

Council of Chairs



STATE BAR OF TEXAS

August 14, 2026

Topics



- State Bar Act
- Supreme Court State Bar Rules
- State Bar Policy Manual
- See texasbar.com
- Section Contracts
- *Keller, McDonald*, and Advocacy
- Open Records

State Bar Governing Documents



- State Bar Act (Tex. Gov't Code Ch. 81) – first adopted in 1939, sets out SBOT purposes and responsibilities
- State Bar Rules (Promulgated by SCOTX) – "adopted in aid of the Court's inherent power to regulate the practice of law"
- State Bar Board Policy Manual (adopted and updated by the Board) governs Bar operations (Part V addresses Sections)

State Bar Board Policy Manual



- Part V addresses State Bar Sections and Divisions
- 5.01 – Sections
- 5.04 – Divisions (mirror Sections provisions)
- 5.01.01 – General
- 5.01.03 – Creation of New Section
- 5.01.08 – Section Name Change

Confidentiality (5.01.04(C))



- Confidential information concerning any section member may be used only for official section business and may not be disclosed to the public.
 - Email address
 - SSN
 - Home address
 - Home phone
- Take reasonable and necessary steps to protect information
- Don't publish members' private info on publicly available web page
- Require third-party vendors to protect member data

Contracts (5.01.04(D))



- All contracts for goods or services must be reviewed by State Bar Legal Counsel and signed by the State Bar – don't sign individually or on behalf of a section/division
- Send contracts to Office of Legal Counsel via Lyndsay Jackson
- We turn contracts around quickly

McDonald Restrictions



Keller v. State Bar of California (U.S. Supreme Court)

All expenditures must support the purposes of:

- Regulating the legal profession, or
- Improving the quality of legal services

McDonald v. Longley (Fifth Circuit)

In addition to *Keller* requirements, all expenditures must support:

- The regulation of lawyers,
- The functioning of state or federal courts, or
- The functioning of the legal system

Public Statements and Advocacy



- Tex. Gov't Code Sec. 81.034
 - No funds received by the Bar can be used for influencing legislation unless it relates to:
 - ✦ Regulation of legal profession;
 - ✦ Improving quality of legal services; or
 - ✦ Administration of justice
- (Amount of expenditure must be reasonable & necessary)

Public Statements and Advocacy (5.01.04(B))



- Applies to Sections/Divisions, Section/Division members, and Section/Division councils
- Unless authorized by the SBOT Board, a section/division may not:
 - purport to **represent the State Bar** before any legislative body, administrative agency, court, or tribunal
 - purport to act, speak, or write on any subject **on behalf of the State Bar**
 - **take a position in the Section's name** that advances or advocates a political or social policy position

The Texas Public Information Act



- The Texas Public Information Act (552) gives the public a right of access to government information
- Liberally construed in favor of disclosure
- State Bar Act §81.033 says SBOT records are subject to the TPIA. Grievance records and TBLS records are not.

What Does That Mean for You?



- If you write, send, or receive something in connection with the transaction of official Section business, it is subject to the TPIA
- Examples: letters, reports, notes, reimbursement requests, list serves, or emails (even if in your personal email account)

How Long Must I Keep Correspondence?



- Administrative – 4 years*
 - Substantive re: Section programs, projects, services, policies
- General – 2 years*
 - Routine operations of your Section
- Transitory – Until completed
 - Of temporary usefulness to completion of an action

How Do I Manage This?



- Keep it accessible
 - Create a “section” folder in your email box
- If we receive a Public Information Act Request asking for your State Bar communications
 - You will receive a call or email from us about the request
 - We will ask you to send us what you have
 - Statutory deadline – “promptly” but we only have 10 business days to seek exception from AG

Call Anytime



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