

**4.04.14 Speaking or Writing.** No Standing or Special Committee or member thereof may, expressly or by implication, purport to act, speak, or write on any subject on behalf of the State Bar or any committee unless authorized to do so by the Board or the policies or guidelines of the State Bar.

**4.04.15 Advocacy.** No Standing or Special Committee or member thereof may engage in any advocacy activities in violation of this Policy Manual, Tex. Govt. Code Section 81.034 or any other provision of the State Bar Act or other Texas statute, the rules of the Supreme Court of Texas or any Texas agency, or Texas or federal case law.

**4.04.16 Contracts.** All contracts for goods or services for a Standing or Special Committee must be reviewed by State Bar Legal Counsel and executed by a duly authorized signatory of the State Bar.

## PART V. STATE BAR SECTIONS AND DIVISIONS

### 5.01 Sections

**5.01.01 General.** The Board may establish and maintain sections for the purpose of promoting the objectives of the State Bar within the particular field or professional interests designated by the bylaws of each section, all subject to the laws, rules of court, regulations, and policies of the State Bar.

**5.01.02 Purposes and Membership of Sections.** Sections are composed of members of the State Bar who practice in specialized fields of law or who otherwise have common professional interests. After the completion of a section's provisional term, the Executive Committee, in its discretion, may allow the section to amend its bylaws to provide for persons who are not licensed to practice law, including legal assistants, non-attorney academic professors, and/or law students, to be Associate Members of the section. Associate Members shall not have section voting privileges, hold section office, or represent themselves in any way to be members of the State Bar of Texas.

**5.01.03 Creation of New Section.** All proposals to establish a new section of the State Bar shall be governed by the following provisions:

**(A) Section Jurisdiction.** The contemplated jurisdiction of the proposed section shall not be in substantial conflict, nor substantially overlap, with the jurisdiction of any other section.

**(B) Petition to Create New Section.** A new section may be established by the Board upon written petition containing:

- (1)** the proposed section bylaws, which must include the provisions required by sections 5.01.04 and 5.01.05;
- (2)** the names of the initial officers, section council members, and proposed committees of the section;
- (3)** a proposed initial budget of estimated income and expenses containing a dues structure sufficient to generate \$3,000 for each of the first two years of operation;
- (4)** a list of at least 300 members of the State Bar who have signed statements that they will apply for membership in the section;
- (5)** a detailed statement of purpose of the proposed section;

(6) a description of the contemplated jurisdiction of the section and a statement that such jurisdiction is not in substantial conflict with, nor does it substantially overlap with, the jurisdiction of any other section;

(7) a brief summary of the purpose of the section suitable for publication in the *Texas Bar Journal* or another publication of general circulation;

(8) a statement that the section shall not act as a political or social advocacy group and shall comply with all State Bar policies, the State Bar Act, and other applicable federal and state law, including *Keller v. State Bar of California*, 496 U.S. 1 (1990).

**(C) Process.**

(1) The petition and any materials the sponsors of the petition believe to be relevant to the consideration of the merits of establishing a new section are to be submitted to the Section Representatives to the Board Committee for review.

(2) The Section Representatives to the Board Committee may request additional materials and/or presentations from those in favor of and/or those opposed to the creation of the new section.

(3) After determining that the petition complies with this section 5.01.03, the Section Representatives to the Board Committee shall circulate copies of the petition and the supporting materials provided by the sponsors for the new section to each member of the Council of Chairs. The Section Representatives to the Board Committee may require that one or more representatives of the proposed new section present the merits of the petition at the next Council of Chairs meeting for open discussion.

(4) After consideration of the petition, the Section Representatives to the Board Committee shall submit its recommendations regarding the proposed new section to the Board, with a copy to the sponsors of the proposed section. The Board may request additional information from the Section Representatives to the Board Committee, the sponsors of the proposed section, or others regarding the merits of the proposed section.

(5) When considering a petition to create a new section, the Section Representatives to the Board Committee and the Board shall consider such factors and circumstances they consider appropriate, including whether:

(a) the proposed section meets the requirements set forth in this Policy Manual;

(b) the proposed section and its purposes are consistent with the purposes, express or implied, of the State Bar as provided in the State Bar Act; and

(c) adequate notice and opportunity has been afforded for presentation of supporting and opposing opinions and views regarding the creation of the new section.

(6) The approval of the formation of a new section, subject to the provision status period in section 5.01.03(D), requires a majority vote of the Board.

**(D) Provisional Status.**

(1) If approved by the Board, a new section shall have provisional status for a period of three years. Provisional sections shall comply with all requirements and restrictions imposed on existing sections. During this three-year period, the Section Representatives to the Board Committee and the Council of Chairs leadership shall monitor and may make recommendations to the provisional section to ensure compliance with the Policy Manual, the State Bar Act, the State Bar Rules, applicable state and federal law, and any applicable action taken by the Board.

(2) At the end of the three-year period, the Section Representatives to the Board Committee and the Council of Chairs leadership shall recommend to the Board whether to remove the provisional status of the new section, extend the provisional status and continue monitoring, merge the provisional section into another section, or dissolve the provisional section. The Board's action on the recommendations of the Board Committee requires a majority vote of the Board.

#### **5.01.04 Requirements and Restrictions**

##### **(A) Bylaws**

(1) Section bylaws must remain in compliance with the State Bar Act, the State Bar Rules, this Policy Manual, state and federal law, and any other applicable action of the Board. Each section must strictly follow the procedures and provisions of its bylaws.

(2) Section bylaws must include:

(a) a statement of the section's mission and purpose(s);

(b) a provision prohibiting the section, its council, or its members from speaking, writing, or acting on behalf of the State Bar without prior approval in accordance with the Board policies and procedures;

(c) a provision requiring the section comply with State Bar financial policies and procedures and supply information to the State Bar sufficient to participate in the State Bar's annual audit(s);

(d) a provision that no revisions of the section's bylaws shall be effective unless and until the revisions are approved by the Board;

(e) provisions restating the restrictions set forth in section 5.01.04; and

(f) provisions restating the requirements set forth in section 5.01.05.

##### **(B) Public Statements and Advocacy**

(1) **Representation of the State Bar.** No section, section member, or section council shall represent the State Bar before any legislative body, any administrative agency, in any court, or before any other tribunal unless expressly authorized to do so by the Board in accordance with Board policies and procedures.

(2) **Speaking or Writing.** No section, section member, or section council shall at any time, expressly or impliedly, act, speak, or write on any subject on behalf of the State Bar unless expressly authorized to do so by the Board in accordance with Board policies and procedures.

**(3) State Bar Seal and Letterhead.** No section, section member, or section council shall at any time use the State Bar seal or letterhead for any purpose other than for the section’s official, properly authorized business.

**(4) Legislative Policy.** Pursuant to Part VIII of this Policy Manual, sections may compile and submit suggestions to the Board’s Legislative Policy Subcommittee regarding legislation prior to the beginning of each regular session of the Legislature, and, if warranted, during a session. The section, section council, and section members acting in the name of a section may not act as a political or social advocacy group and shall comply with all State Bar policies, the State Bar Act, and other applicable federal and state law, including *Keller v. State Bar of California*, 496 U.S. 1 (1990).

**(C) Confidentiality of Member Information.** All information concerning any section member that is deemed confidential by state or federal law, including Tex. Govt. Code Ch. 552 and Tex. Occ. Code Ch. 59, including email addresses, may be used only for official section business and shall not be disclosed to the public. Sections must protect the confidentiality of such information.

**(D) Contracts.** Contracts for goods or services must be reviewed by State Bar Legal Counsel and executed by a duly authorized signatory of the State Bar. When possible, sections should obtain three bids/quotes for material expenditures on goods or services to obtain the best pricing for purchases.

**(E) Meetings.**

**(1) Organizational Meeting.** Each section shall conduct an organizational meeting of the full council prior to October 1 of each State Bar Fiscal Year.

**(2) Annual Membership Meeting.** Subject to any government restrictions or the policies or directives of the State Bar or Board, each section shall hold at least one, in-person annual membership meeting at a time determined by its council and at a place within Texas or by any virtual method that allows for membership interaction. Notice of such annual meeting shall be provided to each member of the section no later than 30 days prior to the annual meeting. At each annual meeting of a section, the section leadership shall:

**(a)** deliver a report to the section membership regarding the section’s activities over the preceding year;

**(b)** deliver a financial report on the section’s income and expenditures in detail along with a report on any audit covering the section’s finances; and

**(c)** conduct an election for officers and council members for terms certain. The section shall notify the Executive Director or its designee of the election results or its presumptive council slate no later than August 15 of each fiscal year.

**(3) Notice.** Each section shall give notice of all council and membership meetings to the President, President-elect, Executive Director, or their designated representative(s), and the section’s Board Advisors.

**(F) Publications and Website.** Each section shall communicate regularly with its membership through its website, electronic newsletters, email, and journals.

**(1) Websites.** Each section shall publish and keep current a section website posting a list of its current officers and council with non-confidential contact information, its current bylaws, a calendar of upcoming section events and meetings, and other announcements and educational material of benefit to its members.

**(2) Newsletters.** Each section shall publish at least two newsletters each Fiscal Year. A copy of all newsletters shall be provided to the President, President-elect, Executive Director, the State Bar Archives Department, and the State Bar Sections Department.

**(3) Texas Bar Journal.** Each section shall be allocated, at no cost, a one-fourth page advertising space in the *Texas Bar Journal* each State Bar Fiscal Year.

**(4) Section Annual Reports.** By April 1 of each year, the chair of each section shall submit to the Executive Director an annual report for publication in the *Texas Bar Journal*. A section's annual report should contain a brief overview of the projects and accomplishments of the section over the course of the Fiscal Year.

#### **5.01.05 Finances**

**(A) Sound Fiscal Fiduciary Management.** Sections shall practice sound fiscal fiduciary management, which requires operating in a fiscally-sound manner by establishing and abiding by financial policies that contain appropriate accounting processes and adequate internal controls over section finances. Each section shall manage its finances in a manner that ensures the integrity of the funds entrusted by its members and allows for the inclusion of section activities in the State Bar's audit process.

**(B) Financial Policies and Procedures.** Each section shall maintain and provide to the State Bar Accounting Department written copies of financial policies and procedures that contain required accounting processes and adequate internal controls over the section's finances to ensure the integrity of the funds entrusted by its members and allow for the inclusion of section activities in the State Bar's audit process. The section's council must:

**(1)** amend the financial policies and procedures if those policies and procedures change; and

**(2)** each year, affirm to the State Bar Accounting department that the financial policies and procedures on file are current and accurate when submitting the section's budget.

**(C) Audits.** Sections shall participate in the State Bar of Texas annual financial audit or other internal audits as approved by the Board Audit and Finance Committee and shall supply timely and complete responses to any inquiries or requests during an audit.

**(D) Section Dues and Other Fees.** Each section is authorized to collect membership dues and other funds from its activities and, subject to the other provisions of this Policy Manual, applicable law, rules, and regulations, is authorized to determine how its funds are invested and expended. Any revision in section dues must be submitted to the Board for consideration and action prior to implementation.

**(E) Budget.** Each section shall provide a detailed budget to the State Bar Accounting Department on or before July 15 of each Fiscal Year. The section budget must include all anticipated revenues and expenditures for the upcoming fiscal year.

**(F) Depositories and Investments.** Section funds must be invested consistent with State Bar investment policy as set forth in Section 3.05 of this Policy Manual. Each section shall deposit its funds into either a branch of the State Bar banking depository, or an alternative banking depository meeting the requirements of the investment policy as set forth in Section 3.05 of this Policy Manual.

**(G) Books, Records, and Reports.** On a monthly basis, each section shall provide the State Bar Accounting Department with:

- (1) copies of all investment statements and bank statements that include copies of cleared checks;
- (2) a back reconciliation for each account;
- (3) a detailed general ledger of recorded transactions; and
- (4) financial statements, if independently prepared, as soon as possible but no later than 30 days after receipt.

Sections shall retain all financial records and reports necessary to sufficiently demonstrate the implementation of its policies and internal controls and shall make these records available to the State Bar if requested.

**(H) Sales Tax.** To the extent required by law, each section shall collect sales tax on goods that it sells. No later than the last business day of each month, any section that sells goods shall remit to the State Bar all sales tax collected during the immediately preceding month, along with a report listing the price, quantity, and description of the goods sold in such detail as the State Bar Accounting Department reasonably may require to ensure compliance with applicable law, rules, and regulations.

**(I) State Bar Assistance to Sections.** Any section may elect to have the State Bar Accounting Department manage section funds, including depositing dues and other funds, managing operating expenses, issuing checks, and preparing financial reports and budgets. The State Bar will provide assistance to sections under this subsection at no charge to sections, except that expenses incurred in providing financial information in a format other than an electronic format prescribed by the State Bar Accounting Department shall be borne by the section. For each section supplying the required monthly financial information of the section, the accounting department of the State Bar shall prepare and provide to the treasurer of the section, a monthly and year-to-date section financial report and a monthly cash and investment account reconciliation.

**5.01.06 Orientation.** The Executive Director or designee shall conduct a mandatory orientation session for incoming section chairs and treasurers. The curriculum shall include written materials on State Bar policies, the State Bar Act, fiduciary management, public and legislative positions, and restrictions imposed by *Keller v. State Bar of California*, 496 U.S. 1 (1990) and its progeny. A handbook of guidelines and resources shall be provided for use by the sections.

**5.06.07 Participation in Council of Chairs.** The chair of each section is a member of the State Bar Council of Chairs Committee, and must attend the section orientation and each meeting of the Council of Chairs. If, for any reason, a section chair is unable to attend a meeting of the Council of Chairs, the section chair shall designate a representative from the section's council to attend such meeting.

**5.01.08 Section Name Change.** All section name changes are subject to Board approval. The Board may approve a section name change, provided the new name does not substantially conflict with the name of any other existing section, nor indicate an expansion of the section’s purview that would conflict with or significantly overlap the purview of any other existing section. The following procedure shall be followed concerning a proposed change of a section’s name:

(A) The name change must be approved by the section’s membership in accordance with the section’s bylaws.

(B) The section must present the proposed name change to the Council of Chairs for its consideration, comments, and recommendation.

(C) The section must then present the proposed name change in writing to the Section Representatives to the Board Committee for its consideration and recommendation. The written presentation must include:

(1) a statement that the proposed name change was approved by the section membership in accordance with the section’s bylaws;

(2) an explanation of the reason for the name change; and

(3) a statement that the proposed name change was considered by the Council of Chairs, including a summary of the comments by any member(s) of the Council of Chairs and the recommendation of the Council of Chairs supporting or opposing the name change.

(D) The Section Representatives to the Board Committee may request other information from the section in support of its proposal, and may request comment from any other persons concerning the proposal.

(E) The Section Representatives to the Board Committee shall then report to the Board about the section’s proposal and its recommendation supporting or opposing the name change. In its report, the Section Representatives to the Board Committee must inform the Board of the recommendation of the Council of Chairs concerning the proposed name change.

**5.01.09 Review**

(A) The Board or the Section Representatives to the Board Committee and Chair of the Council of Chairs may, from time to time, review any aspect of a section's operations including its bylaws, compliance with the State Bar governing documents, and this Policy Manual. The Section Representatives to the Board Committee and the Council of Chairs leadership shall each appoint two of their members to conduct the review.

(B) The reviewers shall notify the section and the section’s Board Advisors of the scope of the review and the anticipated start and end dates of the review process.

(C) During the review, the section leadership shall include the reviewers and the section’s Board Advisors in all meeting notices, meeting minutes, and council communications, and shall provide the reviewers, upon request, with access to any section communications, materials, financial information,

or any other requested information.

**(D)** Throughout the review process, the reviewers may make recommendations to the section’s council regarding possible improvements in services, processes, and any corrective actions needed to bring the section into compliance with the State Bar Act, the State Bar Rules, this Policy Manual, and/or the section’s purposes and bylaws.

**(E)** Upon conclusion of the review process, the reviewers may:

**(1)** terminate the review without further action;

**(2)** continue the review; or

**(3)** present recommendation(s) to the Board for action, including but not limited to placing the section on provisional status for a stated period, merging the section into another existing section, or dissolving the section and removing the section from the State Bar dues statement.

**(F).** If the reviewers make a recommendation to the Board for action, they shall notify the section of that recommendation at least 14 days in advance of the next Board meeting.

**5.01.10 Merger.** If the Board determines it to be in the best interests of the State Bar, the Board may merge two or more sections upon a determination that the purposes and jurisdictions of the applicable sections substantially overlap and that more than one section in that area is unnecessary. The Board may also merge sections upon the request of the sections involved, provided that the membership of each of the sections has approved the merger in accordance with the sections’ bylaws.

**5.01.11 Dissolution.**

**(A)** The Board may dissolve a section for good cause, including but not limited to a finding by the Board, in its sole discretion, of:

**(1)** failure to comply with the section’s bylaws and/or the section’s mission or statement of purposes;

**(2)** failure to comply with any provision of the State Bar Act, the State Bar Rules, the Board Policy Manual, and/or other applicable state or federal law;

**(3)** failure to cooperate with a section review or comply with the recommendations resulting from a section review;

**(4)** a significant decline in membership over the course of three consecutive Fiscal Years;

**(5)** failure to provide services of value to members;

**(6)** failure to abide by the requirements and restrictions outlined in section 5.01.04;

**(7)** failure to practice sound fiduciary management, operate in a fiscally responsible manner, and/or manage funds and expenditures using sound accounting practices; and/or

**(8)** failure to follow the requirements and procedures in section 5.01.05 of this Policy Manual regarding

finances.

**(B)** If the Board dissolves a section, it shall take such action as necessary to:

- (1)** protect the confidential and proprietary information of the State Bar and its members;
- (2)** protect the financial and contractual interests of the State Bar;
- (3)** notify all interested parties that the section has ceased to exist and remove the section from all State Bar informational materials and websites; and
- (4)** direct the disbursement of the section's funds as follows:
  - (a)** The section's funds shall be placed into receivership with the State Bar for a period not to exceed one year.
  - (b)** If the section has collected funds from members and is dissolved mid-year, all membership dues collected within the past fiscal year shall be refunded to section members. If the section does not have sufficient funds to reimburse its current members, the dues will be refunded on a pro rata basis.
  - (c)** With any remaining funds, the Section Representatives to the Board Committee shall consult with the dissolved section's leadership to identify potential entities or organizations that may benefit from a donation of funds, in accordance with the section's original purposes; provided, however, that no funds may be donated to any advocacy entity or organization, in the Board's judgment, would violate the State Bar Act, the State Bar Rules, the Board Policy Manual, or any applicable federal or state law.
  - (d)** Remaining funds may be transferred to an existing section(s) with a similar mission and purpose.
  - (e)** With the exception of transference of a dissolved section's funds to another section, such funds may not be distributed to the State Bar or used for its benefit.

## **5.02 Section Representatives to the Board Committee**

**5.02.01 Eligibility.** To be eligible to serve as a member of the Section Representatives to the Board Committee, a person must:

- (A)** be an active member in good standing of the State Bar;
- (B)** be a member of at least one section of the State Bar; and
- (C)** not otherwise be serving as a member of, or liaison to the Board.

**5.02.02 Composition.** The Section Representatives to the Board Committee consists of six members, one of whom represents sections with 500 members or less, two of whom represent sections with 501 to 2,000 members, and three of whom represent sections with over 2,000 members. A committee member must belong to at least one section of the size that he or she represents. No committee member shall be