting judicial administration in the eCourt Program.
8. Monitor and support Public Defense Services and related funding issues.
9. Track relevant work on and support Treatment Courts and Problem Solving Courts, including Drug Courts, Family Courts, DUII Courts, and Mental Health Courts.
10. Solicit nominations for the OSB Award of Merit, the President's Public Service Award, Membership Service Award, Affirmative Action Awards, the Joint Bench Bar Professionalism Award and any other state, local and national awards for lawyers who contribute to serving the legal needs of

## **FEDERAL PRACTICE AND PROCEDURE COMMITTEE CHARGE**

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**General:**

Assist in update and review of federal practices and procedures, keep the members of the bar apprised of changes, and assist judiciary in its efforts to modernize this area of law. Advise Board of Governors on issues relating to federal practice. Coordinate liaison efforts between bar membership and the federal judiciary.

**Specific:**

1. Identify and report to BOG improvements and proposed changes in federal practices and procedures.
2. Continue liaison activities with Oregon federal judges and staff to maintain communication and cooperation on issues affecting practice in the federal courts.
3. Continue liaison activities with Litigation Section.
4. Continue liaison activities with Federal Bar Association, federal court Local Rules Committee and 9<sup>th</sup> Circuit Lawyer Representatives.
5. Solicit nominations for the OSB Award of Merit, the President's Public Service Award, Membership Service Award, Affirmative Action Awards, the

Oregonians.

Service Award, Affirmative Action Awards, the Joint Bench Bar Professionalism Award and any other state, local and national awards for lawyers who contribute to serving the legal needs of Oregonians.

## **LEGAL ETHICS COMMITTEE CHARGE**

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### **General:**

1. Provide input, analysis and evaluation of the program to the program manager and/or BOG.
2. Make recommendations to the program manager regarding how the program can be improved.
3. Serve as volunteers for program elements.

### **Specific Program Outcomes:**

1. Provide timely responses to inquiries.
2. Continue to review formal opinions as appropriate for BOG approval
3. Study and recommend disciplinary rule changes based on issues considered by the committee or as directed by the BOG.
4. Review existing ethics opinions in light of adoption of new model rules (assuming their approval by the Supreme Court).
5. Solicit nominations for the OSB Award of Merit, the President's Public Service Award, Membership Service Award, Affirmative Action Awards, the Joint Bench Bar Professionalism Award and any other state, local and national awards for lawyers who make a contribution to serving the legal needs of Oregonians.

## **LEGAL HERITAGE INTEREST GROUP CHARGE**

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### **General:**

Promote and communicate history and accomplishments of the Oregon State Bar and its members to members and interested groups.

### **Specific:**

1. Compile a list of known sources and resources pertaining to the history of the Oregon State Bar, and pursue efforts to collect written and oral histories.
2. Develop topics and recruit authors for articles in the OSB *Bulletin's* Legal Heritage column.
3. Develop seminars in connection with the Legal Heritage meetings.
4. Solicit nominations for the OSB Award of Merit, the President's Public Service Award, Membership

### **Limitations:**

Utilize the funds provided by the BOG in the budget, continue to seek additional funds. Continue to pursue co-publication of *Serving Justice* with the Oregon Historical Society.

## **LEGAL SERVICES PROGRAM COMMITTEE CHARGE**

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### **General:**

The OSB Legal Services Program (LSP) Committee is charged with oversight of the OSB LSP and the funds appropriated to the Bar by the Oregon Legislature under ORS 9.572. The OSB LSP will receive direction from the Board of Governors.

### **Specific:**

The OSB LSP Committee will be responsible for reviewing and reporting to or making recommendations to the OSB Board of Governors on the following:

1. The Standards and Guidelines for the OSB LSP and their periodic review.
2. Applications for funding to the OSB LSP
3. Disbursement of funds and annual OSB LSP budget.
4. Peer review of providers to assure quality service.
5. Annual reporting by the providers.
6. Legislative issues involving the legal aid filing fee funds.
7. Complaints and grievances about providers.
8. Support of planning of legal services programs.
9. Solicit nominations for the OSB Award of Merit, the President's Public Service Award, Membership Service Award, Affirmative Action Awards, the Joint Bench Bar Professionalism Award and any other state, local and national awards for lawyers who contribute to serving the legal needs of Oregonians.

## **MINIMUM CONTINUING LEGAL EDUCATION COMMITTEE CHARGE**

### **General:**

1. Provide input, analysis and evaluation of the program to the program manager and/or BOG.
2. Make recommendations to the program manager regarding how the program can be improved.
3. Serve as volunteers for program elements.

### **Specific obligations of the MCLE Committee are to:**

1. Continue to review, analyze and recommend to the MCLE Administrator and the Board changes to the MCLE Rules and Regulations as appropriate to meet program goals;
2. Recommend filing, accreditation, or reinstatement fees as deemed necessary to assist in the administration of these MCLE Rules, for approval by the Board;
3. Identify and recommend for Board approval appropriate reciprocity agreements with other CLE accreditation bodies;
4. Consider and act on requests for review of decisions of the MCLE Administrator, pursuant to Rule 8 and applicable regulations; and
5. At the beginning of each committee year, work with the MCLE Administrator to develop specific committee activities that help achieve the stated goal and specific program outcomes.

### **Specific Program Outcomes:**

1. Improve public confidence in the competence of Oregon lawyers.
2. Ensure that Oregon lawyers are meeting Minimum Continuing Legal Education requirements.
3. Ensure efficient and effective delivery of MCLE program services.
4. Solicit nominations for the OSB Award of Merit, the President's Public Service Award, Membership Service Award, Affirmative Action Awards, the Joint Bench Bar Professionalism Award and any other state, local and national awards for lawyers who make a contribution to serving the legal needs of Oregonians.

## **PRO BONO COMMITTEE CHARGE**

### **General:**

Assist in developing and expanding programs and activities designed to provide access to the justice system, in civil matters, for Oregonians unable to pay for attorneys' services. Assist in expanding legal aid services and activities throughout the state. Assist all members of the bar in understanding and fulfilling their responsibility to provide pro bono legal services.

### **Specific:**

1. Develop plans and strategies that will institutionalize a pro bono culture in the state. Developing the plans and carrying out plan strategies should include other groups involved in pro bono such as the courts, OSB Sections, OSB New Lawyers Division's Pro Bono Challenge, local bar pro bono committees as well as legal service providers. These plans should include but not be limited to the following:
  - Publicity and electronic media usage
  - Public speaking for members of the Bar and Board of Governors
  - Promoting judicial involvement
  - Institutionalizing recruitment which should include current efforts such as developing a model pro bono policy for Oregon Law Firms
  - Work with law schools to prepare lawyers for meeting their pro bono obligation
  - Volunteer recognition including the NLD Pro Bono Challenge
  - Coordination strategy between pro bono committees to prevent duplication of effort
  - Continued assessment of volunteer reporting of pro bono hours
2. Provide assistance to legal service providers and local bars to develop and expand pro bono services at a local level, by acting as a clearinghouse and/or resource for information regarding pro bono planning and programs. This includes developing strategies and resources for lawyers to assist them in integrating pro bono into their practices.
3. Solicit nominations for the OSB Award of Merit, the President's Public Service Award, Membership Service Award, Affirmative Action Awards, the Joint Bench Bar Professionalism Award and any other state, local and national awards for lawyers who contribute to serving the legal needs of Oregonians.

## PROCEDURE AND PRACTICE COMMITTEE CHARGE

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### General:

Study and make recommendations to the Board on matters concerning the practice of law and procedural issues and rules matters governing disputes in Oregon. Monitor and recommend improvements in technology, court operations and the judicial system to facilitate the practice of law.

### Specific:

1. Review and make recommendations regarding relevant legislation affecting procedure and practice issues governing civil cases in Oregon.
2. Study and make recommendations regarding changes to the Oregon Evidence Code, the Oregon Rules of Civil Procedure, the Uniform Trial Court Rules, and local court rules that affect civil cases.
3. Study and make recommendations on proposals from the Council on Court Procedures and the Chief Justice's Civil Law Advisory Committee.
4. Review and make recommendations on changes in procedure and practice issues in light of concerns raised by OSB sections and committees, other interest groups and individuals.
5. Solicit nominations for the OSB Award of Merit, the President's Public Service Award, Membership Service Award, Affirmative Action Awards, the Joint Bench Bar Professionalism Award and any other state, local and national awards for lawyers who contribute to serving the legal needs of Oregonians.

## PUBLIC SERVICE ADVISORY COMMITTEE CHARGE

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### General:

Advise the BOG and OSB staff on public service priorities and issues to assist in achieving the Bar's public outreach and education goals.

### Specific:

1. Provide input, analysis and evaluation of OSB public service programs including Tel-Law updates and Legal Issues for older adults to the program manager and/or BOG.
2. Encourage member participation in OSB public service and public education programs, including active participation by Committee members.

3. Review staff decisions on LRS panelist eligibility as outlined in LRS policies set by the BOG.
4. Solicit nominations for the OSB Award of Merit, the President's Public Service Award, Membership Service Award, Affirmative Action Awards, the Joint Bench Bar Professionalism Award, and any other state, local, and national awards for lawyers who make a contribution to serving the legal needs of Oregonians.

## QUALITY OF LIFE COMMITTEE CHARGE

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### General:

Educate and motivate lawyers to make professional choices that will enhance their quality of life and advance the legal profession.

### Specific:

1. Encourage awareness and discussion of the diverse standards by which lawyers evaluate their lives.
2. Educate lawyers and law firms about the benefits of reducing tension between personal and professional life, and methods for doing so.
3. Provide information and support for lawyers who choose non-traditional career paths.
4. Continue publication of articles on enhancing the quality of life in the *Bulletin* and other OSB publications.
5. Form relationships with other Bar sections and committees to promote discussion of these issues within their constituencies. Enhance involvement with groups outside of the OSB, including OAAP, OWLs and Oregon law schools in promoting the goals of the committee.
6. Continue to maintain web site.
7. Track national and local developments in applying the concepts of sustainability to the practice of law and make recommendations for the Board of Governors.
8. Pursue greater speaker outreach to talk to members and law students about balancing home and work life.
9. Solicit nominations for the OSB Award of Merit, the President's Public Service Award, Membership Service Award, Affirmative Action Awards, the Joint Bench Bar Professionalism Award and any other state, local and national awards for lawyers who contribute to serving the legal needs of Oregonians.

## STATE LAWYERS ASSISTANCE COMMITTEE (SLAC) CHARGE

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### General:

Protect the public from, and provide assistance to, lawyers whose professional competence is impaired, as set forth in ORS 9.568.

### Specific:

1. Investigate referrals of lawyers whose professional competence may be impaired.
2. Coordinate with OAAP and other appropriate programs and professionals to establish an appropriate remedial program and provide referrals for impaired lawyers.
3. Monitor lawyers as necessary to assure compliance with remedial programs.
4. Report non-cooperating lawyers to disciplinary counsel as provided in ORS 9.568(4), OSB bylaw 24.700 and RPC 8.1.
5. Educate the public regarding the functions of SLAC and resources available to address lawyers whose professional competence is impaired.
6. Solicit nominations for the OSB Award of Merit, the President's Public Service Award, Membership Service Award, Affirmative Action Awards, the Joint Bench Bar Professionalism Award and any other state, local and national awards for lawyers who contribute to serving the legal needs of Oregonians.

## UNIFORM CIVIL JURY INSTRUCTIONS COMMITTEE CHARGE

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### General:

Develop uniform jury instructions for use in civil trials. Promote better coordination of activities with the Uniform Criminal Jury Instructions Committee to insure a uniform approach to judicial instructions to juries. Continually update existing jury instructions to comply with case law, legislation and useful suggestions from sections and the legal community. Draft instructions in plain language maintaining the goals of clarity and accuracy.

### Specific:

1. Promote new jury instructions.
2. Review punitive damages and product liability instructions.
3. Annually supplement and periodically revise the UCJI Redbook.

4. Solicit nominations for the OSB Award of Merit, the President's Public Service Award, Membership Service Award, Affirmative Action Awards, the Joint Bench Bar Professionalism Award and any other state, local and national awards for lawyers who contribute to serving the legal needs of Oregonians.

## UNIFORM CRIMINAL JURY INSTRUCTIONS COMMITTEE CHARGE

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### General:

Develop uniform jury instructions for use in criminal trials. Coordinate activities with the Uniform Civil Jury Instructions Committee to insure a uniform approach to judicial instructions to juries. Continue to update the instructions according to Oregon case law, legislative changes, sentencing guidelines and useful suggestions from the bench and legal community. Draft instructions in plain language maintaining the goals of clarity and accuracy.

### Specific

1. Promote new jury instructions, as appropriate. Annually supplement and periodically revise the Jury Instructions Book regarding new cases and legislation.
2. Solicit nominations for the OSB Award of Merit, the President's Public Service Award, Membership Service Award, Affirmative Action Awards, the Joint Bench Bar Professionalism Award and any other state, local and national awards for lawyers who contribute to serving the legal needs of Oregonians.

## UNLAWFUL PRACTICE OF LAW COMMITTEE CHARGE

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### General:

1. Provide input, analysis and evaluation of the program to the program manager and/or BOG.
2. Make recommendations to the program manager regarding how the program can be improved.
3. Serve as volunteers for program elements.
4. Understand that when changes are made in program outcomes, input will be considered from the committee, as well as from other groups or means such as surveys, focus groups, ideas from other bars, etc.
5. Recognize that the program committee is not a governing body for the program and that the

committee does not direct the activities of the program manager.

**Specific Program Outcomes:**

1. Conduct thorough investigations of UPL complaints and present comprehensive investigative reports for full committee consideration within 60 days of an assignment, or within an extended period as provided by committee rule.
2. Continue to recommend to the BOG that injunctive suits be initiated or that cease and desist agreements be entered into when the facts of a particular investigation support such action.
3. Issue letters of notice or admonition to the subjects of committee investigations, as warranted by the facts and committee rules.
4. Maintain policies and procedures to ensure compliance with statutory requirements, to meet standards of due process and fairness, and to ensure an appropriate measure of public protection from unlicensed practitioners.
5. Solicit nominations for the OSB Award of Merit, the President's Public Service Award, Membership Service Award, Affirmative Action Awards, the Joint Bench Bar Professionalism Award and any other local and national awards for lawyers who make a contribution to serving the legal needs of Oregonians.

# Public Meetings Law

The Oregon State Bar is subject to the Public Meetings Law by virtue of ORS 9.010<sup>(1)</sup>. The Public Meetings Law gives effect to Oregon's policy of open decision-making by the state's public bodies; in furtherance of that policy, the law requires that meetings at which decisions about the public's business is made are open to the public; that the public has reasonable notice of the time, place, and agenda for the meetings; and that the meetings be accessible to persons wishing to attend.

The Public Meetings Law applies to all meetings of a quorum of the Board of Governors. It also applies to meetings of the Board's standing and other committees for which a quorum is required to make a decision or a recommendation to the Board.

The Public Meetings Law is a public attendance law, not a public participation law. The right of the public to attend does not include the right to participate by giving testimony or comment.

## Voting

- All official action must be taken by a public vote.
- The vote of each member must be recorded.
- If written ballots are used, each ballot must identify the member voting and the vote must be announced.

## Minutes

Minutes must be kept of all public meetings, either in writing or by sound, video, or digital recording. The minutes must include at least the following:

- The names of members present,
- Motions and other proposals offered, and their disposition,
- The results of all votes and the vote of each member by name,
- The substance of the discussion on any matter (a true reflection of the matters discussed and the views of the participants), and
- A reference to any document discussed at the meeting.

Minutes are public records even before they are approved, although they can be marked as "draft" or otherwise to indicate their status.

## Executive Session

An executive, or "closed," session is a public meeting that is closed to certain persons while the public body deliberates on certain matters. Executive sessions are not the same as meetings and proceedings that are exempt from the Public Meetings Law altogether, such as judicial proceedings and meetings of the State Lawyers Assistance Committee. Executive sessions must comply with all applicable provisions of the Public Meetings Law, while exempt proceedings need not.

The Public Meetings Law allows for executive session in a variety of circumstances; those that typically apply to the bar are sessions to:

- Consider the employment of specific candidates for executive director,
- Deliberate with agents designated to negotiate real property transactions for the bar,
- Discuss the contents of any public record that is exempt from disclosure,
- Consult with legal counsel concerning the bar's rights and duties in pending or anticipated litigation, and
- Review and evaluate the performance of the executive director, except that discussion of the executive director's salary may not be held in executive session.

Regardless of the basis for the executive session, the board or other body must return to open session to take any final action or make a final decision.

The Public Meetings Law does not define "final action" or "final decision," but the fact that further action or further decisions may be needed does not make any particular action or decision less final. Two factors are relevant in determining whether an action is final: The nature of the proposed decision, and the purpose of the statutory authorization for executive session. A decision to spend money is rarely appropriate for executive session. When the finality of a decision is less clear, consideration should also be given to the rationale for the executive session and whether a public announcement of the proposed decisions will frustrate the policy behind the executive session or seriously compromise further action that must be taken. When in doubt, prudence suggests making the action or decision in open session.

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## Convening an Executive Session

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An executive session may be called during any regularly scheduled, special, or emergency meeting for which due notice has been given. When the body is ready for executive session, the presiding officer must announce the statutory authority for the executive session prior to going into executive session. The announcement should identify any persons other than news media who may remain and, if final action is anticipated, when the open session will resume. If media are present, the presiding officer should indicate any matters to be discussed in executive session that may not be disclosed.

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## Attendance at Executive Session

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The Public Meetings Law expressly permits representatives of the media to attend executive sessions. The rationale is that it offers them background information that will enhance their understanding of the final decisions and their ability to keep the public better informed. However, the public body may require that the media not report specific information discussed during the executive session. Absent such a directive, the media is entitled to report without limitation, which may frustrate the purpose of having the executive session. At the same time, the nondisclosure requirement should be no broader than necessary to serve the body's needs. The media cannot, in any event, be forbidden from reporting the general nature of the discussion or the statutory basis for the executive session.

"Representative of the media" is not defined in the Public Meetings Law but is interpreted by the Attorney General to mean reporters of media that generally report on the activities of the body or matter of the nature under consideration.

Other than representatives of media, executive sessions are generally closed to all but members of the governing body and persons reporting to the body about the subject of the executive session or who are otherwise involved in the matter. The governing body may, however, invite others to attend without losing the executive character of the session.

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## Effect of Violation

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A person who is affected by any decision made in contravention of the Public Meetings Law may seek injunctive or declaratory relief to require compliance with or prevent violations of the law. Improperly taken actions are not void, but if a court finds that the violation resulted from intentional disregard of the law or willful misconduct by a quorum of the body, the court may void the decision if no other equitable relief is available. At the court's discretion, a successful plaintiff may be awarded attorney fees and costs. Those attorney fees and costs will be the personal obligation of any member who is found to have engaged in willful misconduct.

If the violation is also a violation of the Government Standards and Practices Act, civil penalties may also be assessed against individual members of the governing body, unless they acted on the advice of the public body's legal counsel.

# Meeting Management Rules of Order

The most productive meetings are those that provide for an open (but controlled) discussion in a relaxed atmosphere. As you preside over meetings, your leadership style will establish the pace and mood. When deciding on important issues, many leaders conduct meetings using Robert's Rules of Order.

## **Tips on Using Robert's Rules of order**

1. Before an issue can be discussed, you must call a motion.
2. Discussion comes after the motion is seconded and before any vote.
3. Motions are amended by inserting, adding, striking out or substituting.
4. A motion can have only two amendments and the second one must apply to the first.
5. The chair should always restate the motion and any amendments.
6. You may sense when discussion is completed and "Are you ready for the question?"
7. A motion postponed indefinitely is dead, or at least until the next meeting.
8. You can limit debate by general consent: "If no one objects, we will limit debate to 5 more minutes." An objection requires a 2/3 vote to limit.
9. A motion to reconsider a matter can only be rescinded by someone who voted on the prevailing side.
10. A motion to recess for a specific amount of time is not debatable and may be useful to cool debate or to caucus to decide the best course.
11. The chair should announce the results of a vote and the effect of the decision. "The ayes have it and the bill will be paid."
12. Debate always is confined to the pending motion, may be started by the person who made the motion, requires recognition of the speaker by the chair, is directed to the chair, gives all a chance to speak before someone else speaks twice, prohibits the motion maker from speaking against the motion.

# 10 Tips on Conducting Quality Meetings

1. Plan an agenda review meeting between the President and Executive Director
  - administrative vs. policy
  - format of agenda
  - strategic planning – short term
2. Use folder method for future meetings, one per meeting
  - committee feedback
  - tabled items
  - when more information required
  - strategic planning – long term
3. Having an agenda
  - President/Executive Director control access
  - informational vs. action
4. Mail agenda and backup in advance to board members and appropriate committee members
  - two working days in advance
  - anticipate questions and answer them in backup material
5. Start a “members to be heard” item, limited to five minutes, so members have board access, and announce your new policy in publications and at meetings
6. Start and end on time
  - start without a quorum if necessary
  - have time of beginning and end on agenda
7. Balance respect for board members’ time with goal of open discussion
8. Use agenda as focal point of meeting to achieve board actions necessary
9. Be a facilitator, not dictator
  - draw out minority positions by asking questions
  - reflect discussions/viewpoints in minutes
10. Keep detailed minutes
  - with backup material
  - for future guidance, future meetings folders

# Effective Meetings

## How to Conduct Meetings that Work

### Have a reason to meet

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When and where the meeting will be held are important considerations. However, the very first question that should be asked is, "Why are we meeting and what do we want to accomplish?" If there are no clear-cut answers to this question, don't hold the meeting.

The dates of some meetings, such as those of standing committees and of the board of directors, may be set by the bylaws. The where of a meeting is usually decided by custom, room availability, or the availability of space at the association headquarters. You may be able to meet at the president's, or other association officer's law office. The time set for the meeting and how long it should run should be given careful consideration. Those held at the end of the day seldom hold the attention of members once normal quitting time has passed. Ten a.m. and 2:00 p.m. are optimum times for meetings. Whatever timetable you choose, stick to it.

### Know who participates

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The matter of who attends association meetings is seldom left to the leader. Participants are elected or selected, or they may simply volunteer. In working committees, it's best to have a definite limit on membership; the optimum size for getting results is five to 15 members. If there is no limit on committee size and you have more than 15, divide the members into smaller groups for specific tasks.

### The agenda

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Do not conduct a meeting without a written agenda. Agendas should be typed up and distributed to all participants well in advance to give them time to prepare. The agenda should list the date, place and estimated length of time of the meeting. The names of the participants should be given, together with the subject of the meeting, some background information and the status of the material to be discussed. Most important, the agenda should clearly set forth the goal of the meeting. An agenda will give the meeting structure and keep in on track. Do not allow the participants to stray from the agenda. Set time limits for all of the items on the agenda. You also need to be sure that new committee members are brought up to date on

the committee's activities and plans before the meeting so that valuable time is not spent during the meeting orienting new members.

### Seating arrangements

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Studies have shown that people react in certain predictable ways in certain physical surroundings. The seating arrangements of your meeting can effect its productivity. Ideally, a round table is best, but this only works for a small group. A wide rectangular or U-shaped arrangement is effective for larger meetings. The leader should be easily seen by all participants.

### Start on time

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The meeting should always start on time. Don't wait for anyone. It sets a bad example and discourages others from being on time. Take your watch off at the beginning of the meeting and set it in front of you. This shows that you mean to stay on schedule. Briefly state the purpose of the meeting and emphasize the positive aspects of the subject. Each participant should introduce themselves before the discussion begins.

### During the meeting

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Be sure the group is focused on the same content. You should have a blackboard or flip chart to list the points being discussed. This is also a useful tool in defusing a heated discussion; since listing the points being discussed seems to disassociate the idea from the person proposing it. Before the meeting is adjourned, review the points discussed, conclusions and action items developed and be sure that all participants are in agreement.

### After the meeting adjourns

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Once the meeting is adjourned, the leader still has work to do. The results of the most successful meeting will slip away if they are not put into concrete form almost immediately. You should set up a standard form for a follow-up memo. It should include the date of the meeting, name of the sender, subject of meeting, participants, conclusions reached and action items. The action items should

include the person(s) assigned responsibility and deadlines.

Adapted from How to Conduct Meetings that Get Results from The Florida Bar's 1990 Bar Leader Handbook and How to Make Your Meetings Work from the State Bar of California's Passport for the New Bar President.

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## Secrets to Better Meetings

**Each meeting is unique.** That makes it possible to set up a complete set of procedural rules for meeting leaders to follow. However, there are important ground rules that apply in almost all meetings.

**Respect Other People's Time.** When the meeting gets to the point that the special expertise or knowledge of key participants is no longer needed, offer these people the opportunity to excuse themselves. When they realize you are sensitive to not wasting their time, they will be more willing to help you out in future meetings.

**Improve Communications.** If you are leading a meeting, gear your vocabulary to the least sophisticated member of the group. Be on the lookout for abstract or pedantic language from other meeting participants and be ready to "translate" such language into colloquial speech.

**Record All Ideas.** At creative meetings, it is vital to avoid intolerance of participants' seemingly bad ideas. Ideas that seem silly today may be valuable sometime in the future. Record all ideas at a meeting for evaluation.

**End Meetings After Defined Responsibilities and Firm Deadlines Have Been Established.** If the meeting's purpose is to come up with an action plan, be sure that everyone clearly understands who is to do what by when.

**Conclude With Summary Statements.** The meeting leader should briefly summarize the proceedings and accomplishments of the meeting at its conclusion to underscore the focus of the meeting and to make clear what individuals are expected to do to follow-up.

**Provide Means to Handle Unfinished Business.** If times runs out before all points of the agenda have been dealt with, get agreement from participants on a plan to take up the unfinished business at a later time.