



2023–24

Chairs Handbook

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

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I. VSB Operations and Strategic Plan

A. Creation of Virginia State Bar

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

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

B. Mission Statement

The mission of the VSB, an administrative agency of the Supreme Court of Virginia, is (1) to protect the public, (2) to regulate the legal profession, (3) to advance access to legal services, and (4) to assist in improving the legal profession and the judicial system.

Commentary

The Mission Statement contains the four elements that are found in the sources relating to the existence, power, and authority of the VSB. All VSB activities relate to one or more of these four elements.

The authority for the Mission Statement is found in, e.g., Va. Code Section 54.1-3909 (the Supreme Court’s authority to promulgate rules and regulations regarding the practice of law), Va. Code Section 54.1-3910 (establishing the Virginia State Bar as an administrative agency of the Court for professional regulation), and Rule of Court Part 6, Section IV, paragraph 9(j) (the “necessary powers”).

Amended by Council 10/25/2019.

C. Governance

Council

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

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

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

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

Executive Committee

Between meetings of the Council, its duties and functions may be performed by the Executive Committee of thirteen members, six of whom are elected annually by and from the Council, with the president, president-elect, immediate past president, chair of

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

the Conference of Local and Specialty Bar Associations, president of the Young Lawyers Conference, chair of the Senior Lawyers Conference, and chair of the Diversity Conference serving as *ex-officio* members.

Powers of Council

Part 6, Section IV, Paragraph 9(j)

Rules for Organization and Government, Virginia State Bar

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

- (a). To adopt Bylaws for the Council and the Virginia State Bar not in conflict with these rules.
- (b). To elect the officers provided for by these rules.
- (c). To fill vacancies in the Council for unexpired terms if there should be a failure for sixty days to elect as provided in Section (6) and to fill vacancies in any office for unexpired terms.
- (d). To appoint committees and prescribe their duties.
- (e). To employ such assistants as it deems necessary and to fix their duties and compensation and the compensation of the Secretary-Treasurer.
- (f). To make allocations of funds within the amounts available.
- (g). To conduct such investigations and make such reports as may be directed by the Supreme Court or by the bar.
- (h). To render advisory opinions as provided in Section (10).
- (i). To establish an Administration and Finance Fund from which expenses related to meetings of the Council, meetings of the Executive Committee, the Annual and Midyear Meetings, and other official functions of the Virginia State Bar may be paid. The Fund shall be composed of funds appropriated to it by Council, or otherwise received. Such funds may be held, managed and invested as authorized or directed by Council. Disbursements from the fund shall be made as authorized by Council to pay the necessary expenses related to official functions of the Virginia State Bar as authorized by these Rules including, but not limited to, those expenses resulting from the exercise of the Council's powers under these Rules.
- (j). The Council may, at its discretion or upon a written request of the majority of the members of the Virginia State Bar or pursuant to a resolution duly adopted at a regular or called meeting, exercise the necessary powers:
 - To promote reforms in judicial procedure and the judicial system that are intended to improve the quality and fairness of the system;
 - To recommend to the Supreme Court procedures for the disciplining, suspending and disbaring of attorneys;
 - To recommend to the Supreme Court the adoption of, modifications to, amendments to or the repeal of any rule of the Rules of the Supreme Court of Virginia;
 - To regulate the legal profession;
 - To improve the quality of the legal services made available to the people of Virginia;
 - To investigate, evaluate or endorse judicial candidates on a nonpartisan, merit basis;
 - To uphold and elevate the standards of honor, of integrity and of courtesy in the legal profession;
 - To encourage higher and better education for membership in the profession; and
 - To encourage and promote diversity in the profession and the judiciary; and
 - To perform all duties imposed by law.

Amended by VSB Council
June 18, 2009

Approved by Supreme Court of Virginia

D. Council Bylaws Establishing Sections (Article XI)

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

E. VSB Bylaws Establishing Committees (Article V)

- Sec. 1.* Unless otherwise provided in the Supreme Court Rules, by action of Council, or elsewhere in these bylaws or the bylaws of Council, all committees shall be appointed by the president, who shall have power to determine the size and composition of the committee and to designate the chair thereof and to fill any vacancy therein.
- Sec. 2.* A majority of any committee shall constitute a quorum.
- Sec. 3.* In addition to the Executive Committee, district committees, and standing committees specified in the bylaws of Council, there shall be special committees to carry out the other ongoing work of the bar, and study committees, where appropriate in the judgment of the president, to examine and make recommendations on specific proposals or programs within a reasonably brief and discrete period of time.
- Sec. 4.* Members of special committees shall be appointed to three-year terms, with the exception of the Special Committee on Lawyer Malpractice Insurance whose members shall be appointed to five-year terms. No member shall serve more than two consecutive terms on such a committee. A member appointed to fill an unexpired term shall be eligible to serve two additional full terms. An eligible member wishing to be reappointed to a special committee shall be required to reapply in writing prior to the end of his or her current term under procedures established by Council and administered by the executive director. If any member of a committee fails to attend either three meetings during any bar year or two successive meetings of the committee without providing an explanation satisfactory to the committee chair, or in the case of a lawyer member, is declared not in good standing with the Virginia State Bar, such person's position shall automatically be considered vacated and filled as in the case of other vacancies.
- Sec. 5.* In making initial appointments to new special committees, the president shall appoint members to one, two and three-year terms so as to allow for the retirement or reappointment of one-third of the membership of each special committee at the end of each bar year.
- Sec. 6.* Effective July 1, 1996, the size of special committees shall be as specified by Council. A list of the committees and their respective sizes shall be maintained by the executive director. Changes in the size of special committees may be approved by the Executive Committee.

F. Calendar of Important Dates and Deadlines

September 1, 2023 – July 1, 2024

September 2023

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

- 13 **Fall Meeting of Committee, Board, Conference, and Section Chairs** — Virginia State Bar Office, 3rd Floor Conference Room, Bank of American Building, 1111 E. Main St., Richmond, 11:00 am. The agenda will include a review of the Chairs Handbook; preliminary planning for the 2024 Annual Meeting; and an overview of the budgeting process for the 2024–25 Bar fiscal year. Section and conference vice chairs, and website editors are encouraged to attend this meeting.
- 18 Solo & Small-Firm Practitioner Forum — Melfa

October

- 2 Solo & Small-Firm Practitioner Forum — Lexington
- 12–13 VSB Executive Committee and Council Meetings — Williamsburg
- 13 **Deadline to submit CLE program proposals to Better Annual Meeting (BAM) Committee for possible presentation at the 2024 Annual Meeting.**

November

- 10 **Deadline to submit detailed information for CLE topics selected for presentation at the 2024 Annual Meeting**, including title, narrative description, and invited/confirmed speakers.

December

- 1 **Deadline to submit conference and section budget requests**, with supporting information, for 2024–25 fiscal year.

January 2024

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

February

- 2 Deadline to submit nominations for Edward L. Chambers Lifetime Bar Services Award
- 23–24 VSB Executive Committee and Council Meetings — Richmond

March

- 13 **Deadline to submit MCLE outlines for CLE programs for 2024 Annual Meeting.**

April

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

- 1 Deadline for fiscal year end publishing orders and requests
- 24 VSB Executive Committee Meeting — Richmond
- 24 Annual Meeting Gift and Award Requests due
- 25-26 Strategic Planning Committee Retreat – Winchester
- 29 VSB Techshow — Webinar

May

- 1 Email requesting annual reports for the 2023–24 bar year will be sent to all committee, board, conference, and section chairs.
- 3 2024 Leroy R. Hassell Sr. Indigent Criminal Defense Seminar — Hybrid (tentative)
- 17 Solo & Small-Firm Practitioner Forum — Big Stone Gap

- 30– June 1

VSB Executive Committee and Council Meetings — Virginia Beach
VSB 2024 Annual Meeting — Virginia Beach
Conference and section CLE and special programs will be conducted during the Annual Meeting.

Annual business meetings of conferences and sections will be held in conjunction with the 2024 Annual Meeting. The nominating committee of each group will report to the membership, and elections will be held for new officers and new board members.

Conference and section election results should be recorded on the forms provided at the business meeting and returned to the State Bar office no later than July 1, 2024.

June

- 30 **Deadline to submit conference and section bylaw amendments** approved at business meetings during 2024 Annual Meeting (Please send this information to VSB office for approval by Council at its October 2023 meeting.)

Deadline to advise VSB of section dues increase approved at business meeting during 2024 Annual Meeting (Sections may raise their dues up to \$35 without further action by Council. However, any such increase would not become effective until the following fiscal year, 2025–26.)

July

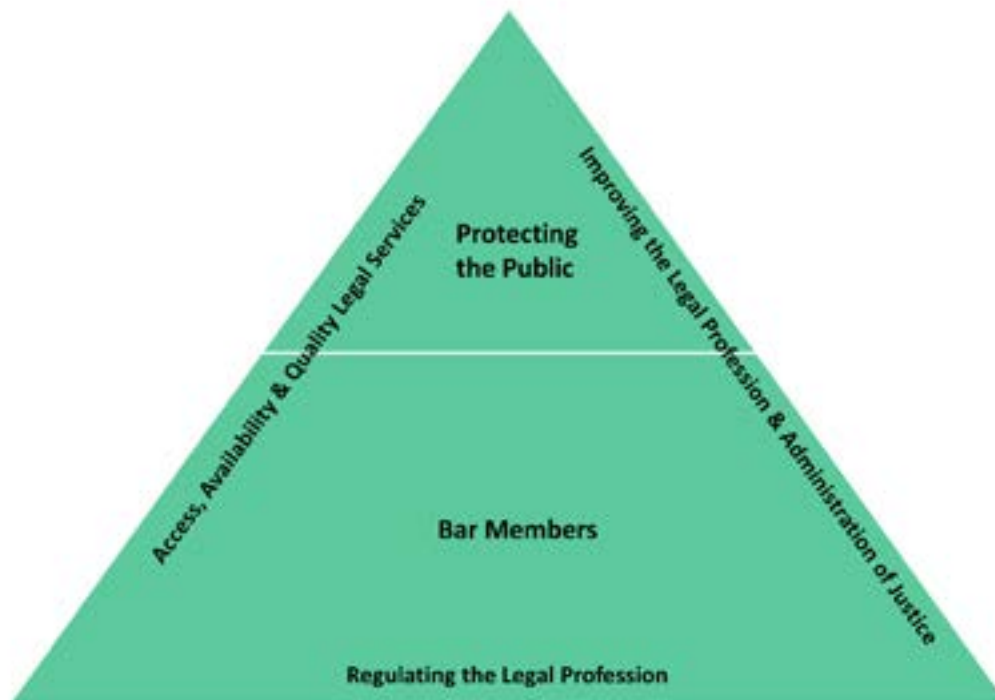
- 1 **Deadline to submit the new listing of the officers and board of governors** for each conference and section for the 2024–25 Bar year.
- 15 **Deadline to submit annual reports** from each committee, board, conference, and section for the 2023–24 fiscal year ending June 30, 2024.

G. Virginia State Bar Strategic Plan 2019–2024

The VSB was created in 1938 by the General Assembly as an administrative agency of the Supreme Court of Virginia. The creation of the agency unified Virginia’s lawyers in a mandatory state bar. The VSB is governed by its Council and Executive Committee, whose members are elected or appointed from every judicial circuit in the Commonwealth. The mission of the Virginia State Bar, as an administrative agency of the Supreme Court of Virginia, is to protect the public by regulating the legal profession of Virginia, advancing the availability and quality of legal services provided to the people of Virginia, and assisting in improving the legal profession and the administration of justice.

Goals for 2019-2024:

- I. Protect the Public
- II. Regulate the Profession
- III. Advance Access to Legal Services
- IV. Improve the Legal Profession and the Administration of Justice



Strategic Plan 2019–2024

The strategic plan has four goals within the mission statement. The goals provide a framework for the aspirations and continuous efforts of the committees, conferences, sections, and departments.

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

- I. Protect the Public** – Protect the public by educating and assisting lawyers to practice ethically and competently, and by disciplining those who violate the Supreme Court’s Rules of Professional Conduct, all at no cost to Virginia taxpayers.
 - A. Regulation of the Legal Profession** – Efficiently regulate the legal profession to protect the public from lawyer misconduct.
 - B. Unauthorized Practice of Law** – Promptly investigate and act upon allegations of the unauthorized practice of law.
 - C. Early Intervention** – Identify problems early and promptly intervene.
 - D. Clients’ Protection Fund** – Finance and administer the fund to maximize reimbursement of losses caused by the dishonest conduct of lawyers.
 - E. Fee Dispute Resolution** – Foster trust and communication between attorneys and clients and confidence in the legal profession through voluntary fee dispute resolution.
 - F. Public Awareness and Communications** – Promote public awareness of rights and remedies through education and communications.
 - G. Transparency** – Promote public confidence in the profession and the regulatory system through continued transparency.
- II. Regulate the Profession** – Regulate the profession through principles that guide lawyer behavior and enforcement proceedings for noncompliance with such principles.
 - A. Discipline** – Strive for timely investigation and prosecution of disciplinary complaints and the imposition of appropriate sanctions.
 - B. Legal Ethics** – Provide legal ethics opinions and confidential advice through the ethics hotline.
 - C. Client Property** – Prevent loss of client property by expedited investigation, intervention, and resolution of cases involving client property when circumstances warrant.
- III. Advance Access to Legal Services** – Ensuring public access to quality legal services.
 - A. Legal Services** – Encourage and support pro bono efforts and organizations that offer or support civil legal services and indigent defense.
 - B. Outreach** – Develop and implement law-related community education programs and projects.
 - C. Diversity** – Encourage availability of diverse population of lawyers competent to serve the Commonwealth’s diverse populations.
 - D. Technology** – Promote the effective use of technology in the delivery of legal services.
 - E. Lawyer Referral** – Provide information about the legal system to the public and lawyer referrals to individuals who can afford an attorney.

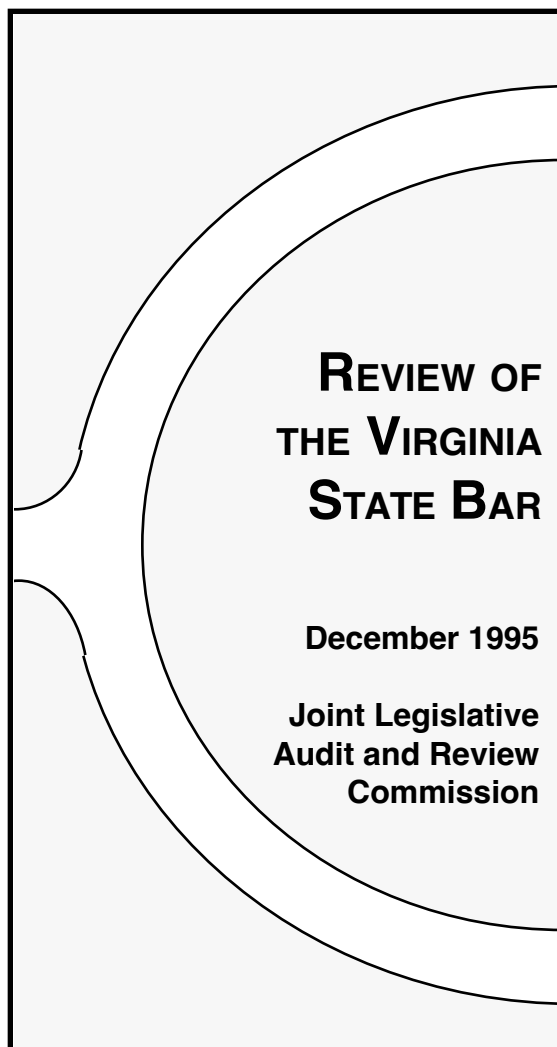
IV. Improve the Legal Profession and the Administration of Justice – Programs and initiatives to improve the legal profession and the administration of justice.

- A. Advocacy** – Increase public and member understanding of the legal profession and the administration of justice.
- B. Candidate Review** – Maintain judicial evaluation processes.
- C. Professional Conduct and Ethics** – Inculcate professionalism into, and civility among, its members.
- D. Mandatory Continuing Legal Education** – Promote competence and professionalism through high-quality continuing education programs and requirements.
- E. Lawyer Population** – Promote diversity in the legal profession and the judiciary.
- F. Judicial Independence** – Support judicial independence and educate members and the public about its importance.
- G. Communications** – Provide information through publications, the website, and other media.
- H. Leadership** – Provide leadership opportunities and training to local, specialty, and statewide bar leaders and coordinate and recognize volunteers to maximize involvement and minimize attrition.
- I. Well-Being Initiative** – Promote lawyer well-being and organizations with lawyer assistance initiatives.
- J. Enhance the Practice of Law** – Support members through services, benefits, resources, and programs, which enable members to be better lawyers.

Approved by Executive Committee October 25, 2018

Approved by Council October 26, 2018

JLARC Report Summary



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

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

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

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

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

Analysis of State Bar operations indicates that:

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

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

Three Special Funds Are Maintained to Pay for VSB Activities

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

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

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

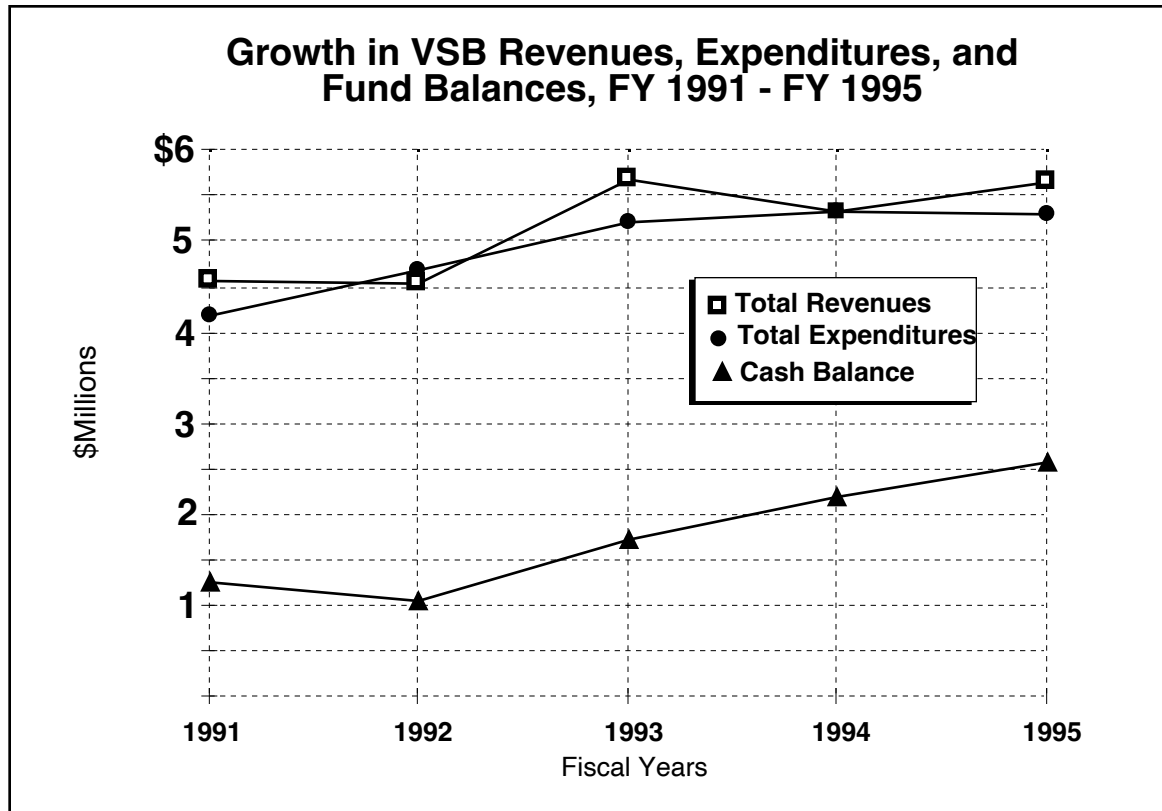
While A Majority of VSB Expenditures Pay for Lawyer Regulation, Lawyers May Be Charged Excessive Fees

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

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

Recommendations are made in this report to:

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



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

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

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

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

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

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

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

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

Certain Revenues Received by the Bar May Have Been Erroneously Retained

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

tangible property and returned to the State Treasury.

Recommendations are made to:

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

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

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

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

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

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

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

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

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

Recommendations are made to:

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

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

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

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

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

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

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

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

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

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

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

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

Recommendations are made to:

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

Minor Changes Could Be Made to Further Improve System Fairness.

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

Recommendations are made to improve system fairness by:

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

Changes Could Be Made to Improve the Efficiency of the Disciplinary System.

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

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

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

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

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

Implications for the Future Role of the Virginia State Bar

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

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

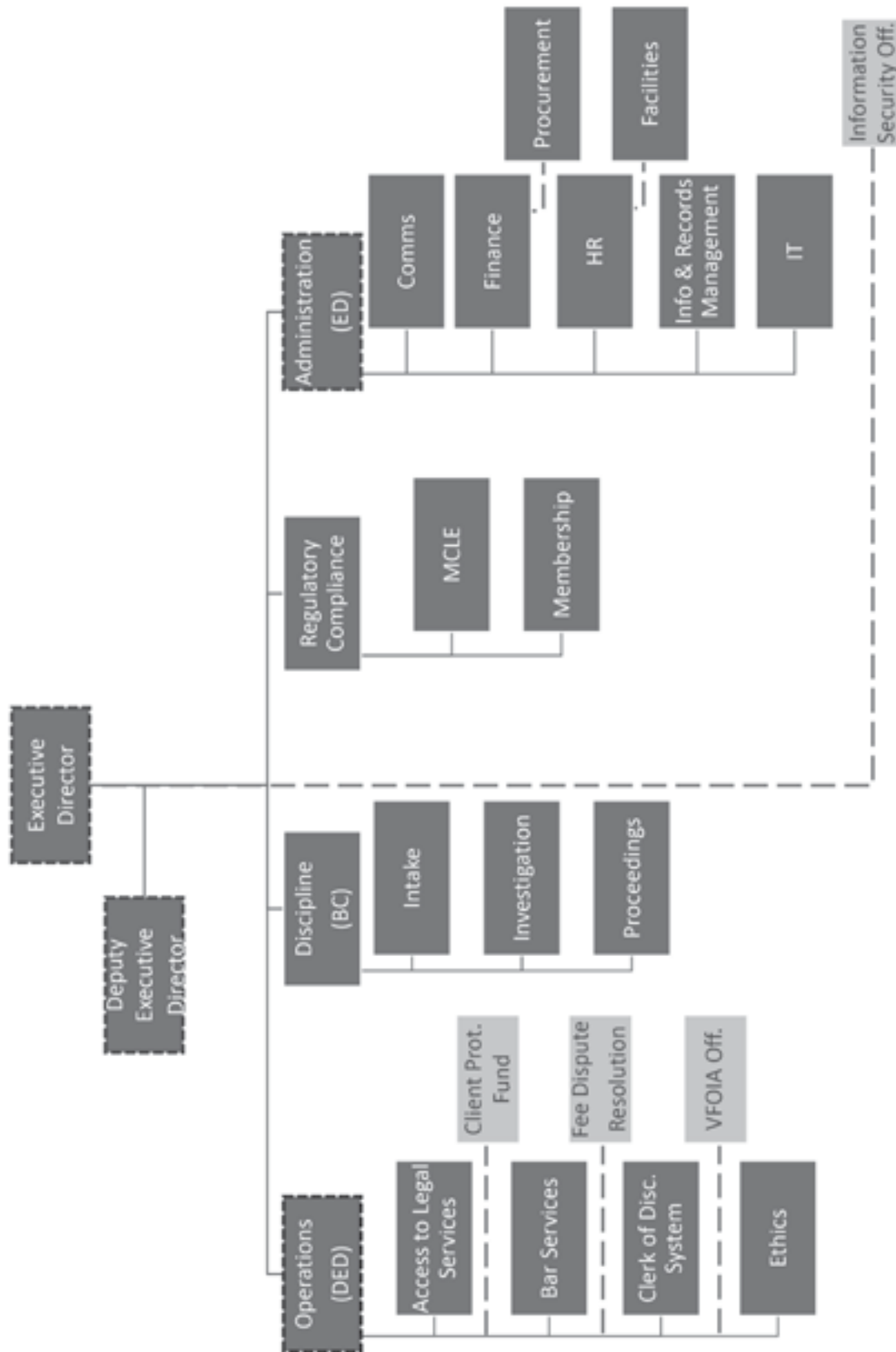
Without a more thorough examination and delineation of the role of the Virginia State Bar in the future, striking the proper balance between the Bar’s regulatory and non-regulatory activities will continue to be

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

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

II. VSB Organization and Staff Support

A. VSB Staff Organization Chart



As of: November 15, 2022

B. Staff Directory

VIRGINIA STATE BAR
1111 East Main Street, Suite 700
Richmond, Virginia 23219-0026
(804) 775-0500 • Voice/TTY 711
website: www.vsb.org
Office Hours: 8:15 am to 4:45 pm

ADMINISTRATION

		Phone	Email
Cameron M. Rountree	Executive Director	(804) 775-0560	crountree@vsb.org
Shawne D. Moore	Assistant to the Executive Director	(804) 775-0551	smoore@vsb.org

FINANCE

Crystal T. Hendrick	Finance/Procurement Director	(804) 775-0523	chendrick@vsb.org
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REGULATORY COMPLIANCE

DaVida M. Davis (Dee)	Director	(804) 775-0578	ddavis@vsb.org
	Main Number for Mandatory Continuing Legal Education	(804) 775-0577	mcle@vsb.org
	Main Number for Membership	(804) 775-0530	membership@vsb.org

OPERATIONS

Janet P. Van Cuyk	Deputy Executive Director	(804) 775-0560	jvancuyk@vsb.org
Sylvia S. Daniel	Assistant to the Deputy Executive Assistant	(804) 775-0559	sdaniel@vsb.org

ACCESS TO LEGAL SERVICES

Crista L. Gantz	Director, Access to Legal Services	(804) 775-0522	cgantz@vsb.org
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VIRGINIA LAWYER REFERRAL SERVICE

Toni B. Dunson	Lawyer Referral Coordinator	(804) 775-0591	tdunson@vsb.org
	Referral Service — Local	(804) 775-0808	
	Referral Service — Long Distance	800-552-7977	

BAR SERVICES

Maureen D. Stengel	Director	(804) 775-0516	mstengel@vsb.org
Dolly C. Shaffner	Meetings Coordinator	(804) 775-0518	dshaffner@vsb.org
Paulette J. Davidson	Meetings Coordinator	(804) 775-0521	pdavidson@vsb.org
Mallory J. Ralston	Meetings Coordinator	(804) 775-0514	mralston@vsb.org
Nancy L. Donner	Meetings Coordinator	(804) 775-0519	ndonner@vsb.org
Kimberly W. Karnes (Kim)	Meetings Assistant	(804) 775-0515	kkarnes@vsb.org

COMMUNICATIONS

Caryn B. Persinger	Director of Communications and Creative Director of <i>Virginia Lawyer</i>	(804) 775-0588	cpersinger@vsb.org
Deirdre H. Norman (Dee)	Editor of <i>Virginia Lawyer</i> and Media Manager	(804) 775-0594	dnorman@vsb.org
D. Kaylin Bowen	Web Content Manager and Assistant Editor of <i>Virginia Lawyer</i>	(804) 775-0529	kbowen@vsb.org
Aaron D. Rose	Communications Coordinator	(804) 775-0586	arose@vsb.org

ETHICS

Emily F. Hedrick	Ethics Counsel	(804) 775-0587	ehedrick@vsb.org
	Ethics Hotline	(804) 775-0564	ethics hotline@vsb.org

DISCIPLINE

Renu M. Brennan	Bar Counsel	(804) 775-0575	rbrennan@vsb.org
Edward J. Dillon (Ed)	Deputy Bar Counsel	(804) 775-0541	edillon@vsb.org
Stephanie G. Blanton	Executive Assistant to Bar Counsel	(804) 775-0576	sblanton@vsb.org
James C. Bodie (Jim)	Intake Counsel	(804) 775-0596	jbodie@vsb.org
	Complaint Line	(804) 775-0570	webintake@vsb.org

C. Section and Conference Staff Liaisons and VSB Contacts

2023–24

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

Administrative Law	Dolly C. Shaffner	dshaffner@vsb.org	(804) 775-0518
Antitrust Law	Maureen D. Stengel	mstengel@vsb.org	(804) 775-0517
Bankruptcy Law	Kim W. Karnes	kkarnes@vsb.org	(804) 775-0515
Business Law	Maureen D. Stengel	mstengel@vsb.org	(804) 775-0517
Construction Law	Paulette J. Davidson	pdavidson@vsb.org	(804) 775-0521
Corporate Counsel	Mallory J. Ralston	mralston@vsb.org	(804) 775-0514
Criminal Law	Maureen D. Stengel	mstengel@vsb.org	(804) 775-0517
Education of Lawyers	Mallory J. Ralston	mralston@vsb.org	(804) 775-0514
Environmental Law	Mallory J. Ralston	mralston@vsb.org	(804) 775-0514
Family Law	Dolly C. Shaffner	dshaffner@vsb.org	(804) 775-0518
General Practice	Paulette J. Davidson	pdavidson@vsb.org	(804) 775-0521
Health Law	Paulette J. Davidson	pdavidson@vsb.org	(804) 775-0521
Intellectual Property Law	Kim W. Karnes	kkarnes@vsb.org	(804) 775-0515
International Practice	Kim W. Karnes	kkarnes@vsb.org	(804) 775-0515
Litigation	Paulette J. Davidson	pdavidson@vsb.org	(804) 775-0521
Local Government Law	Mallory J. Ralston	mralston@vsb.org	(804) 775-0514
Military Law	Paulette J. Davidson	pdavidson@vsb.org	(804) 775-0521
Real Property	Dolly C. Shaffner	dshaffner@vsb.org	(804) 775-0518
Taxation	Kim W. Karnes	kkarnes@vsb.org	(804) 775-0515
Trusts & Estates	Dolly C. Shaffner	dshaffner@vsb.org	(804) 775-0518
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Conference of Local and Specialty Bar Associations	Paulette J. Davidson	pdavidson@vsb.org	(804) 775-0521
Diversity Conference	Nancy L. Donner	ndonner@vsb.org	(804) 775-0519
Senior Lawyers Conference	Nancy L. Donner	ndonner@vsb.org	(804) 775-0519
Young Lawyers Conference	Mallory J. Ralston	mralston@vsb.org	(804) 775-0514
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Annual Report	Deirdre H. Norman	dnorman@vsb.org	(804) 775-0594
Newsletters	Kaylin Bowen	kbowen@vsb.org	(804) 775-0529
<i>Virginia Lawyer</i> magazine	Deirdre H. Norman	dnorman@vsb.org	(804) 775-0594
VSB Website	Caryn B. Persinger	cpersinger@vsb.org	(804) 775-0588

D. Committee and Board Staff Liaisons

2023–24

STANDING COMMITTEES:

Access to Legal Services	Crista L. Gantz	cgantz@vsb.org	(804) 775-0522
Budget & Finance	Crystal T. Hendrick	chendrick@vsb.org	(804) 775-0523
Lawyer Discipline	Renu M. Brennan	rbrennan@vsb.org	(804) 775-0575
Legal Ethics	Emily F. Hedrick	ehedrick@vsb.org	(804) 775-0587
Professionalism	Maureen D. Stengel	mstengel@vsb.org	(804) 775-0517

SPECIAL COMMITTEES:

Bench-Bar Relations	Janet P. Van Cuyk	jvancuyk@vsb.org	(804) 775-0553
Better Annual Meeting	Maureen D. Stengel	mstengel@vsb.org	(804) 775-0517
Judicial Candidate Evaluation	Cameron M. Rountree	crountree@vsb.org	(804) 775-0560
Lawyer Insurance	Cameron M. Rountree	crountree@vsb.org	(804) 775-0560
Lawyer Referral	Toni B. Dunson	tdunson@vsb.org	(804) 775-0591
Resolution of Fee Disputes	Paulette J. Davidson	pdavidson@vsb.org	(804) 775-0521
Technology and the Future Practice of Law	Emily F. Hedrick	ehedrick@vsb.org	(804) 921-9876

BOARDS:

Clients' Protection Fund	Vivian R. Byrd	vbyrd@vsb.org	(804) 775-0572
Disciplinary Board	Joanne Fronfelter	jfronfelter@vsb.org	(804) 775-0573
Mandatory Continuing Legal Education	DaVida M. Davis	ddavis@vsb.org	(804) 775-0578

E. Duties of Staff Liaisons

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

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

General Organizational and Policy Duties

The staff liaison:

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

Meeting and Special Event Support

The staff liaison:

- makes early contact with the chair to discuss a meeting schedule for the bar year, taking into consideration deadlines for financial and other planning activities, and the group's projects and reports.
- reviews with the chair the group's charge and goals for the year; ongoing projects and programs; budget considerations and other relevant background; and the need for new member orientation.
- confirms availability of meeting space, scheduling meeting room, arranging for refreshments and meals and ensuring that the meeting is confirmed on the State Bar's master calendar and the conference or section website.
- works with the chair to develop and distribute meeting notices, agendas, minutes, meeting materials and other appropriate communications.
- circulates meeting notices and agendas electronically to the board in a timely manner, ensuring that board members post the meeting date on their calendars at the earliest possible time.
- attends meetings and provides on-site support, as necessary. With respect to meeting attendance, liaisons should coordinate with the chair and exercise judgment as to the importance/expense of attendance at meetings at an off-site location.
- assists the chair with preparation of the agenda and materials for meetings.
- ensures that the original minutes are maintained in a permanent file following approval.
- ensures compliance with VFOIA, including notice, minutes and electronic meeting requirements (Standing Committees and Public Bodies).
- coordinates and/or distributes reports or other information relevant to the group's work, including staff, committees, boards, conferences, and sections and other pertinent organizations.

General Resource and Administrative Support Duties

The staff liaison:

- assists with preparation of impact statements relative to new projects (see *Handbook, New Project Impact Statement*, page 28).
- explains travel expense reimbursement and general fiscal policies and procedures.
- assists with preparation/submission of form for solicitation of grants and other funds, as necessary.
- assists the Communications Department [dnorman@vsb.org or (804) 775-0594] with collection of the group's annual report before the annual meeting, but no later than July 15, 2024.
- coordinates email distribution lists, ensuring that the participant list is current and that policies and rules are distributed as appropriate.

Administrative Support Duties Specific to Conferences and Sections

The staff liaison:

- assists in the nominating committee process of the conference/section for the board of governors and officers' appointments by advising the committee of the number of vacancies and terms of office and by serving as a resource for recruitment of members who would bring diversity to the board and the conference/section's work.
- assists with the collection of election results from conference/section's annual business meeting held during the VSB's Annual Meeting in June (names; addresses; terms of office for newly elected board members and officers)
- communicates proposed section bylaw amendments to the VSB Executive Director and Director of Bar Services. Amendments to section bylaws must be approved by VSB Council before they become effective.
- anticipates and coordinates the timely production of the conference/section's communications, marketing, research and other needs with appropriate staff (for example: event promotion, mailings, newsletter production, group e-blasts etc.).
- facilitates newsletter production (electronic and printed media; and mailing) in coordination with the Communications Department [kbowen@vsb.org or (804) 775-0529]. Volunteer newsletter editors prepare content for the conference/section newsletters, and provide final text to the designated graphic designer for formatting.
- coordinates group email distribution; in conjunction with the Communications Department.
- ensure that the content on the conference/section's website is current and accurate.
- coordinates arrangements with Fiscal Office to ensure that the section has adequate money in budget to cover expenses for programs and projects.
- coordinates arrangements with printer and mailing service for special programs and projects;
- orders gifts and plaques for outgoing section chairs and board members to be presented at the Annual Meeting. No additional awards should be ordered without checking with the conference or section liaison. Such expenditures must be authorized by the conference/section and will be charged against its budget.

Finance and Budgeting Duties Specific to Conferences and Sections

The staff liaison:

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

CLE Administration Duties Specific to Conferences and Sections

The staff liaison:

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

Execution of Contracts and Grants

- Only the executive director, deputy executive director, or their designee may enter into contracts on behalf of the organization, or approve the engagement of consultants and professional service providers. All grant applications must be authorized and signed by the executive director or the deputy executive director or their designee. (*Handbook — Grant Requests*, page 55).
- Bar policy requires approval by the executive director BEFORE solicitation or acceptance of any grant, and approval by the Executive Committee BEFORE solicitation or acceptance of funds from any entity. Please use the form specified by the VSB for this purpose. (*Handbook — Grant Requests*, page 55).

F. Impact Statement for New Programs/Projects

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

1. Name of person or group proposing program/project:
2. Name of VSB staff person working with your group:
3. Name of program/project:
4. Proposed starting date:
5. What is the goal of this program/project?

6. Has any similar program/project been undertaken in the past by the VSB?

Yes No (Circle One)

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

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

Yes No (Circle One)

If yes, please name:

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

Yes No (Circle one)

If yes, please name:

-
9. On a separate sheet, please estimate the costs in VSB funds of the proposed program/project. Include all out-of-pocket (new) expenses (such as venue costs, copying, and supplies). Estimate apportionments of all fixed (current) expenses (such as rent, staff salaries, computer time and office equipment).
 10. Please estimate the costs in staff time (include by name the person who would be primarily responsible for implementing the program/project and all support staff needed; please estimate the total number of hours for each person to be devoted to this project/program within the next fiscal year):

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

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

Yes No (Circle One)

If not, how will it be funded?

When complete, please provide copies to your liaison, the VSB Executive Director, and the Finance Director (if there are any financial implications).

By Chair/President

Date

By Staff Liaison

Date

III. VSB Policies

A. Policy Governing Legislative Activities

(A.) General Statement of Policy

The Supreme Court has accorded to the Council of the VSB the discretion to exercise the necessary powers to promote reforms in judicial procedure and in the judicial system, to regulate the legal profession and to improve the quality of legal services made available to the people of Virginia. In furtherance of that discretion, the Council recognizes that an important governmental and public interest is met in allowing the participation of the VSB in the legislative process with respect to some issues; and that the expertise of the VSB serves as a valuable resource for the General Assembly of Virginia and the United States Congress in their consideration of some legislative issues. Council also recognizes, however, that the participation of the VSB in the legislative process must necessarily be limited to appropriate subject areas, and should be undertaken only when duly authorized and within the procedures set out below. To this end, Council hereby adopts this policy governing the participation of the VSB, its sections, conferences, boards, committees, officers, and employees in legislative activities.

(B.) Restrictions on Participation in Legislative Activities

1. No officer, employee or member of the VSB shall participate in legislative activities on behalf of the VSB or one of its sections, conferences, boards, or committees unless such participation is authorized as provided herein.
2. No section, board of governors, board, or committee of the VSB shall participate in legislative activities on behalf of the VSB or one of its sections, conferences, boards, or committees unless such participation is authorized as provided herein.
3. For the purpose of this policy, “legislative activity” means:
 - a). publicly asserting a position on a legislative issue;
 - b). appearances before the General Assembly or the United States Congress, or the legislative committees or subcommittees of either; and,
 - c). meeting with members of the General Assembly, Congress, or representatives of the executive branch of the state or federal government for the purpose of promoting, advocating or opposing any matter before the General Assembly or Congress.
4. Nothing in this policy shall be construed to restrict the personal or professional activities of any person when such activities are not undertaken on behalf of the VSB or one of its sections, conferences, boards, or committees.

(C.) Permissible Participation in Legislative Activities

1. Officers, employees and members of the VSB may participate in legislative activities on behalf of the VSB or any of its sections, conferences, boards, or committees when such participation is specifically authorized by the Executive Committee.
2. The Executive Committee may authorize participation in legislative activities on behalf of the VSB or any of its sections, conferences, boards, or committees only when the subject matter of the legislative activities is within one of the following categories:
 - a). the powers and duties of the VSB;
 - b). the regulation of the legal profession;
 - c). budget appropriations for the VSB, the judicial system or legal aid societies;
 - d). the availability of legal services to the public;
 - e). qualifications and standards for admission to the Bar;
 - f). the endorsement of judicial candidates on a nonpartisan merit basis;
 - g). improvements to the quality of the legal services made available to the public;
 - h). reforms in judicial procedure or the judicial system that are intended to improve the quality and fairness of the system; and any other
 - i). matters within the scope of Paragraph 9(j), Section IV, Part 6 of the Rules of the Supreme Court of Virginia.
3. Prior approval by the Executive Committee shall not be required when the subject matter of the legislative activity is:

-
- a). The provision of expert advice on the state of the law at the request of a member of the General Assembly or Congress, or a legislative committee or subcommittee. Such advice shall not, however, express the approval or disapproval of any proposed legislation on behalf of the VSB or any of its sections, conferences, boards, or committees without specific prior approval of the Executive Committee.
 4. Subject to paragraph 6 below, approval of legislative activities under this policy may be delegated by the Executive Committee to the officers when it is not feasible to convene a meeting of the Executive Committee. An officer shall individually poll as many members of the Executive Committee as is practical prior to authorization of the legislative activity in question.
 5. In making a determination on whether to authorize legislative activities, the Executive Committee shall consider, along with any governmental or public interest that may be affected, the degree to which there is perceived to be a substantial consensus among the members of the VSB on the issue involved, and the degree to which the issue is perceived to have significant political or ideological underpinnings.
 6. Whenever the timing makes it feasible, the Executive Committee shall not approve legislative activity without first having the issue and the VSB's proposed position on it submitted to Council for its approval at a regularly scheduled Council meeting. In situations where it is not feasible to seek prior approval by Council, the Executive Committee shall report its approval of any legislative activity to Council at its next regularly scheduled meeting, at which time Council shall vote to endorse or withdraw support for the legislative activity in question.

Approved by VSB Executive Committee
May 1989

Revised by VSB Executive Committee and Approved by Council
October 1990

Revised by VSB Executive Committee and Approved by Council
June 2001

B. Policy Governing Regulatory Activities

(A.) General Statement of Policy

The Supreme Court has accorded the Council of the VSB the discretion to exercise the necessary powers to promote reforms in judicial procedure and in the judicial system, to regulate the legal profession and to improve the quality of legal services made available to the people of Virginia. In furtherance of that discretion, Council recognizes that an important governmental and public interest is met in allowing the participation of the organized Bar in the regulatory process with respect to some issues; and that the expertise of the VSB serves as a valuable resource for the General Assembly of Virginia, the United States Congress and state and federal administrative agencies in their consideration of some regulatory issues. Council also recognizes, however, the participation of the VSB in the regulatory process must necessarily be limited to appropriate subject areas, and should be undertaken only when duly authorized within the procedures set forth below. To this end, Council hereby adopts this policy governing the participation of the VSB, its sections, conferences, boards, committees, officer and employees in regulatory activities.

(B.) Restrictions on Participation in Regulatory Activities

1. No officer, employee or member of the VSB shall participate in regulatory activities on behalf of the VSB or one of its sections, conferences, boards, or committees unless such participation is authorized as provided herein.
2. No section board of governors, conference, board, or committee of the VSB shall participate in regulatory activities on behalf of the VSB or one of its sections, conferences, boards, or committees unless such participation is authorized as provided herein.
3. For the purpose of this policy, the term "regulatory activity" means:
 - a). publicly asserting a position on a regulatory issue;
 - b). appearance before any state or federal administrative agency; or
 - c). meeting with members of any state or federal administrative agency to advocate or promote any action on a regulatory issue.Regulatory activities shall not include appearance before state or federal regulatory agencies or meetings with members or representatives of such agencies in connection with proceedings before the regulatory agency when the VSB or one of its sections, conferences, boards, or committees is a party to the proceedings.
4. Nothing in this policy shall be construed to restrict the personal or professional activities of any person when such activities are not undertaken on behalf of the VSB or one of its sections, conferences, boards, or committees.

(C.) Permissible Participation in Regulatory Activities

1. Officers, employees, and members of the VSB may participate in regulatory activities on behalf of the VSB or any of its sections, conferences, boards, or committees when such participation is specifically authorized by the Executive Committee.
2. The Executive Committee may authorize participation in regulatory activities on behalf of the VSB or any of its sections, conferences, boards, or committees only when the subject matter of the legislative activities is within one of the following categories:
 - a). the powers and duties of the VSB;
 - b). the regulation of the legal profession;
 - c). budget appropriations for the VSB, the judicial system, the administrative adjudicatory system or legal aid societies;
 - d). the availability of legal services to the public;
 - e). qualifications and standards for admission to the Bar;
 - f). the endorsement of judicial candidates or candidates for administrative appointments on a nonpartisan, merit basis;
 - g). improvements to the quality of the legal services made available to the public;
 - h). reforms in judicial procedure or the judicial system that are intended to improve the quality and fairness of the system; and any other
 - i). matters within the scope of Paragraph 9(j) Section IV, Part 6 of the Rules of the Supreme Court of Virginia.
3. Prior approval by the Executive Committee shall not be required when the subject matter of the regulatory activity is:
 - a). the provision of expert advice on the state of the law at the request of a member of the General Assembly or Congress, a legislative committee or subcommittee, or a state or federal administrative agency. Such advice, however, shall not express the approval or disapproval or any proposed regulatory action on behalf of the VSB or any of its sections, conferences, boards, or committees without specific prior approval of the Executive Committee.
4. Subject to paragraph 6 below, approval of regulatory activities under this policy may be delegated by the Executive Committee to the officers when it is not feasible to convene a meeting of the Executive Committee. An officer shall individually poll as many members of the Executive Committee as is practical prior to authorization of the regulatory activity in question.
5. In making a determination on whether to authorize regulatory activities, the Executive Committee shall consider, along with any governmental or public interest that may be affected, the degree to which there is perceived to be a substantial consensus among the members of the VSB on the issue involved, and the degree to which the issue is perceived to have significant political or ideological underpinnings.
6. Whenever the timing makes it feasible, the Executive Committee shall not approve regulatory activity without first having the issue and the bar's proposed position on it submitted to Council for its approval at a regularly scheduled Council meeting. In situations where it is not feasible to seek prior approval by Council, the Executive Committee shall report its approval of any regulatory activity to Council at its next regularly scheduled meeting, at which time Council shall vote to endorse or withdraw support for the regulatory activity in question.

Approved by VSB Executive Committee
May 1989

Revised by VSB Executive Committee and Approved by Council
October 1990

Revised by VSB Executive Committee and Approved by Council
June 2001

C. VSB Conduct, Conflict of Interest and Gift Policy

The Officers, some volunteers and all employees (collectively "Associates") of the Virginia State Bar must maintain the highest level of ethical conduct and professional integrity in serving the Supreme Court of Virginia and the lawyers of the Commonwealth. All Associates must avoid conduct that might influence, or appear to influence, their official decision-making.

Consequently, Associates of the VSB must not:

1. Solicit or accept money, or other things of value, for services performed within the scope of the Associate's official duties, except the compensation, expenses or other remuneration paid by VSB;
2. Offer or accept any money, or other thing of value, for or in consideration of obtaining employment, appointment, or promotion of any person with any governmental or advisory agency;

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3. Offer or accept any money or other thing of value for consideration of the use of the Associate's public position to obtain a contract for any person or entity seeking business with the VSB;
 4. Use, for the Associate's own economic benefit, or that of another, confidential information that the Associate has acquired by reason of the Associate's public position and which is not available to the public;
 5. Accept any money, loan, gift, favor, service, or business or professional opportunity that reasonably tends to influence the Associate in the performance of the Associate's official duties.
 6. Accept any business or professional opportunity when the Associate knows that there is a reasonable likelihood that the opportunity is being afforded the Associate to influence the Associate in the performance of the Associate's official duties;
 7. Accept a gift from a person who has interests that may be substantially affected by the performance of the Associate's official duties under circumstances where the timing and nature of the gift would cause a reasonable person to question the Associate's impartiality in the matter affecting the donor;
 8. Accept gifts from sources on a frequent basis as to raise an appearance of the use of the Associate's public office for private gain; or
 9. Use the Associate's public position to retaliate or threaten to retaliate against any person for expressing views on matters of public concern or for exercising any right that is otherwise protected by law.

For purposes of this policy, Associates of the VSB are not prohibited from accepting gifts in recognition of exceptional performance provided that the gift's value does not exceed \$100, and the gift would not otherwise violate an enumerated prohibition of this policy.

For purposes of this policy, a "gift" does not include items such as:

- discounts and prizes available to the public, or opportunities and benefits to a class consisting of, for example, all Commonwealth employees or all uniformed military personnel;
- commercial loans on terms generally available to the public;
- modest items of food and non-alcoholic refreshments, such as soft drinks, coffee and donuts, offered other than as part of a meal;
- items of little intrinsic value and intended primarily for presentation, such as plaques, certificates, trophies and greeting cards;
- government pension, contracts, or other secured allocations;
- items associated with official duty presentations on speaking days;
- anything for which market value is paid by the Associate.

Associates who violate this policy will be disciplined, including up to termination from employment, termination from volunteer position, or referral to the Supreme Court of Virginia for removal from office.

Reference:

Code of Va., §2.2, Ch. 31, State and Local Government Conflict of Interest Act

Code of Va., §2.2-3103, Prohibited conduct

Code of Va., §2.2-3103.1, Certain Gifts Prohibited

Code of Va., §2.2-3114, Disclosure by state officers and employees

07/14/20

D. Policy Concerning the Use and Disclosure of VSB Email Addresses

Resolved, that the Virginia State Bar will send group emails to its members only:

- 1) in circumstances as determined to be appropriate by the executive director or a majority of the officers of the VSB,
- 2) in a periodic electronic newsletter of official bar news according to guidelines and in a format to be determined by the Communications Department, and
- 3) in a periodic electronic newsletter by the president regarding items of interest, and
- 4) in the case of emails to their members from bar conferences, sections, boards, committees, and task forces, emails may be sent as necessary to carry out the work of the conference, section, board, committee, or task force.

Pursuant to Va. Code § 2.2-3705.1(10), member email addresses are exempt from public disclosure, provided the member has asked the VSB not to disclose it. Such requests can be made on the annual dues statement or in writing to the membership department of

the VSB. In the absence of such a request, member email addresses are record information subject to disclosure to third parties who ask for such information.

Adopted by VSB Council
March 3, 2006

Amended by VSB Council
October 17, 2008

Amended by VSB Council
February 22, 2014

E. Policy on Solicitation or Receipt of Funds and Grants

(A.) Policy

The VSB, including its committees, sections and conferences, should refrain from soliciting or receiving funds from any source to underwrite special projects, programs or purchases. The VSB, including its sections and conferences, is required to comply with state guidelines and restrictions applicable to the solicitation of funds and grants.¹ VSB committees do not have separate budgets and are not permitted to raise funds.

With the exception of sponsorships authorized for events planned by the VSB Bar Services Department in conjunction with the Annual Meeting of the VSB, all committee, board, section, and conference projects, programs and purchases must be funded through the general operating budget of the VSB, or the budgets of its sections and conferences, as may be appropriate, with the approval of the Executive Committee and Council.

If a section or conference of the VSB has a unique need which would require solicitation or receipt of funds for a project, program, or purchase not authorized in its budget, it must seek special approval from the Executive Committee of the VSB in advance of the solicitation using the attached *VSB Request Form for Solicitation or Receipt of Grants and Other Funds* (see page 35).

If a section or conference has a unique need which would require a grant, it must seek the executive director's approval prior to submitting a grant application. All grant applications and any paperwork related to receipt of grant funds must be signed by the executive director or deputy executive director, and a copy of the grant application and any approval must be provided to the VSB finance/procurement director.

Approved by VSB Executive Committee
April 28, 1994
September 22, 2016

Footnote:

- 1 Section 4-2.01(a)(1) of the Appropriations Act provides that "[n]o state agency shall solicit or accept any donation, gift, grant, or contract without the written approval of the Governor except under written guidelines issued by the Governor which provide for the solicitation and acceptance of nongeneral funds..." Blanket approval to solicit and accept grants and donations that may become available from individuals, law firms, non-profits or other corporations for the purpose of hosting a specific event or project must be received from each Virginia governor.

*Revised 9/22/16
Footnote revised 9/4/18*

(B.) Criteria for Evaluating Grants, Solicitation Requests and Offers or Donations of Funds

The following criteria will be considered when evaluating a request for funds to be raised through a grant, solicitation, donation or offer of funds for a program or project.

1. Description of project.
2. Sponsor/Co-sponsor of project.
3. Date(s) of project.
4. Goals of project.
5. Target audience/beneficiaries.
6. Funding/Budget.
 - A. Expenses.
 - B. Potential income.
 - C. Why project is not in budget.

**VIRGINIA STATE BAR REQUEST FORM FOR
SOLICITATION OR RECEIPT OF GRANTS AND OTHER FUNDS**

Bar policy requires approval by the executive director **BEFORE** solicitation or acceptance of any grant or receipt of funds, and approval by the Executive Committee **BEFORE** solicitation or acceptance of funds from any entity.

Are you applying for a grant? **yes** **no**
Are you soliciting or receiving funds from individuals? **yes** **no**
Are you soliciting or receiving funds from organizations? **yes** **no**

On a separate piece of paper, please respond to the following:

1. Describe the project or event you want funded by money solicited or received from another entity or from grant funds. Include anticipated accomplishments, goals, time frame, any sponsors or co-sponsors, the target audience, beneficiaries, etc.
2. **If this is a grant**, what organization will be providing the funds if the grant application is approved? Please attach a copy of the grant application you intend to file.
3. What is the budget for this project or event?
4. How much money will be provided by the granting organization? Will the bar be obligated in any way (dollars or staff support)?
5. Why do you want to use grant funds or funds solicited or received from individuals or another organization? Why is this project not included in the VSB operating budget?
6. Who will manage/oversee the project or event? Grant management includes making sure expenses are allowed within the approved grant and within the guidelines of the Virginia State Bar; reviewing and approving invoices for payment and filing periodic reports as required by the grantor in a timely manner.
7. Has this project has been implemented before?
8. Is there any other bar association that has a similar project?
9. Have there been previous requests for solicitation or grant funds for a similar project? If so, what was the Executive Committee or executive director action on any previous requests?
10. **If this is a solicitation** for funds or approval request for receipt of funds from individuals or organizations, please provide the following:
 - a. Who/how many persons or entities will be solicited or who and how many persons or entities are offering or donating funds.
 - b. Whether the person or entity has been solicited before by the VSB or has previously donated or offered funds to the VSB.
 - c. Whether this is a one-time solicitation request.
 - d. Amount/contribution requested.

Submitted by: _____

Date: _____

Approved by: _____

Date: _____

cc: VSB Finance/Procurement Director

Revised 9/22/16

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7. Description of solicitation proposal, grant application, donation or offer of funds.
 - A. Who/how many persons or entities will be solicited for funds or grant, or who/how many persons or entities are offering or donating funds.
 - B. Whether the person or entity has previously been solicited by, or issued a grant, donated or offered funds to the VSB or its sections or conferences.
 - C. Whether this is a one-time solicitation request.
 - D. Amount/contribution requested or offered or donated.
 8. Whether the project has been implemented before.
 9. Whether any other bar association has a similar project.
 10. Previous requests for solicitation or grants, offers or donations and Executive Committee or executive director action on such requests.

F. Policy on Individual Remote Participation in Meetings and All-Virtual Meetings Pursuant to Virginia Code Section 2.2-3708.3

The Virginia State Bar (VSB) is committed to providing public access, both in person and through electronic communication means, to its public meetings. To that end, the VSB, through its Council, hereby adopts this policy to reflect its implementation of the Virginia Freedom of Information Act as that act applies to open meetings of public bodies. This policy shall apply strictly and uniformly, without exception, to all members of committees, subcommittees or other entities of any public bodies that are part of the VSB.

As of September 1, 2022, the relevant statute is Va. Code §2.2-3708.3. However, this policy applies until rescinded, revoked or revised, regardless of any changes in the numbering of the relevant statute. For additional information on VFOIA see page 43.

1. Individual Member Remote Participation (“Hybrid” in-person/remote meetings)

An individual member of a VSB public body may use remote participation instead of attending a public meeting in person if, before the public meeting, the member notifies the public body chair that one of the following applies:

1. The member has a temporary or permanent disability or other medical condition that prevents the member’s physical attendance; or
2. A medical condition of a member of the member’s family requires the member to provide care that prevents the member’s physical attendance; or
3. The member’s principal residence is more than 60 miles from the meeting location identified in the required notice for such meeting; or
4. The member is unable to attend due to a personal matter and identifies with specificity the nature of the personal matter. The member may not use remote participation due to personal matters more than two meetings per calendar year or 25 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater.

The public body must approve such participation through electronic communication means and record in its meeting minutes a general description of the remote location from which the member participated, but the remote location need not be open to the public. If the public body approves the member’s remote participation, the public body shall include in its minutes the reason for the member’s participation by electronic communication means. If the reason for the member’s remote participation is a personal matter, the minutes shall include the specific nature of the personal matter cited by the member.

If the VSB public body disapproves the member’s remote participation, such disapproval shall be recorded in the minutes with specificity.

2. All-Virtual Meetings (“All remote” participation)

The VSB adopts this policy for all-virtual meetings consistent with Virginia Code Section 2.2-3708.3.C. This policy shall apply strictly and uniformly, without exception, to all members of committees, subcommittees or other entities of any VSB public bodies except for any VSB public bodies with the authority to deny, revoke, or suspend a professional or occupational license. The chair of the VSB public body will decide if the public body will hold an all-virtual meeting, provided that the public body does not convene an all-virtual meeting more than two times per calendar year or 25 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater, and the VSB public body will not convene two con-

secutive all-virtual meetings. If the VSB public body convenes by an all-virtual meeting, the VSB public body will adhere to the notice requirements and technical requirements enumerated in Virginia Code Section 2.2-3708.3.C1¹, including, but not necessarily limited to

1. Providing public notice as to whether the meeting will be in-person or all-virtual;
2. Providing public access via electronic communication means that allows the public to hear all members of the public body and to see the members if audio-visual technology is available;
3. Providing a phone number or other live contact information so that the public body can be alerted if the transmission of the meeting fails, and in the event of such failure, taking a recess until public access is restored;
4. Making available to the public a copy of the proposed agenda and public meeting materials in electronic format;
5. If public comment is customarily received, affording the public an opportunity to comment through electronic means, including by submitting written comments; and
6. Including in the meeting minutes that fact that the meeting was held by electronic communication means and the type of electronic communication means by which the meeting was held.

If an all-virtual meeting is held, no more than two members of the VSB public body may be together in one remote location unless that remote location is open to the public to physically access that location.

If a closed session is held during an all-virtual meeting, transmission of the meeting to the public must resume before the public body votes to certify the closed meeting as required by Virginia Code Section 2.2-3712.

This policy was adopted by the Virginia State Bar Council at its meeting on September 7, 2022.

Footnote:

1. See §2.2-3708.3.C.1.-10.

G. Virginia State Bar Social Media Policy

Social media offers an important means for the VSB to communicate and share information with its members and the public. The VSB supports the sensible use of social media as a means to assist in achieving the VSB's mission by increasing member engagement, enhancing the VSB's public profile, and improving access to information about the VSB. However, the use of social media may not be appropriate in all instances, nor for all kinds of outreach. As the use of social media may, in some instances, conflict with the VSB's interests, Council has adopted the following policy governing the use of social media.

Scope

This policy applies to the VSB's conferences, sections, committees, subcommittees, boards, panels, task forces, and related programs or groups (each, a "VSB entity" and, collectively, "the VSB entities") and its volunteers. This policy governs the manner in which a VSB entity may create or maintain a social media presence that identifies, expressly or by implication, the VSB entity or its social media presence as being sponsored by, administered by, or affiliated with the Virginia State Bar (a "VSB social media presence"). This policy also applies to a member's or volunteer's use of social networking or social media in a manner that identifies, expressly or by implication, that member's or volunteer's commentary or posting as being sponsored by, administered by, approved by, or affiliated with the VSB. This policy does not apply to a member's or volunteer's use of social networking or social media that is unrelated to the VSB.

For the purposes of this policy, "social media" means websites that may permit interaction and communication, including but not limited to online posting, commentary, and publication, also known as "social networking," among users. Some examples of social media include, but are not limited to, personal and professional websites, email websites, blogs, chat rooms, listservs, bulletin boards, networking websites such as Facebook, LinkedIn, Twitter, Instagram, Snapchat, and YouTube.

All VSB entities creating or maintaining a VSB social media presence, and any VSB member or volunteer using social networking or social media in a manner that identifies, expressly or by implication, that member's or volunteer's commentary or posting as being sponsored by, administered by, approved by, or affiliated with the VSB, are expected to do so responsibly, professionally, ethically, and lawfully, and in accordance with this policy.

Social Media Activity by VSB Volunteers

The VSB respects the right of its members and volunteers to use social media and engage in social networking. However, only those officially and expressly designated by the VSB are authorized to engage in social media activity on behalf of the VSB. This policy applies to a member's or volunteer's use of social networking or social media in a manner that identifies, expressly or by implication, that member's or volunteer's commentary or posting as being sponsored by, administered by, approved by, or affiliated with the VSB.

For purposes of this policy, a posting that identifies its author as being a member of the VSB shall not be deemed, on that basis alone, to state or imply that the author's commentary or posting is sponsored by, administered by, approved by or affiliated with the VSB. When appropriate, volunteers must make clear that they are not speaking on behalf of the VSB. VSB members and volunteers are personally liable for all communications and information they publish online on their behalf; provided, however, that no third party beneficiaries are created by this policy.

Establishing and Administering a VSB Social Media Presence

Each VSB entity desiring to create a social media presence will work with its VSB staff liaison (or his/her designee) to determine the VSB entity's objectives and the proper social media venues, if any, and to approve any such venues. The VSB entity must create and submit to the VSB Communications Department for approval, through the staff liaison, a plan for its social media presence. The plan, which shall be memorialized in writing (such as in an e-mail), should include: (a) the social media tools the VSB entity desires to use; (b) the objective of the use; (c) the guidelines for use to be followed by members of the VSB entities; (d) the oversight mechanism that will be used; (e) the VSB entity's plans for generating regular and relevant content; and (f) the identity of the position at the VSB entity responsible for administering the VSB social media presence. Creation and administration of the VSB social media presence shall be the responsibility of the VSB entity with oversight from the staff liaison in accordance with this policy.

Wherever possible, the social media presence must clearly and conspicuously indicate its affiliation with the VSB and must contain direct links back to the VSB website in a manner prescribed to the staff liaison by the VSB Communications Department.

VSB entities shall work with their staff liaison to coordinate the development of appropriate and approved graphics for the VSB social media presence. No VSB social media presence shall use the VSB's logo without prior written approval from the VSB's executive director or his/her designee.

The VSB reserves the right to remove or demand removal of any content deemed inappropriate or not in keeping with this policy. VSB entities are responsible, in collaboration with their staff liaison, for complying with these guidelines.

Using social media

VSB entities are expected to use good judgment and common sense when using social media in ways that pertain to, concern, or relate to the VSB. The following content standards apply to any VSB social media presence:

- A. Content posted to social media should be relevant to the mission of the VSB entity and the Virginia State Bar. All statements must be true to the best of the knowledge and belief of the participating VSB entity and not be misleading. Private information about posters or others is prohibited. Content must adhere to state and federal law, including the Rules of Professional Conduct and laws and rules governing the privacy of individuals and confidential information of clients. No VSB social media presence shall contain material that is obscene, defamatory, profane, libelous, threatening, harassing, abusive, hateful, or embarrassing to another person or entity, or to the VSB.
- B. Content must comply with the applicable rules and terms of use of the social network or social media page, to the extent those rules and terms of use are not inconsistent with this policy.
- C. No VSB entity or volunteer shall post content to social media that fails to conform to all applicable state and federal laws.
 1. Without limitation, this includes compliance with copyright law by ensuring that the VSB entity has permission to use or reproduce any copyrighted text, photos, graphics, video, or other material owned by others. Any copyrighted or borrowed material must be identified with appropriate citations and links, giving credit to the original publisher or author.
 2. Without limitation, this includes antitrust laws. No content shall encourage or facilitate agreements between VSB members of different firms concerning the following, as they pertain to legal services: prices, discounts, or terms or conditions of sale; salaries; profits, profit margins, or cost data; market shares, sales territories, or markets; allocation of customers or suppliers; or any other term or condition related to competition.
- D. No VSB social media presence shall contain confidential or non-public proprietary information of or about the VSB.
- E. Content must comply with all other applicable VSB policies, including, without limitation, the VSB's policies concerning legislative and regulatory activities. In addition, no VSB entity shall use a VSB social media presence for the purpose of interfering with or affecting the result of an election or a nomination for public office, or advocating for or against a political party, candidate for political office, or political group.

Media Inquiries

Social media postings may generate media coverage. If a member of the media contacts a VSB entity about a VSB social media presence, that contact should be referred to the VSB's executive director.

Enforcement

VSB entities failing to comply with this policy may forfeit the right to participate in social media activities sponsored by, administered by, approved by, or affiliated with the VSB. Moreover, nothing in this policy alters, derogates from, or otherwise affects VSB members' (a) legal obligations under civil or criminal law or (b) ethical and professional obligations under the Rules of Professional Conduct.

Risk Management and Loss Prevention

The VSB does not maintain any liability insurance policies in force and does not provide any indemnification that could protect a VSB member or volunteer from consequences of participation in social media, including but not limited to participation in a VSB social media presence.

Changes

The VSB may amend this policy at any time and from time to time, and all VSB entities must conform to this policy as so amended. No vested rights are granted by the policy to anyone.

Disclaimer

The VSB accepts no liability or responsibility for the content of any target site linked from its website or social media accounts. The VSB accepts no liability or responsibility for any content published on any VSB social media site by any person other than the VSB.

Approved by VSB Communications Committee October 2010

Approved by VSB Executive Committee October 14, 2010

Approved by VSB Council October 15, 2010

Approved by VSB Executive Committee June 14, 2017

Approved by VSB Council June 15, 2017

H. Policy on Content of Publications of Virginia State Bar Committees, Boards, Conferences, Sections, and *Virginia Lawyer*

All VSB publications address matters germane to the VSB's mission, the practice of law, and the purpose of each specific committee, board, conference, or section. Contributors to such publications have been given access to these forums for the specific purpose of educating and informing members about matters falling within the scope of each publication, rather than as a forum for expressing their views or opinions on other topics or matters. If a contributor wishes to express their views on other topics or matters of general importance—including in the contributor's capacity as a lawyer-citizen—there are numerous other outlets for doing so.

This policy applies to any content produced by VSB committees, boards, conferences, and sections including but not limited to: articles, letters to the editor, newsletters, pamphlets, brochures, web pages, emails, and social media posts ("Content").

Virginia Lawyer

Virginia Lawyer seeks articles written by members of the Virginia State Bar (or those that provide information useful to VSB members) that:

- address specific issues in areas of law that are widely practiced
- cover new fields of law or subspecialties
- are of interest to a significant portion of our members

We will decline articles that:

- are political in tone or content
- denigrate the legal profession
- criticize sitting members of the judiciary
- address a writer's pending litigation
- are too minutely focused
- promote a specific business
- do not conform to these guidelines

We reserve the right to edit all submissions for length, clarity, organization, and style; substantive changes are subject to author approval.

We reserve the right to determine when an article is published. If your article is appropriate for a theme issue, your article may be sent to the theme issue editor for consideration; theme articles are published according to the theme issue schedule which may be found on the *Virginia Lawyer* pages at www.vsb.org.

Virginia Lawyer does not publish articles that have been published elsewhere.

Letters to the Editor

Virginia Lawyer welcomes letters to the editor. An individual's opinion on an important legal topic, as well as a dialogue among bar members, as voiced in a civil exchange of public letters, are valuable to the membership of the VSB. Letters should discuss issues related to the regulation of the legal profession, improving the quality of legal services to Virginians, the programs and activities of the VSB, and articles or other materials published in *Virginia Lawyer*. Letters must not contain language constituting an attack upon an individual, group, or organization, as opposed to an idea, and may not promote individual products, services, or political candidates. We reserve the right not to publish every letter we receive.

Generally, letters are about 250 words in length and are from members in good standing of the VSB. Members should include their name and bar number for verification. Email the editor at dnorman@vsb.org or Editor, Virginia State Bar, 1111 E. Main Street, Suite 700, Richmond, VA 23219-0026.

Licensing

All authors grant the VSB the right to reproduce, distribute, and publish their work in all forms and media throughout the world, to prepare translations and other works that derive from their work, and to license and authorize others to do all these things. The authors retain a royalty-free, perpetual right to use, reproduce, and distribute their work, and to create derivative works once the VSB publishes the work.

We reserve the right to refuse to publish any Content.

Style guidelines and manuscript requirements may be found at on the *Virginia Lawyer* page at www.vsb.org.

See also *VSB Social Media Policy* for additional information on page 37.

Effective October 2018

I. Digital Privacy Policy

This privacy policy covers all pages of the Virginia State Bar website, including, without limitation, the following:

- those based on the domain of www.vsb.org, including all section and conference websites,
- the Virginia Lawyer Referral Services website at www.vlrs.net, and vlrs.communitylawyer.com,
- the sign in portal,
- event registration,
- Virginia Lawyer magazines at <https://virginialawyer.vsb.org/>, and
- the So You're 18 website at <http://soyoure18.com>.

Collectively, these are the "VSB website."

This privacy policy also covers the VSB's use of emails provided by Virginia lawyers to the VSB and social media accounts maintained by the VSB.

The following information shall not be interpreted as a contract of any nature, either stated or implied. The VSB reserves the right to amend the Digital Privacy Policy statement at any time without notice.

Date of last revision: August 14, 2023.

External Links

The VSB website provides links to external websites that are not controlled, maintained, sponsored, or regulated by the VSB or any organization affiliated with the VSB. These links are included solely for their value as educational, reference, or research tools. The inclusion of a hyperlink to an external website is not intended as an endorsement of any product or service offered or referenced on the linked website, the organizations sponsoring said website, or any views that might be expressed or referenced in the website. The VSB is not responsible for the content of those websites. When you move via such links to another website, the policy described on this page will not apply.

Hyperlinks to external websites and pages may be removed or replaced at any time without notice.

If a hyperlink on the website is not working, please contact the web content manager by emailing vsbinfo@vsb.org.

No Attorney-Client Relationship

The VSB does not create an attorney-client relationship by maintaining this website or by allowing you access to it. Also, the VSB website may allow you to subscribe to electronic publications such as newsletters. Subscription to these publications does not create an attorney-client relationship. While the VSB strives to keep material on this site current and accurate, it is possible that information on this site or in electronic publications may be inaccurate, incomplete, outdated, or inapplicable to your legal needs.

Please do not send any requests for legal advice via the interactivity that may be offered by the VSB website, such as the email addresses of section members. You should assume that such communications will not be attorney-client privileged.

Information Collected

When you visit the VSB website, your Internet Protocol (IP) address, the type of browser you use, the date and time of your visit, the pages or services you visited, and the name of the website that referred you to the VSB website are collected.

The VSB uses cookies, small data files that the VSB website places on your computer to keep track of your preferences, to collect and store information when you visit the site. The VSB uses this information to evaluate and improve the site's content and usefulness.

Most browsers automatically accept cookies by default, but you may refuse cookies or selectively accept certain cookies by adjusting the preferences in your browser. If you turn off cookies, there may be some features of the VSB's website that will not be available to you, and some pages may not display properly.

When you electronically submit information via the VSB website, the VSB may request that you provide certain information in order to deliver the service(s) requested by you and possibly to communicate with you regarding VSB matters. If you request to unsubscribe to such service(s), the VSB will attempt to process your unsubscribe request as soon as possible.

The VSB website may permit you to send email to listed individuals, including lawyers who hold various VSB positions. As noted above, such communications may not be attorney-client privileged. Also, because such communications are not part of an attorney-client relationship, individuals have no legal duty to respond.

The VSB website may allow you to request information be contained in a VSB printed or digital publication. If you so request, the information you provide may be used for that purpose and may be included in other publications and informational materials of the VSB.

Third-Party Service Providers

The VSB uses third-party service providers to help it communicate with Virginia lawyers, measure the performance of the VSB website, provide web-based services, and analyze and monitor the effectiveness of email communications.

The VSB uses third-party service providers in order to efficiently send email communications to Virginia lawyers. These third-party providers allow the VSB to track individual statistics about a lawyer's engagement with the email, such as whether a lawyer has opened or clicked the email. Aside from lawyer contact information, the VSB does not share any personal information about lawyers with third-party service providers. In compliance with the CAN-SPAM Act, Virginia lawyers can unsubscribe from mass emails sent from the VSB via the third-party provider. Third-party service providers that the VSB has contracted with are prohibited from sharing, selling, or renting lawyer information and email addresses. However, the VSB has no control over how other information may be collected or used by the owner or operator of any third-party provider, and the VSB encourages lawyers to read any privacy policy posted on a third-party site.

The VSB also maintains social media accounts that all members of the public may voluntarily view and follow. People that choose to follow and engage with the VSB on these external sites do so publicly. Many third-party social media providers allow the VSB to track engagement with its content, including who has viewed, clicked, and commented. The VSB encourages users of social media websites and apps to read any privacy policy posted on a third-party site.

Applicable Law

The VSB protects its records in accordance with obligations as defined by applicable state and federal statutes. Under the Virginia Freedom of Information Act (VFOIA), any records in the VSB's possession at the time of a VFOIA request might be subject to inspection by or disclosure to members of the public. However, identifiable personal information will be removed when permitted by VFOIA.

Restrictions on Disclosure of User Information

The VSB does not sell or rent information collected about website users (see: "Information Collected") to any outside organization. The VSB does not reveal specific information about website users to organizations outside the VSB, its sections, and local bar organizations for their independent use, unless required to do so by VFOIA or other law.

Correction of Collected Information

If you submit any personally identifying information via the VSB website, you may gain access to this information by calling the VSB during its business hours. At such time, you also may request that such information be updated or otherwise corrected.

Distribution Privacy

If and when the VSB sends mass emails to any distribution list, it will do so in a manner such that no recipient sees the identities of other recipients.

Security

The VSB does not request or anticipate that you will disclose any private information via the VSB website, such as health information, financial information, medical information, or Social Security numbers.

The VSB has implemented measures designed to secure your personal information from accidental loss and from unauthorized access, use, alteration, and disclosure. The safety and security of your information also depends on you. You are responsible for safeguarding the username and password associated with your portal account and notifying the VSB immediately if you suspect your account has been compromised.

The transmission of information via the internet is not completely secure. Although the VSB does its best to protect your personal information, the VSB cannot guarantee the security of your personal information transmitted to or through its website. Any transmission of personal information is at your own risk. The VSB is not responsible for circumvention of any privacy settings or security measures contained in the VSB websites.

Protection of Information Via Established Security Procedures

The VSB maintains security standards and procedures to prevent unauthorized removal or alteration of data to ensure that this service remains available to all users, and to prevent unauthorized attempts to upload or change information or otherwise cause damage.

No Liability for Acts of Third Parties

The VSB will use reasonable efforts to safeguard the confidentiality of data provided via the VSB website. Nonetheless, transmissions made by means of the internet cannot be made absolutely secure by the VSB, since the VSB does not control the internet. The VSB disclaims any liability for disclosure of data due to errors in transmission by third parties or unauthorized acts of third parties.

Copyright

The copyright to the VSB website is owned by the VSB, and pages are marked with a notice at the bottom. Permission is granted to website visitors to make fair use of the contents, as per U.S. Copyright Office Fair Use principles. If you are in doubt about whether your use constitutes fair use, please send a request for explicit permission to copy the contents to the web content manager at vsbinfo@vsb.org.

Questions

If you have questions about the VSB Digital Privacy Policy or website, please contact us at vsbinfo@vsb.org.

Disclaimer

The VSB does not warrant the accuracy, reliability or timeliness of any information published by this system, nor endorse any content, viewpoints, products, services, or advertisements linked from this system, and shall not be held liable for any losses caused by reliance on the accuracy, reliability, or timeliness of such information. Portions of such information may be incorrect or outdated. Any person or entity who or which relies on any information obtained from this system does so at his/her/its own risk. The information and statements contained on this site shall not be used for the purposes of advertising, nor to imply the endorsement or recommendation of the VSB.

Terms and Conditions of Use for Virginia Lawyer Referral Services portal

The Virginia Lawyer Referral Service is a service of the VSB. The VLRS pages are designed to provide general information to the public and are not intended to, and do not, offer legal advice. The VSB makes no warranties or representations concerning an attorney's ability to handle a client's particular legal matter. The decision to employ an attorney is solely that of the client, subject to the attorney's willingness to accept employment. There is no attorney-client relationship formed by any use of the information provided on the website, the VLRS application, or by VSB staff. If your legal problem is an emergency, you should consult an attorney immediately.

IV. Virginia Freedom of Information Act (VFOIA) and Virginia Public Records Act (VPRA)

I. INTRODUCTION

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

- Virginia Freedom of Information Act (VFOIA), Va. Code § 2.2-3700, *et seq.*, and
- Virginia Public Records Act (VPRA), Va. Code § 42.1-76, *et seq.*

❖ VFOIA ensures Virginians access to both:

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

❖ VPRA governs how long a government entity must **retain certain records.**

II. RECORDS

Records are broadly defined under both VFOIA and the VPRA to include all recorded information, whatever the form, **prepared for or used in the transaction of public business.**

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

1. Examples include but are not limited to:

- emails,
- text messages,
- handwritten notes,
- typewritten documents,
- electronic files,
- audio, or video recordings,
- CDs,
- emails,
- photographs, or
- any other written or recorded media; and
- Minutes of meetings of public bodies.

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

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

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

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

- c. **VFOIA Exemptions** — under VFOIA, all public records are **open to the public**, unless a specific exemption in law allows the record to be withheld.

1. Statutory exemptions include:

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

2. Rules of Court exemptions include: Part Six, Section IV, Paragraph 10-2.E. ADVISORY OPINIONS OR RULES. Confidentiality. Provides that the records of the Ethics Committee, including Committee deliberations, memoranda, correspondence, and work product shall be confidential and privileged and will not be provided to anyone absent a court order.

-
3. Rules of Court exemptions include: Part Six, Section IV, Paragraph 10-5.C. ADVISORY OPINIONS OR RULES. Confidentiality. Provides that communications between Ethics Counsel and members requesting advice are confidential.
 4. Rules of Court exemptions include: Part Six, Section IV, Paragraph 13-30.A. CONFIDENTIALITY OF DISCIPLINARY RECORDS AND PROCEEDINGS. Confidential Matters.
 - Bar complaints, unless introduced at a public hearing or incorporated in a Charge of Misconduct, when the matter is placed on the public docket, or a Certification.
 - Bar investigations, except Reports of Investigation admitted as exhibits at a public hearing
 - Impairment proceedings.
 - Notes, memoranda, work product, research of Bar Counsel.
 - Records protected by RPC 1.6.
 - Subcommittee records and proceedings, except determinations imposing public discipline.
 - Deliberations and working papers of the District Committees, Disciplinary Board, and three-judge Circuit Courts.
 5. Rules of Court, Part Six, Section IV, Paragraph 13-30. K. Records of the Disciplinary System. In no case shall confidential records of the attorney disciplinary system be subject to subpoena.
- d. Requests for Information/Records** — if you receive any request for information or records in connection with your work with the VSB, please contact your staff liaison. The VSB must timely, within five business days, respond to any request for production, including citing any appropriate exemption and/or producing the non-exempt records.
- e. Retention of Records** — the following rules govern your retention of Bar-related records:
1. Any records you receive from the VSB are duplicates unless you have taken substantive notes and have documents that should be included as part of the work product of the file.
 2. If you send an email that relates to the transaction of section business, please either copy or forward to your liaison. Once sent to your liaison, you do not have to preserve it.
 3. If you create a record outside of what is provided to you by the VSB, please scan or copy it and send it to your liaison.
 4. Once the VSB liaison is in possession of any records you have created or obtained outside of what the VSB provided to you, you may destroy your case file.
 5. Try not to commingle personal and official emails. Private emails do not need to be retained; emails relating to the transaction of public business do. When sending emails or otherwise acting on behalf of the VSB, please be mindful of the fact that you are creating a public record.
 6. If you have any questions, please do not hesitate to call your liaison.

III. MEETINGS

A meeting is defined as **three or more members of the public body**, or a quorum if the public body is less than three members, **where public business is transacted or discussed**, whether or not minutes or votes or taken. To avoid an accidental electronic meeting, please do not e-mail more than one other member about VSB business, and please do not hit reply all if other members of the committee are copied on the email. Please use the “bcc” (blind carbon copy) option when emailing a group.

- a. Meetings requirements** — VFOIA imposes various requirements for meetings applicable to all public bodies; these include:
1. post notice of meetings at least three working days in advance of the meeting;
 2. ensure the meeting is open to the public; and
 3. take and preserve minutes.

With the three means by which public meetings may be conducted, (i) in-person, (ii) hybrid, (iii) all virtual, and specific requirements relating to each, please contact your staff liaison for assistance. See the *Policy on Individual Remote Participation in Meetings and All-Virtual Meetings* on page 36.

V. Budget and Finance

A. Overview of Financial Operation and Budget Process

(A.) General Assembly Appropriation

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

(B.) Special Funds

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

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

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

The Clients' Protection Fund was established in 1976 to make monetary awards to persons who have suffered financial losses because of the dishonest conduct of a Virginia lawyer. The fund is administered by a fourteen member board and operates under rules approved by the Council. From 1976 to 2005, the fund was primarily capitalized by member dues through transfers from the State Bar Fund. In 2007, the General Assembly and the Supreme Court approved a \$25 per year assessment for each active member of the bar. In February 2013, the General Assembly extended the assessment through June 30, 2020. In September 2017 the Supreme Court reduced the assessment for each active member of the bar to \$10. This change was effective 7/1/2018. Also effective 7/1/2018, the General Assembly extended the CPF sunset provision from 7/1/2020 to 6/30/2023. The current assessment effective 7/1/2021 is \$5. The General Assembly removed the CPF sunset provision from VA. Code § 54.1-3913.1 effective July 1, 2023.

(C.) Annual Process for Operating Budget

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

B. Financial Policies

(A.) Dues Increases

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

(B.) Expenses for Group Functions

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

(C.) Use of State Bar Funds

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

Approved by VSB Executive Committee
December 1988

Approved by Council
February 1989

(D.) Alcohol and Spouse Expenses

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

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

C. Volunteer Expense Reimbursement Procedures

(a.) Volunteer Travel Expense Reimbursement Guidelines

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

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

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

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

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

(b.) Invoices and Miscellaneous Expenses

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

Request for Taxpayer Identification Number and Certification



Section 1 - Taxpayer Identification	<input type="checkbox"/> Social Security Number (SSN) <input type="checkbox"/> Employer Identification Number (EIN) <div style="display: flex; justify-content: space-around; width: 100px;"> <div style="border: 1px solid black; width: 20px; height: 20px;"></div> <div style="border: 1px solid black; width: 20px; height: 20px;"></div> <div style="border: 1px solid black; width: 20px; height: 20px;"></div> <div style="border: 1px solid black; width: 20px; height: 20px;"></div> <div style="border: 1px solid black; width: 20px; height: 20px;"></div> <div style="border: 1px solid black; width: 20px; height: 20px;"></div> <div style="border: 1px solid black; width: 20px; height: 20px;"></div> <div style="border: 1px solid black; width: 20px; height: 20px;"></div> </div>		Please select the appropriate Taxpayer Identification Number (EIN or SSN) type and enter your 9 digit ID number . The EIN or SSN provided must match the name given on the "Legal Name" line to avoid backup withholding. If you do not have a Tax ID number, please reference "Specific Instructions - Section 1." If the account is in more than one name, provide the name of the individual who is recognized with the IRS as the responsible party.			
	Unique Entity Identifier (UEI) (see instructions) <div style="display: flex; justify-content: space-around; width: 100px;"> <div style="border: 1px solid black; width: 20px; height: 20px;"></div> <div style="border: 1px solid black; width: 20px; height: 20px;"></div> <div style="border: 1px solid black; width: 20px; height: 20px;"></div> <div style="border: 1px solid black; width: 20px; height: 20px;"></div> <div style="border: 1px solid black; width: 20px; height: 20px;"></div> <div style="border: 1px solid black; width: 20px; height: 20px;"></div> <div style="border: 1px solid black; width: 20px; height: 20px;"></div> <div style="border: 1px solid black; width: 20px; height: 20px;"></div> <div style="border: 1px solid black; width: 20px; height: 20px;"></div> <div style="border: 1px solid black; width: 20px; height: 20px;"></div> </div>		Legal Name: _____ Business Name: _____			
	Entity Type		Entity Classification		Exemptions (see instructions)	
	<input type="checkbox"/> Individual <input type="checkbox"/> Corporation <input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> S-Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> C-Corporation <input type="checkbox"/> Trust <input type="checkbox"/> Disregarded Entity <input type="checkbox"/> Estate <input type="checkbox"/> Limited Liability Company <input type="checkbox"/> Government <input type="checkbox"/> Partnership <input type="checkbox"/> Non-Profit <input type="checkbox"/> Corporation		<input type="checkbox"/> Professional Services <input type="checkbox"/> Medical Services <input type="checkbox"/> Political Subdivision <input type="checkbox"/> Legal Services <input type="checkbox"/> Real Estate Agent <input type="checkbox"/> Joint Venture <input type="checkbox"/> VA Local Government <input type="checkbox"/> Tax Exempt Organization <input type="checkbox"/> Federal Government <input type="checkbox"/> OTH Government <input type="checkbox"/> VA State Agency <input type="checkbox"/> Other		Exempt payee code (if any): (from backup withholding) _____ Exemption from FATCA reporting code (if any): _____	
	Contact Information					
	Legal Address: _____ City: _____ State : _____ Zip Code: _____		Name: _____ Email Address: _____ Business Phone: _____			
	Remittance Address: _____ City: _____ State : _____ Zip Code: _____		Fax Number: _____ Mobile Phone: _____ Alternate Phone: _____			
	Under penalties of perjury, I certify that: <ol style="list-style-type: none"> 1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and 2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or c) the IRS has notified me that I am no longer subject to backup withholding, and 3. I am a U.S. citizen or other U.S. person (defined later in general instructions), and 4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct. 					
	Certification instructions: You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See instructions titled Certification					
	Printed Name: _____					
Authorized U.S. Signature: _____				Date: _____		

VI. Communications

The VSB Communications Department is responsible for producing and overseeing the content that informs and educates Virginia lawyers and members of the public about the VSB's rules, work, and mission. Publications include the pages of vsb.org, *Virginia Lawyer* magazine, emails, social media, free legal information brochures, annual reports, conference and section newsletters, and meeting and seminar programs.

Please refer to the policy on content for the Virginia State Bar *Virginia Lawyer* magazine and the publications of VSB committees, boards, conferences, and sections on page 39.

A. *Virginia Lawyer*

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

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

Committee, Board, Conference, and Section Participation in *Virginia Lawyer* Magazine

- **Bar News**

Virginia Lawyer offers a number of ways for committees, boards, conferences, and sections to educate lawyers and to promote membership. The first is through the Noteworthy section, which provides highlights of VSB news, CLE recaps, and programs hosted by conferences and sections. It offers a means for every lawyer in Virginia to know what your group is doing and, in turn, helps to encourage involvement and section membership. Send your announcement to the editor by email to dnorman@vsb.org, or call (804) 775-0594. If you are highlighting a recent seminar or meeting, we encourage photos to accompany your announcement. Digital files should be sent as high-resolution (300 ppi) in jpg, eps, or tiff attachments. Copy deadlines for news are generally seven weeks before the publishing dates listed above.

- **Dedicated Issues**

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

B. Brochures

The VSB Communications Department produces more than twenty brochures for use by attorneys and the general public. For a list of these publications, visit the Publications page at www.vsb.org.

If your group is interested in producing a brochure, a request for new publications may be made by filling out an impact statement (see pages 28–29) and sending it to cpersinger@vsb.org

C. Videos

The VSB Council has enacted guidelines for video production by committees, boards, conferences, and sections. These guidelines are reprinted below.

1. An idea for a video should be accompanied by a proposal that includes a VSB impact statement (see pages 28–29) for the proposed video and an outline of the script.
2. Based on the idea, outline, cost, and availability of resources, the Communications Department will make recommendations to the section, conference, or committee.
3. Approval for production of a video will come from the Communications Department, with the provision that a final script will need to be reviewed, as will the video itself prior to its release.

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

D. Annual Report

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

The chair of each section, conference, committee, board, and task force should file an annual report immediately following its annual meeting or last meeting of the Bar year, **but no later than July 15, 2024**, about activities from July 1 to June 30 in the prior fiscal year. The chair who served during the report year usually writes the report. The report should be sent to the Communications Department at dnorman@vsb.org.

Previous annual reports may be read at www.vsb.org.

Your annual report may include the following information:

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

The annual reports are published online. Questions about the annual report should be addressed to Dee Norman at (804) 775-0594 or dnorman@vsb.org. She will send you the annual report template if you need it to get started.

Please refer to the Policy on Content on page 39.

VII. Sections and Conferences

A. General Information

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

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

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

As of June 1, 2023, the VSB Council has authorized twenty sections, with an approximate total membership of 23,962. (See the Sections page at www.vsb.org). In addition, Council has authorized four conferences:

Conference of Local and Specialty Bar Associations (CLSBA)

All local and specialty statewide bar associations are eligible for membership

Number of Member Bar Associations: 138 (as of August 25, 2023)

Senior Lawyers Conference (SLC)

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

Membership: 24,703 (as of August 25, 2023)

Young Lawyers Conference (YLC)

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

Membership: 7,588 (as of August 25, 2023)

Diversity Conference (DC)

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

Membership: 512 (as of August 25, 2023)

B. Historical List of Sections and Conferences

NAME OF SECTION	ESTABLISHMENT DATE
ADMINISTRATIVE LAW SECTION	January 1979
ANTITRUST, FRANCHISE & TRADE REGULATION SECTION ⁷	April 1977
BANKRUPTCY LAW SECTION	February 1990
BUSINESS LAW SECTION ¹	January 1970
CONSTRUCTION LAW & PUBLIC CONTRACTS SECTION ⁸	April 1979
CORPORATE COUNSEL SECTION	October 1989
CRIMINAL LAW SECTION	October 1967
EDUCATION OF LAWYERS SECTION	October 1992

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

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

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

C. Section Membership Structure, Dues, and Billing

(A.) Table of Membership

NAME OF SECTION	CURRENT MEMBERSHIP*
ADMINISTRATIVE LAW	666
ANTITRUST LAW	202
BANKRUPTCY LAW	632
BUSINESS LAW	1,943
CONSTRUCTION LAW	794
CORPORATE COUNSEL	1,684
CRIMINAL LAW	2,433
EDUCATION OF LAWYERS	260
ENVIRONMENTAL LAW	425
FAMILY LAW	1,971
GENERAL PRACTICE	864
HEALTH LAW	664
INTELLECTUAL PROPERTY	1,432
INTERNATIONAL PRACTICE	411
LITIGATION	3,493
LOCAL GOVERNMENT	806
MILITARY LAW	277
REAL PROPERTY	2,062
TAXATION	742
TRUSTS AND ESTATES	2,201
TOTAL	23,962

*As of June 1, 2023, includes Active, Associate, Judicial, and other Non-Bar Member categories of section membership.

(B.) Section Dues Structure*

ADMINISTRATIVE LAW SECTION	\$20.00
ANTITRUST, FRANCHISE & TRADE REGULATION SECTION	\$10.00
BANKRUPTCY LAW SECTION	\$20.00
BUSINESS LAW SECTION	\$10.00
CONSTRUCTION LAW & PUBLIC CONTRACTS SECTION	\$20.00
CORPORATE COUNSEL SECTION	\$20.00
CRIMINAL LAW SECTION	\$20.00
EDUCATION OF LAWYERS SECTION	\$20.00
ENVIRONMENTAL LAW SECTION	\$20.00
FAMILY LAW SECTION	\$30.00
GENERAL PRACTICE SECTION	\$20.00
HEALTH LAW SECTION	\$20.00
INTELLECTUAL PROPERTY LAW SECTION	\$20.00
INTERNATIONAL PRACTICE SECTION	\$10.00
LITIGATION SECTION	\$15.00
LOCAL GOVERNMENT LAW SECTION	\$20.00
MILITARY LAW SECTION	\$20.00
REAL PROPERTY SECTION	\$35.00
TAXATION SECTION	\$20.00
TRUSTS AND ESTATES SECTION	\$10.00

[As of August 2018]

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

(C.) Dues and Billing

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

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

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

D. Budget Preparation and Expenditures

(A.) Budget Cycle

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

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

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

Conferences and sections budget proposals must be filed in the bar office on or before **December 1, 2023**. This allows time for the VSB staff to compile the complete VSB budget for review by the Standing Committee on Budget and Finance prior to the Executive Committee and Council meetings.

An Excel version of the budget form may be found on the Chairs Handbook page at www.vsb.org.

(B.) VSB Section Budget and Expenditures Policy

These rules have been approved by the VSB Executive Committee and sections are enjoined to adhere to them:

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

Amendment February 11, 2011

Approved by VSB Executive Committee September 19, 2008

Approved by VSB Executive Committee October 1988

Approved by VSB Executive Committee September 10, 1999

Approved by VSB Executive Committee February 25, 2011

(C.) Conference and Section Accounts

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

*Section § 2.2-1802 of the *Code of Virginia* requires that every state agency collecting monies from any source for the use of the agency pay the collected monies into the state treasury.

(D.) Annual Meeting and Year End Expenditures

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

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

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

(E.) Monthly Financial Reports

Conference and section chairs will receive a monthly financial report indicating the revenue and expenses. A copy of the financial report also will be sent to the vice chair for information. Because of the vice chair's responsibility for budget preparation for the next year, the vice chair should keep abreast of the financial condition of the section and be mindful of any developing needs or problems that might be anticipated.

(F.) Grant Requests

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

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

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

(G.) Approval of Vouchers

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

Volunteer expense reimbursement vouchers chargeable to section and conference budgets will be forwarded to the appropriate chair or staff liaison for approval prior to processing for payment by the VSB Finance Department. Please refer to the volunteer expense reimbursement procedures.

E. Newsletters, Electronic Communications, and Websites

Newsletters and Electronic Communications

Newsletters can be published a variety of ways. Some sections and conferences design, print, and mail newsletters. Others design print-quality newsletters and email an online link to members. And some groups are shifting to a newsletter designed for and published online only.

Some committees, conferences, and sections may find that the content they wish to provide their membership is best posted as news on their website and periodically emailed.

The VSB encourages each conference and section to stay in touch with their full membership at least 2–3 times a year. Editors should work with their membership and freelancers to create content and design newsletters. VSB staff reviews content. Group emails to members are requested through liaisons and reviewed and edited by the VSB Communications Department. The email software does not permit members to respond to any of the messages. Please give VSB staff at least 48 hours' notice to allow your email to be reviewed and scheduled.

Chairs and newsletter editors are encouraged to contact the Communications Department to discuss communications strategy (Kaylin Bowen at kbowen@vsb.org or (804) 775-0529.)

See more resources for newsletter editors and chairs on the Chairs Handbook page at www.vsb.org. Please refer to the Policy Concerning the Use and Disclosure of VSB Email Addresses on page 33 and the Policy on Content of Publications of Virginia State Bar Committees, Boards, Conferences, Sections, and *Virginia Lawyer* on page 39.

Conference and Section Websites

A VSB website redesign went live in April 2023.

Conferences and sections should designate a person to be in charge of content for their sites. Contact Caryn Persinger at cpersinger@vsb.org or (804) 775-0588 for more information.

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

F. CLE Seminars and Educational Programs

(A.) Coordination with CLE Providers

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

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

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

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

G. MCLE Regulations and Compliance

MCLE Definitions and Requirements

CLE credit will be given for attendance at an educational program sponsored by a VSB conference or section if the seminar meets the standards of approval as outlined in the Mandatory Continuing Legal Education regulations. Virginia CLE will be responsible for en-

sure that programs which they cosponsor meet the required standards of approval. However, if a conference or section has received authorization from the VSB Executive Committee to present an independent program, the program chair should consult with the group's staff liaison to ensure that the program is developed to meet MCLE regulations.

1. **Accredited Sponsors:** Together with over 100 other providers, the VSB and Virginia CLE have been designated as accredited sponsors of continuing legal education programs in Virginia. Accredited sponsors are subject to and governed by the applicable provisions of the rules and regulations of the MCLE Board, including the quality standards of Regulation 103 and the record-keeping and reporting requirements of Regulation 105. **The MCLE Board may at any time review an accredited sponsor program and reserves the right to deny CLE or ethics credit when the standards for approval are not met.**
2. **Written materials:** An outline **must** be submitted in order for a program to qualify for CLE credit. Pursuant to MCLE Regulation 103(g), thorough, high-quality instructional written materials which appropriately cover the subject matter must be provided to attendees prior to or at the program. **An agenda or topical outline will not be sufficient. [MCLE Opinion #14]**
3. **Ethics Credit:** A presentation may qualify for credit in the area of legal ethics or professionalism if the ethics component meets the definition in MCLE Regulation 101(s and t) and covers a minimum of 30 minutes, as outlined in MCLE Regulation 103(d).
If a conference or section plans to incorporate an ethics segment into a CLE program, the program chair is responsible for ensuring that:
 - a) the material qualifies as legal ethics or professionalism [MCLE Opinion #13];
 - b) the segment is clearly and appropriately described or entitled in the written materials [MCLE Reg 101(s and t)];
 - c) the time for the ethics component is clearly designated in the program schedule [MCLE Reg 103(d)].
4. **Coordination with VSB MCLE Department:** If a program is being planned independently by a conference or section, it is the responsibility of the group to apprise the MCLE Department of the proposed program and to seek approval of the course for the specified number of CLE and ethics credits. **Applications must be received at least 30 days in advance of the program.**
Virginia CLE or other accredited co-sponsors will coordinate with the VSB's MCLE Department for course approval for any programs cosponsored with that office.
5. **Course Approval:** At the earliest possible date in the planning, the section/conference should coordinate through its staff liaison to ensure that an Application for Course Approval (**Form #6**) and the proper materials are submitted to the MCLE Department. Since the conference or section is applying for credit under the auspices of the VSB, which is an accredited sponsor, it is exempt from a filing fee. It is helpful in marketing the seminar if course approval is finalized prior to advertising the program and mailing the announcement brochure.
6. **MCLE Certification Forms:** Once a program has been approved for CLE credit, the MCLE Department will provide attendance certification forms to the "accredited sponsor" (either Virginia CLE or the VSB group). These forms must be distributed to all registrants at the seminar. For CLE programs planned independently of Virginia CLE, it is the conference's or section's responsibility to coordinate with its staff liaison to make sure that the appropriate number of these forms (**Form #2**) are provided. The MCLE Department will also provide certification forms for the speakers (**Form #3**).

• MCLE Opinion #13 — Topics Qualifying for Ethics Credit

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

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

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

- i. the ethical standards applicable to governmental employees, federal legislators, governmental contractors;
- ii. United States' employees' compliance with the President's Executive Order requiring a standard of conduct higher than the bare ethical rules might require;

-
- iii. educating the government attorney in these standards to enable that attorney to better advise a legislative and/or executive branch client on the applicable standards.

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

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

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

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

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

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

Rules of Procedure, Rules of Evidence and Litigation Tactics: Programs or components which focus on rules of procedure, rules of evidence, unless the focus of the programs or components also provides a substantial treatment of applicable rules of professional conduct or codes of professional responsibility. In particular, malpractice prevention programs or components which focus primarily on malpractice litigation, tactics, or strategy will not be approved for ethics credit.

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

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

Amended effective 11/1/09

• MCLE Opinion #14 — Requirement for Written Materials

MCLE OPINION #14

REQUIREMENT FOR WRITTEN INSTRUCTIONAL MATERIAL

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

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

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

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

The phrase “[t]horough, high quality instructional written materials which appropriately cover the subject matter” as used in Regulation 103 means current and up-to-date materials that directly, concisely, and adequately cover the subject matter in such a way as to effectively and thoroughly instruct attendees on the topics covered during the program and assist course participants in improv-

ing their legal competence. These materials can include, by way of example and not limitation, the following:

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

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

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

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

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

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

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

Effective 07/01/95

Revised 02/11/02

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

Revised 8/21/17

Notes







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