

## SCR CHAPTER 10

### REGULATION OF THE STATE BAR

JUDICIAL COUNCIL COMMITTEE'S NOTE, 1979: The following rules, called the state bar rules, govern the state bar of Wisconsin and its members. SCR 10.01 is in the 1977 Wisconsin statutes as section 758.25. SCR 10.02 to 10.14 were originally adopted by the supreme court on December 7, 1956, effective January 1, 1957. They were amended on February 9, 1972; June 16, 1975; November 1, 1976; November 18, 1977; March 6, 1978; and December 14, 1978. The rules were originally numbered 1 to 14 and have been clarified and numbered SCR 10.02 to 10.14 for uniformity and convenience. See appendix for bylaws for state bar of Wisconsin. Certain provisions relating to fees will be contained in SCR 40.16.

**SCR 10.01 State Bar of Wisconsin.** (1) There shall be an association to be known as the "state bar of Wisconsin" composed of persons licensed to practice law in this state, and membership in the association shall be a condition precedent to the right to practice law in Wisconsin.

(2) The supreme court by appropriate orders shall provide for the organization and government of the association and shall define the rights, obligations and conditions of membership therein, to the end that the association shall promote the public interest by maintaining high standards of conduct in the legal profession and by aiding in the efficient administration of justice.

**SCR 10.02 Organization of the state bar of Wisconsin.** (1) Creation of Association. All persons licensed to practice law in this state are organized as an association to be known as the "state bar of Wisconsin," subject to the provisions of this chapter. The rules of this chapter, which are adopted in the exercise of the court's inherent authority over members of the legal profession as officers of the court, may be referred to as "state bar rules." The state bar may, for the purpose of carrying out the purposes for which it is organized, sue and be sued, enter into contracts, acquire, hold, encumber and dispose of real and personal property.

(2) Purposes. The purposes of the association are to aid the courts in carrying on and improving the administration of justice; to foster and maintain on the part of those engaged in the practice of law high ideals of integrity, learning, competence and public service and high standards of conduct; to safeguard the proper professional interests of the members of the bar; to encourage the formation and activities of local bar associations; to conduct a program of continuing legal

education; to assist or support legal education programs at the preadmission level; to provide a forum for the discussion of subjects pertaining to the practice of law, the science of jurisprudence and law reform and the relations of the bar to the public and to publish information relating thereto; to carry on a continuing program of legal research in the technical fields of substantive law, practice and procedure and make reports and recommendations thereon within legally permissible limits; to promote the innovation, development and improvement of means to deliver legal services to the people of Wisconsin; to the end that the public responsibility of the legal profession may be more effectively discharged.

(3) Definition. In this chapter, "state bar" means the state bar of Wisconsin.

**SCR 10.03 Membership.** (1) Persons included in membership. As of the effective date of this rule, membership of the state bar consists of all those persons who on that date are licensed to practice law in this state. After the effective date of this rule, the membership includes all persons who become licensed to practice law in this state; subject in each case to compliance with the conditions and requirements of membership. Residence in this state is not a condition of eligibility to membership in the state bar.

(2) Enrollment. Every person who becomes licensed to practice law in this state shall enroll in the state bar by registering his or her name and social security number with the association within 14 days after admission to practice. Every change after enrollment in any member's office address or social security number shall be reported promptly to the state bar. The social security number of a person enrolling in the state bar may not be disclosed to any person or entity except the supreme court and its agencies, or as otherwise provided by supreme court rules.

(3) Classes of membership. (a) The members of the state bar are divided into 4 classes as follows:

1. Active members. The class of active members includes all members of the state bar, including those designated as senior active members, who are authorized to engage in the practice of law, either full-time or part-time, salaried or non-salaried, regardless of age. Commencing July 1, 2021, upon attaining age 75, an active member is designated as a "senior active member" unless a written notice requesting enrollment in a different membership class is filed.

2. Inactive Members. The class of inactive members includes those members of the state bar who are eligible for active membership who have filed with the state bar written notice requesting enrollment in the class of inactive members. An inactive member may not practice law in this state other than pro bono service as provided in SCR 10.03 (3) (am).

3. Judicial Members. The class of judicial members includes the following persons: supreme court justices, court of appeals judges, circuit court judges, full-time circuit court commissioners, full-time municipal court judges, supreme court commissioners, court of appeals staff attorneys, federal district court judges, federal appellate court judges, federal bankruptcy judges, federal magistrate judges, federal administrative law judges, and retired justices and judges who are eligible for temporary judicial assignment and are not engaged in the practice of law. Any judicial member may elect to become an active member with all rights of active membership except to hold office as an officer or governor or to practice law.

4. Emeritus Members. The class of emeritus members includes those members who are at least 70 years of age who are in good standing and who have filed with the state bar written notice requesting enrollment in the class of emeritus members. An emeritus member may not practice law in this state other than pro bono service as provided in SCR 10.03 (3) (am). Members who have enrolled in this class of membership prior to July 1, 2021 retain all the privileges of active membership including the right to practice law, and need not pay membership dues.

(3) (am) Pro bono service by inactive or emeritus members. 1. An inactive or emeritus member may provide pro bono legal services as defined in SCR 31.01(11) through a qualified pro bono program as defined in SCR 31.01(12) subject to the limitations and requirements of this subsection. A member who is providing only pro bono legal services under this subsection shall pay no additional dues, fees, or assessments than those assigned to their membership class. Each such member must comply with the conditions under 2 through 4 of this section.

2. Supervision and limitations.

a. Supervision by attorney. The member must perform all activities authorized by this chapter under the general supervision of a qualified pro bono program.

b. Without fee or expectation of a fee. The pro bono legal services must be provided without fee or expectation of a fee. The prohibition against compensation for the attorney contained in this subsection does not prevent the qualified pro bono program from reimbursing the attorney for actual expenses incurred while rendering services under this chapter or from paying continuing legal education attendance fees on behalf of the attorney. Nothing in this subsection prevents a qualified pro bono program from receiving court-awarded or statutory attorneys' fees for pro bono legal services rendered by the attorney.

3. Certification. Permission for an attorney to perform services under this subsection is effective upon filing with the state bar of Wisconsin a certification from a qualified pro bono program and the attorney stating that the attorney:

a. Is currently associated with the program and that the attorney will be practicing under the general supervision of the program;

b. Is in good standing, does not have a pending disciplinary proceeding, and has never been disbarred or had their license to practice law revoked or suspended in this state or any other jurisdiction;

c. Will only provide pro bono legal services as defined in SCR 31.01(11); and

d. Will at all times comply with the Wisconsin supreme court rules of professional conduct for attorneys set forth in Wisconsin supreme court rules chapter 20 and the rules and standards for training and conduct established by the qualified pro bono program provider which petitioned for the member's pro bono status.

4. Withdrawal of certification.

a. Withdrawal of permission to perform services. Permission to perform services under this chapter must cease immediately upon the filing with the state bar of Wisconsin of a notice either from the qualified pro bono program stating that the attorney has ceased to be associated with the program, which notice must be filed within 30 days after such association has ceased, or from the Wisconsin supreme court, in its discretion, at any time, stating that permission to perform services under this chapter has been revoked. A copy of such notice must be mailed to the attorney involved and to the qualified pro bono program.

b. Notice of withdrawal. If an attorney's certification under this chapter is withdrawn for any reason, the qualified pro bono program must immediately file a notice of such action in the official file of each

matter pending before any court or tribunal in which the attorney appeared.

(3) (b) 1. Any inactive or emeritus member in good standing who has actively practiced law in this state during the last 10 years may change his or her classification to that of an active member by filing with the state bar a written request for transfer to the class of active members and by paying the dues required of active members.

2. a. Any inactive or emeritus member in good standing who has not actively practiced law in this state during the last 10 years may change his or her classification to that of an active member by filing with the state bar a written request for transfer to the class of active members, paying the dues required of active members, and obtaining supreme court approval as provided in subd. 2. b.

b. Any inactive or emeritus member described in subd. 2. a. seeking to change his or her classification to that of an active member shall file a copy of his or her request for transfer to active membership with both the board of bar examiners and the office of lawyer regulation. The member shall pay \$200 each to the board of bar examiners and the office of lawyer regulation, which payment shall accompany the copy of the request. Within 90 days after receipt of the copy of the request, the board of bar examiners shall make a determination regarding compliance with continuing legal education requirements and file its finding with the clerk of the supreme court. Within 90 days after receipt of the copy of the request, the office of lawyer regulation shall investigate the eligibility of the requestor and file a response with the clerk of the supreme court in support of or in opposition to the request. Following receipt of the determination of the board of bar examiners and the response of the office of lawyer regulation, the supreme court shall consider and grant or deny the inactive or emeritus member's request for transfer to active membership.

(bf) Any judicial member who is no longer serving in a judicial office may change his or her classification to that of an active member by filing with the state bar a written request for transfer to the class of active members and paying the dues required of active members.

(bm) Any inactive member in good standing may change his or her classification to that of an emeritus member if otherwise qualified to become an emeritus member provided that the requirements of such membership class are met.

(c) No judicial, inactive, or emeritus member may practice law in this state or hold office or vote in any election conducted by the state bar provided however that an inactive or emeritus member may provide pro bono legal services consistent with SCR 10.03 (3) (am). Subject to the exception in SCR 10.03 (3) (am), no person engaged in the practice of law in this state in his or her own behalf or as an assistant or employee of an active member of the state bar, or occupying a position, the duties of which require the giving of legal advice or service in this state, may be enrolled as an inactive or emeritus member.

(4) (a) No individual other than an enrolled active member of the state bar may practice law in this state or in any manner purported to be authorized or qualified to practice law provided however, that an inactive or emeritus member may provide pro bono legal services consistent with SCR 10.03 (3) (am).

(b) A court or judge in this state may allow a nonresident counsel to appear and participate in a particular action or proceeding in association with an active member of the state bar of Wisconsin who appears and participates in the action or proceeding. An order granting nonresident counsel permission to appear and participate in an action or proceeding shall continue through subsequent appellate or circuit court actions or proceedings in the same matter, provided that nonresident counsel files a notice of the order granting permission with the court handling the subsequent appellate or circuit court action or proceeding.

1. Counsel who seek to provide legal services under SCR 10.03 (4)(b) shall provide the information listed in Appendix A to this rule. The applicant may also include additional information supporting the request for admission pro hac vice.

2. Counsel who seek to provide legal services under SCR 10.03 (4)(b) shall pay a nonrefundable fee of two-hundred and fifty dollars (\$250) for each application for admission pro hac vice. The fee shall be waived if the application certifies that the attorney is employed by an agency providing legal services to indigent clients and will be appearing on behalf of an indigent client, or that the applicant will otherwise be appearing on behalf of an indigent client in the proceeding and will be charging no fee for the appearance.

### Wisconsin Comment

The Wisconsin Supreme Court has directed that the \$250 fee established in SCR 10.03 (4)(b)2 is to be paid to the State Bar of Wisconsin, which shall administer and allocate the fee according to the terms of this court's rule and a Memorandum of Understanding between the State Bar of Wisconsin

and the recipients of the funds. See S. Ct. Order 13-11B, 2019 WI 52 (issued May 16, 2019, eff. July 1, 2019); S. Ct. Order 13-11D, 2021 WI 40 (issued May 4, 2021, eff. June 1, 2021).

(c) A court in this state may allow a nonresident military counsel to appear and participate in a particular action or proceeding representing military personnel without being in association with an active member of the state bar of Wisconsin and without being subject to any application fees required by this rule.

(cm) A court in this state may allow a nonresident attorney who seeks to appear for the limited purpose of participating in a child custody proceeding pursuant to the Indian Child Welfare Act of 1978, 25 U.S.C. s. 1901, et seq., while representing a tribe, without being in association with an active member of the state bar of Wisconsin and without being subject to any application fees required by this rule.

(d) If representing a party before an agency of this state is limited to lawyers, an administrative law judge or hearing examiner for a state agency may, using the same standards and procedures as a court, allow a nonresident counsel who has been retained to appear in a particular agency proceeding to appear and participate in that proceeding without being in association with an active member of the state bar of Wisconsin.

(e) A court or judge may, after hearing, rescind permission for a nonresident counsel to appear before it if the lawyer by his or her conduct manifests incompetency to represent a client in a Wisconsin court or unwillingness to abide by the rules of professional conduct for attorneys or the rules of decorum of the court.

(f) Counsel not admitted to the practice of law in this jurisdiction but admitted in any other U.S. jurisdiction or foreign jurisdiction, who is employed as a lawyer in Wisconsin on a continuing basis and employed exclusively by a corporation, association, or other nongovernmental entity, the business of which is lawful and consists of activities other than the practice of law or the provision of legal services, shall register as in-house counsel within 60 days after the commencement of employment as a lawyer or if currently so employed then within 90 days of the effective date of this rule, by submitting to the Board of Bar Examiners the following:

1. A completed application in the form set forth in Appendix B to this rule;

2. A nonrefundable fee of two hundred and fifty dollars (\$250) to the Board of Bar Examiners;

3. Documents proving admission to practice law in the primary jurisdiction in which counsel is admitted to practice law; and

4. An affidavit from an officer, director, or general counsel of the employing entity attesting to the lawyer's employment by the entity and the capacity in which the lawyer is so employed.

A lawyer registered under this subsection may provide pro bono legal services without fee or expectation of fee as provided in SCR 20:6.1.

#### Wisconsin Comment

A registered in-house lawyer is authorized to provide legal services to the entity, client, or its organizational affiliates, including entities that control, are controlled by, or are under the common control with the employer, and for employees, officers, and directors of such entities, but only on matters directly related to their work for the entity and only to the extent consistent with SCR 20:1.7. Counsel who provide legal services in this jurisdiction under SCR 20:5.5(d)(1) that desire to appear, either in person, by signing pleadings, or by being designated as counsel in actions filed in courts, administrative agencies, or other tribunals in this state, must file a separate motion for pro hac vice admission.

#### Wisconsin Comment

SCR 60.01(8) defines "judge" as "a justice of the supreme court, a judge of the court of appeals, a judge of the circuit court, a reserve judge, a municipal judge, a court commissioner, and anyone, whether or not a lawyer, who is an officer of the judicial system and who performs judicial functions."

(5) Membership dues and reduction of dues for certain activities.

(a) The annual membership dues for state bar operations for an active member shall be established as provided herein. Other classes of members shall pay the fraction of the dues of an active member as follows: Supreme Court Justices, the full amount; judicial members, two-thirds; senior active members, one-half effective in the year the member attains the age of 75; inactive members, one-half; emeritus members, none; and members admitted to practice for 3 years or less, one-half. For purposes of determining an active member's dues status based on the number of years admitted, there shall be no proration based on the exact month and year of admission. A fiscal year for which any dues are required to be paid under Bylaw 1, Section 2 shall count as a full year and a fiscal year for which no dues payment is required shall not count as a year. A change in the dues of an active member for state bar operations may be made by the board of governors or as set forth herein. The state bar shall include in the dues statement each year the amount necessary to pay the costs of the office of lawyer regulation, the continuing legal education functions of the board of bar examiners, as



approved the Wisconsin lawyers' fund for client protection, and such other fees as ordered by the supreme court. Judicial members other than Supreme Court Justices are not liable to pay the portion for the costs of the office of lawyer regulation and the board of bar examiners. The state bar shall also include in the dues statement each year an assessment to support the public interest legal services fund, as approved by the supreme court. The state bar shall show separately on its annual dues statement the portion of the total dues for state bar operations, and each of the charges and assessments referred to above.

(b)1. The state bar may engage in and fund any activity that is reasonably intended for the purposes of the association set forth in SCR 10.02(2). The state bar may not use the compulsory dues of any member who objects pursuant to SCR 10.03(5)(b)3. for activities that are not necessarily or reasonably related to the purposes of regulating the legal profession or improving the quality of legal services. Expenditures that are not necessarily or reasonably related to the purposes of regulating the legal profession or improving the quality of legal services may be funded only with user fees or other sources of revenue.

2. Prior to the beginning of each fiscal year, the state bar shall publish written notice of the activities that can be supported by compulsory dues and the activities that cannot be supported by compulsory dues. The notice shall indicate the cost of each activity, including all appropriate indirect expense, and the amount of dues to be devoted to each activity. The notice shall set forth each member's pro rata portion, according to class of membership, of the dues to be devoted to activities that cannot be supported by compulsory dues. The notice shall be sent to every member of the state bar together with the annual dues statement. A member of the state bar may withhold the pro rata portion of dues budgeted for activities that cannot be supported by compulsory dues.

3. A member of the state bar who contends that the state bar incorrectly set the amount of dues that can be withheld may deliver to the state bar a written demand for arbitration. Any such demand shall be delivered within 30 days of receipt of the member's dues statement.

4. If one or more timely demands for arbitration are delivered, the state bar shall promptly submit the matter to arbitration before an impartial arbitrator. All such demands for arbitration shall be consolidated for hearing. No later than 7 calendar days before the hearing, any member requesting arbitration shall file with the arbitrator

a statement specifying with reasonable particularity each activity he or she believes should not be supported by compulsory dues under this paragraph and the reasons for the objection. The costs of the arbitration shall be paid by the state bar.

5. In the event the decision of the arbitrator results in an increased pro rata reduction of dues for members who have delivered timely demands for arbitration for a fiscal year, the state bar shall offer such increased pro rata reduction to members first admitted to the state bar during that fiscal year and after the date of the arbitrator's decision.

(6) Penalty for nonpayment of dues. If the annual dues or assessments of any member remain unpaid 120 days after the payment is due, the membership of the member may be suspended in the manner provided in the bylaws; and no person whose membership is so suspended for nonpayment of dues or assessments may practice law during the period of the suspension.

(6m) Petition for reinstatement from suspension for nonpayment of dues or failure to file a trust account certificate. (a) An attorney whose suspension for nonpayment of annual membership dues for state bar operations or assessments imposed by the supreme court has been for a period of less than 3 consecutive years shall be reinstated as a member if he or she makes full payment of the amount owing and an additional payment of \$20 as a reinstatement fee plus any penalties imposed by the state bar. The state bar shall certify the reinstatement to the clerk of the supreme court.

### Wisconsin Comment

Costs regarding the petition for reinstatement under subsection (6m) (b) may be assessed against the petitioner, as provided in SCR 22.24.

(b) An attorney whose suspension for nonpayment of annual membership dues for state bar operations or assessments imposed by the supreme court has been for a period of 3 or more consecutive years may file a petition for reinstatement with the supreme court. A copy of the petition shall be served on the board of bar examiners and the office of lawyer regulation. Separate payments in the amount of \$200 each shall be made to the board of bar examiners and the office of lawyer regulation and shall accompany the petition. Within 90 days after service of the petition for reinstatement, the board of bar examiners shall make a determination regarding compliance and file its finding with the supreme court. Within 90 days after service of the petition for

reinstatement, the office of lawyer regulation shall investigate the eligibility of the petitioner for reinstatement and file a response with the supreme court in support of or in opposition to the petition. Following receipt of the determination by the board of bar examiners and the response of the office of lawyer regulation, the supreme court shall consider and grant or deny the petition for reinstatement.

(c) An attorney suspended from the practice of law for failure to comply with the trust account certification requirement under SCR 20:1.15 (g) shall be reinstated as a member by the state bar if he or she files the prescribed certificate. The state bar shall certify the reinstatement to the clerk of the supreme court.

(7) (a) Voluntary resignation of membership. If a member of the state bar files with the state bar a written notice of the member's surrender of his or her license to practice law and the acceptance by the supreme court of his or her resignation in the state bar, the person shall then cease to be a member of the state bar and his or her name shall be removed from the membership register. Before accepting a resignation, the supreme court shall request from the office of lawyer regulation information concerning whether the attorney is the subject of any pending grievances, investigations, or proceedings.

(b) 1. An attorney who has resigned as a member of the state bar may be readmitted to the state bar with approval of the supreme court as provided in subd. 2.

2. The attorney shall file an original petition for readmission to the state bar with the clerk of the supreme court and shall file copies of the petition with the board of bar examiners and the office of lawyer regulation. The member shall pay \$200 each to the board of bar examiners and the office of lawyer regulation which payment shall accompany the copy of the petition. Within 90 days after receipt of the copy of the petition for readmission, the board of bar examiners shall make a determination regarding the eligibility of the petitioner for readmission and file its finding with the clerk of the supreme court. Within 90 days after receipt of the copy of the petition for readmission, the office of lawyer regulation shall investigate the eligibility of the petitioner for readmission and file a response with the clerk of the supreme court in support of or in opposition to the petition. Following receipt of the determination by the board of bar examiners and the response of the office of lawyer regulation, the supreme court shall consider and grant or deny the petition for readmission.

## Wisconsin Comment

Costs regarding the petition for readmission under subsection (7) (b) may be assessed against the petitioner, as provided in SCR 22.24.

## Wisconsin Comment

Information regarding continuing legal education requirements is set forth in SCR ch. 31. See also CLE 3.015. The standards the OLR uses to investigate a requestor's eligibility for reinstatement are described in *In re Reinstatement of Polk*, 2007 WI 51, ¶10, 300 Wis. 2d 280, 732 N.W.2d 419 (explaining that "investigation of eligibility for reinstatement . . . is akin to the review conducted by the BBE during an initial application for a license to practice law in this state" such that the applicant must demonstrate that he or she has good moral character and the fitness to practice law). See also SCR 40.06(1) and (3) and Rule BA 6.01-6.02.

(8) Avoidance of hardship. The state bar may, in any case in which to do otherwise would result in hardship or injustice, permit the retroactive enrollment of members and waive penalties prescribed for delinquency in the payment of membership dues.

**SCR 10.04 Officers.** (1) Titles; Nomination and Election. The officers of the state bar include a president, a president-elect, an immediate past-president, a chairperson of the board of governors, a secretary and a treasurer, who shall be nominated and elected in the manner provided by the bylaws. Only active members of the state bar residing and practicing law in Wisconsin are eligible to serve as president or president-elect of the association. The term of office of the president, president-elect, immediate past-president and chairperson of the board of governors is one year. The term of the secretary and the treasurer is 2 years, with the secretary elected in even-numbered years and the treasurer elected in odd-numbered years. The term of each officer runs until the qualification of a successor.

(2) Duties of officers. (a) *President*. The president is the chief executive officer of the association. He or she shall be a member-at-large of the board of governors and shall preside at all meetings and assemblies of the association and the executive committee. He or she shall make the appointments to and designate the chairperson of all standing committees, create and appoint special committees, and be a member, ex officio, of every committee.

(b) *President-elect and past president*. The president-elect and immediate past-president shall each be a member-at-large of the board of governors and the executive committee and shall perform all other duties assigned to them by the president or board of governors or under these rules or the bylaws. At the expiration of the one-year term of office of the president, the president-elect shall succeed to the office of

president and the president shall succeed to the office of immediate past-president.

(c) *Chairperson, board of governors.* The chairperson of the board of governors shall be elected from the board membership by its members and shall be a member-at-large of the board of governors after his or her election. The chairperson shall be a member of the executive committee ex officio and shall preside at all meetings of the board of governors.

(d) *Secretary.* The secretary shall be a member-at-large of the board of governors. The secretary shall confer with and generally supervise the executive director and the administrative staff of the state bar as to the keeping of proper minutes and records, the maintenance of correct membership files and mailing lists and the general operation of the headquarters office and he or she shall make recommendations thereon to the board of governors as required.

(e) *Treasurer.* The treasurer shall be a member-at-large of the board of governors. The treasurer shall confer with and generally supervise the executive director and administrative staff of the state bar as to the methods and procedures used in the receipt, collection and safekeeping of all funds of the state bar and the procedures for disbursement and audit of the funds. The treasurer shall assist the executive committee in preparing the annual budget and in presenting it to the board of governors and shall make recommendations to the board of governors as to the association's financial affairs, as required.

(3) Compensation. The officers of the association shall receive no compensation for their services, but shall receive reimbursement of their expenses as authorized and directed by the board of governors.

(3m) Term of Office. The office of president and chairperson of the board of governors shall be for one term only. The offices of secretary and treasurer may be held for more than one term.

**SCR 10.05 Board of governors.** (1) Composition of board. The affairs of the association shall be managed and directed by a board of governors consisting of the 6 officers of the association, all of whom shall be ex officio members-at-large of the board, not fewer than 34 members elected from the state bar districts established under sub. (2), one member selected by the young lawyers division pursuant to its bylaws, one member selected by the government lawyers division pursuant to its bylaws, five governors selected by the nonresident lawyers division pursuant to its bylaws, one governor selected by the senior lawyers division pursuant to its bylaws, and three nonlawyers

appointed by the supreme court for staggered two-year terms. No person appointed by the supreme court shall serve more than two consecutive full terms. The rights and powers of the ex officio members of the board are the same as those of elected members. All past-presidents of the Wisconsin bar association or of the state bar of Wisconsin, the Wisconsin state delegate to the American Bar Association house of delegates and the deans of the Marquette university and university of Wisconsin law schools are entitled to floor privileges, but without voting privileges.

(2) State bar districts. (a) For the purpose of conducting elections of the members of the board of governors, the board of governors shall divide the state into 16 state bar districts comprising specified counties and shall establish the number of members of the board of governors to be elected from each district.

(b) The number of members of the board of governors elected from each state bar district shall be in proportion to the number of active members entitled to vote residing in the district and shall take into consideration all of the following:

1. The composition of the judicial administrative districts established by sec. 757.60, Stats.
2. The geographical area of each state bar district.
3. All existing multi-county bar associations.
4. The representation of members in each state bar district afforded by members of the board of governors selected by divisions of the association under sub. (1).

(c) Every 10 years, commencing January 1, 1995, the board of governors shall submit to the court a proposed redistricting map dividing the state bar into districts in accordance with the requirements in par. (b).

(d) Notice, filing, review, hearing and adoption of a redistricting proposal submitted under par. (c) shall be provided in SCR 10.13(2) for amendment of bylaws.

(3) Term; qualifications; nomination and election. The term of office of each elected member of the board of governors is 2 years, commencing on July 1 next following his or her election. No person is eligible to vote in a district for governor or to serve on the board of governors from a district unless he or she is an active member of the association and maintains in the district his or her principal office for the practice of law. No person is eligible for election to the board of governors for more than 2 consecutive terms. The eligibility of any

person to serve as a member of the board of governors from any state bar district ceases upon removal of the person's principal office for the practice of law from the district. Nominations and elections of members of the board of governors shall be conducted in accordance with the provisions of the bylaws.

(4) Functions. (a) The board of governors has general charge of the affairs and activities of the association. It may:

1. Fix the time and place of the annual meeting of members of the association.

2. Make appropriations and authorize disbursements from the funds of the state bar in payment of the necessary expenses of the association.

3. Engage and define the duties of employees and fix their compensation.

4. Receive, consider and take action on reports and recommendations submitted by committees, sections and the assembly of members of the association at any annual or special meeting.

5. Arrange for publication of official state bar publications.

6. Conduct investigations of matters affecting the association or the practice of law or the discipline of members of the association.

7. Fill vacancies arising in the membership of the board of governors or in any office except the office of president. In each case the person appointed to fill the vacancy shall hold office for the unexpired term.

8. Adopt bylaws and regulations, not inconsistent with this chapter, for the orderly administration of the association's affairs and activities.

(b) The board of governors shall meet at least 4 times each year. Twenty-four members present at any meeting constitutes a quorum. Special meetings of the board of governors may be called in accordance with the bylaws.

(c) The board of governors shall establish and maintain standing committees having respectively the functions defined in the bylaws. The board of governors may create additional standing committees and special committees and may define the authority and functions of those standing and special committees.

(d) The board of governors shall establish and maintain sections for carrying on the work of the association, each within its proper field of study defined in its bylaws. Each section consists of members who voluntarily enroll in the section because of a special interest in the

particular field of law to which the section is dedicated. New sections may be established and existing sections may be consolidated or discontinued by the board of governors. Each section shall be governed by bylaws not inconsistent with this chapter or state bar bylaws. Section bylaws and amendments thereto become effective upon approval of the board of governors.

(e) A section may express a position on a matter involving a substantial issue of public policy under the following conditions:

1. The matter is one on which the section's views would have particular relevance.

2. The position is adopted in accordance with section bylaws.

3. The position is clearly taken only on behalf of the section.

4. The section charges annual dues at least equal to the cost of its legislative program so that the cost need not be borne by section nonmembers. The executive committee or board shall receive a summary of section positions on matters involving substantial issues of public policy prior to their publication but inaction by the executive committee or board shall not be construed as support of such positions. No committee of the association may publicly express any conclusion or opinion respecting any substantial issue of public policy without having procured previous authorization from either the board of governors or the executive committee of the association. This prohibition is not applicable to the public release of reports made by committees to the board of governors prior to action thereon by the board, unless the board has otherwise ordered. If any committee or section of the association expresses publicly any conclusion or opinion on matters other than substantial issues of public policy, the expression shall indicate that the conclusion or opinion is that of the section of committee from which it emanates, rather than the conclusion or opinion of the state bar.

(f) The members of the board of governors shall receive no compensation for services to the association, but they and also the members of committees and the officers and directors of sections and of the young lawyers division, the government lawyers division, the nonresident lawyers division, and the senior lawyers division may be reimbursed for necessary expenses in the performance of their duties.

(g) A summary of the minutes of each meeting of the board of governors shall be provided to the membership in an official state bar publication, with a notation that any interested member may obtain a copy of the minutes.



(h) The board of governors shall establish and maintain a young lawyers division. Membership in the division shall be voluntary. Those eligible for membership in the young lawyers division shall be any member of the state bar under the age of 36 years or any member, irrespective of age, during the first 5 years following admission to the bar. This division shall be governed by bylaws not inconsistent with state bar rules and bylaws. The division bylaws and amendments thereto become effective upon approval of the board of governors. The young lawyers division shall stimulate the interest of young lawyers in the objectives and programs of the state bar and carry on projects which will be of assistance to young lawyers.

(i) The board of governors shall establish and maintain a government lawyers division. Membership in the division shall be voluntary. Those eligible for membership in the government lawyers division shall be any member of the state bar who is a salaried employee of any government. This division shall be governed by bylaws not inconsistent with state bar rules and bylaws. The division bylaws and amendments thereto become effective upon approval of the board of governors. The government lawyers division shall promote effective collaboration between the private and public sectors of the bar and provide for the participation of publicly employed members in the governance of the state bar.

(j) The board of governors shall establish and maintain a non-resident lawyers division. Membership in the division shall be voluntary. Those eligible for membership in the non-resident lawyers division shall be any member of the state bar who has an address of record outside the state of Wisconsin. This division shall be governed by bylaws not inconsistent with state bar rules and bylaws. The division bylaws and amendments thereto become effective upon approval of the board of governors. The non-resident lawyers division shall carry on projects which will be of assistance to members outside the state of Wisconsin and provide for the participation of members outside Wisconsin in the governance of the state bar.

(k) The board of governors shall establish and maintain a senior lawyers division. Membership in the division shall be voluntary. Those eligible for membership in the senior lawyers division shall be any members of the state bar who are age 60 years or older. The division shall be governed by bylaws not inconsistent with state bar rules and bylaws. The division bylaws and amendments thereto become effective upon approval of the board of governors. The senior lawyers division

shall carry on projects that will stimulate the interest of the senior lawyers in the objectives and programs of the state bar and carry on activities which will be of assistance to senior lawyers in the practice of law.

(m) 1. Establishment. The board of governors may provide assistance programs, including, but not limited to assistance for lawyers with questions regarding law office management; assistance for judges, lawyers, law students, and their families in coping with alcoholism and other addictions, mental illness, physical disability, and other problems related to or affecting the practice of law; and assistance for both lawyers and the public regarding lawyer referrals. The board may establish committees, hire staff, and obtain volunteers as reasonably necessary to provide assistance. The board shall establish policies consistent with the purposes of the state bar and in furtherance of the public interest in the competence and integrity of the legal profession.

2. Privileges, immunity. Communications with an assistance committee member, staff, or volunteers by any person providing information in good faith are privileged; no lawsuit based upon these communications may be instituted by any person. In providing assistance services, the board, members of assistance committees, staff, and volunteers designated by the board shall be immune from suit for any conduct in the course of their official duties.

3. Confidentiality. All communications with an assistance committee member, staff, or volunteer, and all records of program assistance to a person are confidential and shall not be disclosed, except in any of the following circumstances:

- a. With the express consent of the person provided assistance.
- b. When required as a condition for monitoring.
- c. When reasonably necessary to prevent death or substantial bodily harm to the person assisted or to another.
- d. When reasonably necessary to prevent child abuse or elder abuse.
- e. When reporting is mandated by other law.

**SCR 10.06 Executive committee.** (1) Members; selection. The executive committee consists of the president, the president-elect, the immediate past-president, the chairperson of the board of governors, one representative each from the nonresident lawyers division, government lawyers division, young lawyers division, and senior lawyers division selected from their board of governors representatives and 6 additional members elected annually by the board of governors

at its final meeting of the fiscal year. The 6 additional members shall be elected from among the governors-elect and the current governors who will serve on the board of governors during the following fiscal year. A vacancy occurring in the selected membership may be filled by action of the board of governors.

(2) Powers. The executive committee may exercise all the powers and perform all the duties of the board of governors between the meetings of the board except the executive committee shall not, unless otherwise authorized by the board of governors: amend the bylaws; make rules or regulations governing nominations or elections; prescribe regulations for proceedings before grievance committees; or initiate the taking of any referendum or poll of members of the association. The executive committee shall directly receive and act upon all reports of committees on disciplinary matters without reporting to the board of governors. The minutes relating to disciplinary matters shall be kept separate from the general minutes and shall be confidential. The executive committee shall prepare an annual budget for submission to the board of governors and shall perform such other duties as the board of governors may prescribe. Unless otherwise ordered by the board of governors, the executive committee shall not express publicly any opinion on any matter including legislation of major public interest or concern or of major importance to the members of the association. A summary of the general minutes of each meeting of the executive committee shall be provided to the membership in an official state bar publication.

(3) Meeting; quorum. The executive committee shall meet at the call of the president, or at the call of the executive director upon the written demand of at least 6 of its members. All members shall be given at least 48 hours' notice by mail or telephone of the time and place of any meeting. A majority of all members constitutes a quorum. No action may be taken by the committee except upon the concurrence of at least a majority of all members. The concurrence may be registered by mail, telephone, facsimile, or e-mail.

**SCR 10.07 Meetings of the association.** (1) Annual meeting. There shall be an annual meeting of the members of the state bar each year. The board of governors shall determine the time and place of the annual meeting and shall arrange a suitable program.

(2) Assembly of members. An assembly of the members of the state bar may be held at each annual meeting for the purpose of discussing any issues of association public policy.

**SCR 10.08 Referendum procedure.** (1) Time of holding. All referendums shall be conducted in any calendar year at the same time as and simultaneous with the election of officers and members of the board of governors of the state bar.

(2) Time for filing request. In order to be submitted to the membership in the regularly scheduled spring elections, petitions for referendum initiated by members of the state bar must be filed at the state bar headquarters no later than the first business day in January. Nothing in this rule is intended to prohibit the submission of referendum petitions at any time in the preceding calendar year after the completion of state bar elections for that year. Any referendum authorized by the board of governors shall be authorized on or before February 28 of the calendar year in which the referendum is to be held.

(3) Subject matter of referendum. (a) A referendum may inquire as to the opinion of members on any matter of public policy which is properly the subject of any action by the association, including proposals for change in the rules or bylaws of the association, except no referendum may be held on administrative or personnel matters and expenses or retroactively on dues.

(b) The same substantive question shall not be submitted to the members by referendum more frequently than one time in two calendar years.

(4) Governors may initiate. The board of governors may, by the affirmative vote of two-thirds of its membership, refer to the active members of the association for determination by ballot any appropriate question of public policy, as provided in sub. (3).

(5) Members may initiate by petition. When required by petition as set forth herein, the board of governors shall submit for determination by the members of the association any question appropriate for referendum, as provided in sub. (3).

(a) The petition shall succinctly and clearly state the question to be submitted by referendum.

(b) A referendum must be requested by petitions containing the signatures of 1,000 members of the state bar eligible to vote.

(c) Each petition shall contain (i) the member's signature and full name clearly printed or typed, (ii) the address of the member's principal office for the practice of law and (iii) the date on which the petition was signed.

(d) Each petition shall be circulated by an active member in good standing of the state bar.

(e) The petitions shall be verified by the circulator who shall swear that the circulator personally obtained all signatures set forth on the petition and knows them to be members of the state bar as represented therein.

(f) The 1,000 signatures required shall include not less than 50 signatures from each of six separate districts from which members of the state bar board of governors are elected.

(g) All signatures must be obtained within a period of ninety days before the date the petition is filed.

(h) The petition shall designate the person to be notified of any insufficiency or improper form under sub. (7).

(j) Members can obtain a petition form from the executive director.

(k) Non-resident members are considered to reside in a single, non-resident district.

(6) Procedure for filing petition.

(a) The petition must be complete when filed with the state bar headquarters. Upon filing, the petition shall be examined by the state bar executive director or his or her designee in order to determine all of the following:

1. Whether the question is properly the subject of a referendum.
2. Whether the signatures are of members of the state bar who are eligible to vote.
3. Whether the signatures satisfy the geographic distribution and time requirements set forth in sub. (5)(f) and (g).
4. Whether the petition is otherwise in order as required by this section.

(b) The ruling of the executive director shall be communicated to the person designated in the petition as soon as practicable and within 2 weeks after the date on which the petition is filed.

(7) Framing the question. Upon receipt by the state bar of a referendum petition as described above and certification by the executive director as to the validity of the petition, the state bar president shall appoint a committee to frame the exact question to be submitted to the members. That committee shall include the person designated in the petition. The committee shall be responsible for framing the question in a form that is clear, intelligible and meaningful.

(8) Final certification by board of governors. Any dispute as to the certification of the validity of the petition by the executive director, or the framing of the question by the special committee described

above, shall be submitted to the board of governors who shall determine the validity of the petition and the form in which the question shall appear on the referendum ballot.

(9) Publication of question. As to all questions to be submitted to the members by referendum, space in a reasonable amount shall be provided to both the proponents and the opponents of the proposition. This space shall be made available without charge in the state bar's official publication one month prior to distribution of the referendum ballots or in another state bar distribution to all eligible voters. State bar mailing lists shall be equally available at the same costs to both proponents and opponents of any referendum.

(10) Conduct of election. The distribution of the ballots, the return of the ballots, the counting of the ballots and the reporting of the results shall be conducted in the same manner as set forth in article 3, sections 4 through 8 of the bylaws for the election of the board of governors.

(11) Binding effect. A referendum receiving an affirmative vote of a majority of the votes cast, provided that at least 25% of the eligible voters vote, shall establish state bar policy until such time as that policy may be changed or modified according to the requirements of supreme court rules or state bar bylaws.

**SCR 10.09 Disbursements.** (1) The board of governors shall make necessary appropriations for disbursements from the funds in the treasury to pay all necessary expenses of the association, its officers and committees. It shall be the duty of the board of governors to cause proper books of account to be kept and to procure an annual audit thereof by a certified public accountant.

(2) A financial statement showing assets, liabilities, receipts and disbursements of the state bar shall be provided annually to the membership in an official state bar publication. A copy of the annual audit shall be filed with the supreme court.

**SCR 10.10 Committee to review bar performance.** The supreme court shall appoint a committee to review the performance of the state bar in carrying out its public functions at such time as the court deems it advisable. The supreme court shall determine in its order of appointment the size and composition of the committee. The state bar shall pay the expenses of the committee.

**SCR 10.11 Executive director.** There shall be an executive director of the state bar who is the chief executive officer of the administrative staff and in direct charge of the state bar office, its

records, property and equipment. The executive director shall be hired by the board of governors under terms of employment and compensation fixed by the board. The executive director shall devote full time to the affairs of the state bar. Subject to the general control of the officers, executive committee and board of governors and as appropriate and consistent with the requirements of these rules and the bylaws, the executive director shall:

(1) Attend meetings of the executive committee and board of governors and keep and disseminate the minutes of the meetings.

(2) Collect, deposit and disburse the association's funds pursuant to the budget and shall invest surplus funds at the direction of the executive committee.

(3) Maintain membership lists and individual member files.

(4) Advise and assist the officers, governors, sections and committees.

(5) Make the arrangements for association meetings.

(6) Perform other duties as directed by the board of governors or officers or as prescribed by this chapter or the bylaws.

**SCR 10.12 Official publication; notice to members.** (1) Official Publication. The Wisconsin Lawyer magazine or its successor is the official print publication of the state bar of Wisconsin. The state bar may designate electronic media as official publications for the purpose of providing notices to members.

(2) Notice to Members. The state bar shall publish notices required by supreme court rules or state bar rules and bylaws. Such publication shall constitute official notice to state bar members.

(3) Publication Plan. The state bar board of governors shall approve a plan for how the state bar will publish notices to members required by the supreme court rules or state bar rules or bylaws. That plan will be published in the Wisconsin Lawyer or its successor and on the state bar's website. The state bar will provide notice to members whenever the plan is amended.

**SCR 10.13 Amendment.** (1) Amendment of rules. Proposals for amendment or abrogation of provisions of this chapter may be presented to the supreme court by petition of the board of governors or by petition approved by the members of the association through the referendum procedure set forth in SCR 10.08. Hearing upon such a petition will be pursuant to notice in such manner as the court directs.

(2) Amendment of bylaws. The provisions of the bylaws of the state bar of Wisconsin are subject to amendment or abrogation by

resolution adopted by vote of two-thirds of the members of the board of governors, or action of the members of the association expressed through the referendum procedure defined in SCR 10.08. When any change in the bylaws has been made by the board of governors the executive director shall publish notice of the change, including a copy of the amendatory resolution, in an official state bar publication pursuant to SCR 10.12 and shall file a certified copy thereof with the clerk of the supreme court. A petition for review of any such change in the bylaws will be entertained by the court if signed by 25 or more active members of the association and filed with the clerk of the court within 60 days after publication of notice of the change. Hearing upon such a petition will be pursuant to notice in such manner as the court directs.

**SCR 10.14 [Deleted.]**

Amended November 11, 1980; June 1, 1983; January 21, 1986; February 21, 1986; October 21, 1987; April 11, 1989; January 22, 1990; November 6, 1990, March 13, 1992; May 7, 1992; April 14, 1993; March 21, 1995; April 12, 1996; October 30, 1998; November 14, 2001; February 12, 2008; January 1, 2009; July 1, 2010; January 1, 2012; January 1, 2014; July 1, 2014; July 3, 2014; March 6, 2015; May 16, 2019; June 12, 2019; December 10, 2019; June 30, 2020; March 2, 2021; May 4, 2021; September 7, 2021; April 26, 2022.



## APPENDIX

### State Bar By-Laws

#### Article I Membership

*Section 1. Membership Register.* The Association shall maintain a membership register for the enrollment of members of the State Bar, which shall contain as to each member a record showing the member's address, date of registration, class of original membership and each subsequent change of membership status, and such other information as may be required by the Board of Governors from time to time.

Every member shall enroll in the State Bar by filing in the office of the Association the following information concerning the registrant:

- (a) Full name.
- (b) Residence address.
- (c) Office address. Location of principal office.
- (d) Date of admission to practice in Wisconsin.
- (e) Date of admission to practice in any state or states other than Wisconsin.
- (f) Date and place of birth; and in the case of a naturalized person, the date and place of naturalization.
- (g) Particulars regarding any previous suspension or revocation of right to practice law in any state or country.
- (h) Name of law school and year of graduation.
- (i) Social security number.

Every change after enrollment in respect of any of the matters above specified shall be promptly reported to the Executive Director. Communications from the Association to any member shall be sent to the latest address furnished by such member. At the time of enrollment of each member admitted to practice after these rules take effect, the Association shall deliver to the new member a copy of the lawyer's oath set forth in sec. 757.29, Wisconsin Statutes.

*Section 2. Membership Dues.* Membership dues shall be paid on the basis of a July 1 through June 30 fiscal year and shall be due and payable to the treasurer on July 1 beginning each such year. Membership dues for the fiscal year in which admission to the State

Bar occurs shall be paid by the due date stated on an initial dues statement as follows: (i) for those admitted between July 1 and December 31, full applicable annual dues; (ii) for those admitted between January 1 and April 30, one-half applicable annual dues; (iii) for those admitted between May 1 and June 30, no dues. The Board of Governors may exempt any member serving in the armed forces of the United States at the date of admission or at the beginning of any fiscal year, provided satisfactory proof of exemption is submitted to the Executive Director within 60 days of the date dues otherwise would be payable. The Board of Governors shall exempt any newly admitted member who qualifies for an exemption under Wis. Stat. 45.44(3) from their initial dues upon certification of eligibility from the Board of Bar Examiners. For those admitted between May 1 and June 30, the waiver will apply to the first dues owed for the fiscal year following admission.

*Section 3. Penalty for Nonpayment of Dues.* (a) Any member admitted to the State Bar prior to July 1 whose dues are not paid by September 1 shall be notified of his or her delinquency and the consequent penalties by certified mail sent to the member's last known address prior to October. Failure to pay the dues by October 31 shall automatically suspend the delinquent member. The names of all members suspended from membership by the nonpayment of dues shall be certified by the Executive Director to the Clerk of the Supreme Court and to each judge of a court of record in this state, after first mailing a copy of such list to each suspended member 10 days before it is filed with the Supreme Court.

(b) Any member admitted to the State Bar on or after July 1 and whose dues are not paid within 60 days after the due date stated on his or her initial dues statement shall be notified of his or her delinquency and the consequent penalties by certified mail sent to the member's last known address within 90 days after the initial due date. Failure to pay initial dues within 120 days from the initial due date shall automatically suspend the delinquent member, and the Executive Director shall certify such suspension in the manner provided by these bylaws.

(c) Whenever a member so suspended for nonpayment of membership dues makes full payment of the amount owing, and in addition thereto the sum of twenty dollars as a penalty, the member shall be reinstated as a member by the Board of Governors, and the fact of reinstatement shall be certified by the Secretary to the Clerk of

the Supreme Court. Provided however in the case of any person whose membership dues shall have been in arrears for a period of three or more consecutive years, no application for reinstatement shall be granted unless ordered by the court. Provided further however, that no person whose membership is suspended for the nonpayment of dues shall be entitled to practice law during the period of such suspension.

*Section 4. Hardship Cases.* The Executive Director, with the approval of the President, may in individual cases waive or refund dues or penalties in any case where to do otherwise would work an injustice or an undue hardship. All such waivers or refunds shall be reported to the Board of Governors.

*Section 5. Dues Reduction Arbitration Procedure.* (a) Demands for arbitration of the dues reduction under SCR 10.03(5)(b) shall be made in writing and shall be delivered to the Executive Director of the State Bar within 30 days of receipt of the member's dues statement. Delivery may be made in person or by first class mail, and mailed demands will be deemed delivered upon mailing. Demands shall include the name and address of the member or members demanding arbitration, a brief statement of the claim or objection, and the signature of the member or members.

(b) If one or more timely demands for arbitration are delivered, the State Bar shall agree to submit the matter forthwith to arbitration. All timely demands for arbitration shall be consolidated for hearing before the arbitrator appointed, and the provisions of sec. 788, Stats., shall apply as if the parties had entered into a written agreement for arbitration<sup>1</sup>. A member demanding arbitration is required to pay his or her dues by October 31 or 15 days following the arbitrator's decision, whichever is later. Failure to pay dues by such date shall automatically suspend the delinquent member.

(c) Upon receipt of all demands for arbitration, the State Bar shall apply for appointment of an impartial arbitrator to the Chief Judge of the Federal District Court for the Western District of Wisconsin.

(d) Members demanding arbitration shall have access to the financial records upon which the State Bar based the determination of the amount of dues that can be withheld. These records shall be available for inspection and copying during normal business hours. Copying shall be at the member's expense.

(e) The arbitrator shall determine the date, time and location of the arbitration hearing(s) or the briefing schedule, as the case may be, and shall so notify the parties at least 15 days prior to said hearing(s) or the deadline for the filing of the opening brief. The arbitrator will promptly hold hearings in which the parties will be permitted to participate personally or through a representative, unless the parties agree that the matter may be decided on briefs. The State Bar shall bear the burden of proof regarding the accuracy of the determination of the amount of dues that can be withheld. All parties will be given the opportunity to present evidence and to present arguments in support of their positions. The arbitrator shall not be deemed a necessary party in judicial proceedings relating to the arbitration. The arbitrator shall have no authority to add, subtract, set aside or delete from any Supreme Court Rules, or State Bar bylaw. Unless otherwise agreed by the parties, the following rules shall apply to the arbitration proceedings:

i. There will be no transcripts or post-hearing briefs.

ii. The arbitrator will issue an award stating the reasons for the decision within 30 business days of the closing of the hearing. The opinion will be brief, and based on the evidence and arguments presented.

iii. The arbitrator will charge a reasonable hourly fee for services, including the hearing, preparation and study time, and shall be reimbursed for all necessary expenses of the arbitration.

iv. The hearing(s) or the briefing schedule, as the case may be, shall be completed within 60 days of appointment of the arbitrator.

(f) Members first admitted to the State Bar after the date of notification to members shall be given that notification with their initial dues statements. Such members shall be further notified that they may deliver a demand for arbitration within 30 days following receipt of the notification. If arbitration is pending at the date of delivery of a demand for arbitration by a newly admitted member, the newly admitted member's demand shall be consolidated with the pending arbitration. All of the provisions of this section shall otherwise apply to demands for arbitration filed by newly admitted members.

1 "The arbitrator's decision would not receive preclusive effect in any subsequent section 1983 action." *Chicago Teachers Union v. Hudson*, 472 U.S. 292, 308 n. 21 (1986).

## **Article II Officers**

*Section 1. Nominations.* The President-Elect, the Secretary and the Treasurer of the State Bar shall be elected from a list of candidates nominated in the following manner:

(a) The President of the Association with approval of the Board of Governors shall appoint a committee of five members to nominate candidates for said offices to be voted on at the next annual election. The nomination committee shall be approved at the first regularly scheduled Board meeting following the annual convention. The committee shall issue a report naming two or more nominees for the Office of President-Elect, two or more nominees for the Office of Secretary and two or more nominees for the Office of Treasurer. Before making its report, the committee shall solicit from the membership the names of members interested in seeking nomination to any office scheduled for election. The committee shall make its report no later than December 15 in each year.

(b) Other persons may be nominated for any of said offices by petition. Each nominee must provide a petition signed by not less than one hundred active members of the Association. The petition must be filed in the Office of the Executive Director on or before the first business day of February of the year of the election. Before such a petition may be filed, the nominee must consent in a written statement to nomination for the office designated in the petition.

*Section 2. Voting and Canvass of Ballots.* The provisions of Sections 4 to 8 inclusive of Article III of these By-Laws relating to the election of members of the Board of Governors shall be applicable also to the election of officers.

*Section 3. Election of Chairperson of the Board of Governors.* The Board shall elect a Chairperson of the Board of Governors from its members at its last regular meeting each fiscal year. The President-Elect shall appoint a nominating committee from the governors at the second to last regular Board meeting of the fiscal year. The committee shall nominate one or more candidates for this office. Those eligible for nomination and election to this office are: all current Board members, including members whose second terms expire that June, except for the President and President-Elect. While serving as Chairperson of the Board, the Chairperson of the Board shall be a governor at large and no longer a district governor.

*Section 4. Commencement of Term of Office.* The terms of all out-going officers of the Association and the Chairperson of the Board of Governors shall end, and the term of their successors shall commence, on the first day of July.

*Section 5. Vacancies.* A vacancy is created by the death, incapacity, inability to serve, revocation, suspension, or relinquishment of law licensure, or resignation of an officer, or by removal of an office pursuant to section 7.

a) President. If the office of President becomes vacant, the President-elect shall succeed to the office of President for the unexpired term of the President and shall serve a one-year term thereafter, if the President-elect was elected as President-elect at the previous annual election.

(b) President-elect. A vacancy in the office of President-elect shall be filled by a vote of a majority of the total membership of the Board of Governors. A President-elect so chosen shall succeed to the office of President only if necessary to fill a vacancy as provided for in this section and shall not serve an additional one-year term as President unless elected as such at the next annual election or at an earlier special election as the Board of Governors may require.

(c) Secretary. A vacancy in the office of Secretary shall be filled by a vote of a majority of the total membership of the Board of Governors. A Secretary so chosen shall not serve an additional term as Secretary unless elected as such at the next scheduled election for secretary, or at an earlier special election as the Board of Governors may require.

(d) Treasurer. A vacancy in the office of Treasurer shall be filled by a vote of a majority of the total membership of the Board of Governors. A Treasurer so chosen shall not serve an additional term as Treasurer unless elected as such at the next scheduled election for treasurer, or at an earlier special election as the Board of Governors may require.

*Section 6. Temporary Vacancy.* If an officer is temporarily unable to perform his or her duties, the Board may appoint a temporary replacement, who shall serve no longer than the remainder of the officer's unexpired term, or until the inability to serve or license status issue is resolved, whichever occurs first.

*Section 7. Removal.* An officer may be removed from office as follows: Revocation, Suspension or Relinquishment of Law License. If an officer's license to practice law is revoked or relinquished during his

or her term, the officer shall immediately be removed from office, without further notice. If the officer's license to practice law is suspended for a term less than the time remaining on his or her term, the officer's position will be considered temporarily vacant.

### **Article III Board of Governors**

*Section 1. Qualifications of Electors.* Each member of the Board of Governors shall be elected by the active members of the State Bar eligible to vote in the State Bar District in which such member of the Board of Governors has his or her principal office for the practice of law.

*Section 2. Term.* At the annual election members of the Board of Governors shall be elected in the several State Bar districts by the members entitled to vote in each Bar district where there is a vacancy or vacancies for governor or governors whose terms expire.

*Section 3. Nomination Petitions.* Nominations for the Office of Governor shall be by petition signed in respect of each nominee by not less than ten persons entitled to vote for such candidate. Blank forms for that purpose shall be supplied by the Executive Director of the Association on request. Nomination petitions for candidates to be voted on at the annual election in any year shall be filed in the office of the Executive Director not later than the first business day of March of such year, provided that before the filing of such petition a statement shall be endorsed thereon by the nominee to the effect that the nominee consents to nomination for the office designated in the petition. No nominating petition for governor shall be filed on behalf of any member practicing in the same county in which another member is a governor whose term does not expire at the next annual meeting.

*Section 4. Voting List.* On the third Friday of March in each year the voting list shall close for the election in that year. Every active member of the Association in good standing on that date shall be entitled to vote in the State Bar District in which the member's principal office for the practice of law is located, for officers of the State Bar and for the governor or governors for such district to be elected that year.

*Section 5. Distribution of Ballots.* On or before the second Friday of April in each year the Executive Director or his designee shall prepare and distribute the required ballots to each active member

of the State Bar entitled to vote at the annual election. Ballots may be distributed by electronic or regular mail. One form of ballot sent to persons entitled to vote in each State Bar District shall contain the names of the nominees for the several offices of the State Bar to be filled at the annual election. If any such person entitled to vote in such election fails to receive his or her ballots, or if it appears that any such ballot has been lost or destroyed, a new ballot shall be furnished to the person. Twelve noon on the fourth Friday of April in each year shall be the last day and time for voting in such election and no ballots received after that date and time shall be counted.

*Section 6. Voting of Ballots.* No ballot shall be counted unless returned on or before the last day and time for voting, in an envelope marked "Ballot" or in the manner designated by the electronic ballot provider.

*Section 7. Checking and Custody of Ballots.* The Executive Director or his designee shall receive and have custody of the ballots after they are voted until they are canvassed. All such ballots shall be segregated as to State Bar districts from which they are received and shall remain unopened until canvassed.

*Section 8. Canvass of Ballots.* The ballots shall be canvassed by an independent entity. The candidate receiving the highest number of votes for each office shall be declared elected. In case of a tie vote the Executive Committee shall determine the successful candidate by lot drawn by the Committee. The independent entity shall certify the results to the Executive Director, who shall forthwith notify the candidates and announce the results. Upon completion of the canvass, the independent entity shall be allowed to destroy all completed and blank ballots in the possession of the independent entity on or after August 1 unless notified otherwise by the further order of the Board of Governors.

*Section 9. Vacancy.* A vacancy is created by the death, incapacity, inability to serve, revocation, suspension, or relinquishment of law license, or resignation of a governor, or by removal of a governor pursuant to section 10.

(a) Governor. Any vacancy in the office of an elected governor shall be filled by the Board for the remainder of the unexpired term. Any member appointed to fill such a vacancy shall be eligible for election to two consecutive full terms as a governor. Any vacancy in the office of an appointed public member shall be filled by the



Supreme Court. Any vacancy in the office of a division representative shall be filled in accordance with the bylaws of the division.

(b) Temporary Vacancy. If a governor is temporarily unable to perform his or her duties, the Board may appoint a temporary replacement, who shall serve no longer than the remainder of the governor's unexpired term, or until the inability to serve or license status issue is resolved, whichever occurs first. The replacement shall be a member whose principal office, or residence, if the member has no principal office, is in the same district as that of the governor who is being temporarily replaced.

*Section 10. Removal.* A Governor may be removed from office as follows: Revocation, Suspension or Relinquishment of Law License. If a governor's license to practice law is revoked or relinquished during his or her term, he or she shall immediately be removed from the Board, without further notice. If the governor's license to practice law is suspended for a term less than the time remaining on his or her term, the Governor's position will be considered temporarily vacant.

*Section 11. Meetings of Board of Governors.* (a) There shall be a regular meeting of the Board of Governors in each year at the time of the annual meeting of members of the State Bar. There shall be at least three additional regular meetings in each year. The meetings shall be on the dates set by the President and announced no later than thirty days following the President's assumption of office on July 1. Special meetings of the Board of Governors may be held at any time upon call of the President, and shall be called by the President upon written request signed by seven members of the Board.

(b) Notice of the time and place of regular and special meetings of the Board shall be given to each member by the Executive Director by mail or telephone at least five days before the meeting. At any regular meeting of the Board any business may be transacted which is within the power of the Board, whether or not specified in the call or notice of the meeting. At any special meeting of the Board, any business may be transacted which is within the power of the Board if specified in the call or notice of the meeting. Members of the Board may participate and vote by telephone at any special meeting, but not at a regular meeting. Members appearing by telephone at a special meeting shall be deemed present for the purpose of determining a quorum. Action by the Board may be taken by a majority of members present at a meeting at which a quorum is present, except action upon

legislative proposals, proposed supreme court rule changes and proposed executive agency rule changes shall require approval by a 60% majority of members present at a meeting at which a quorum is present. At any regular or special meeting, any business placed on a consent agenda that is part of the notice or call will be acted upon without debate. Business listed on the consent agenda may be removed by any one governor within a 72-hour notice to the Secretary of the State Bar.

*Section 12. Members of Judicial Council.* Upon expiration of the term of office of each member of the Judicial Council selected by the Wisconsin Bar Association pursuant to the provisions of sec. 758.13, Wisconsin Statutes, the successor in such office shall be elected from the active members of the State Bar in the manner provided for the election of officers.

*Section 13. American Bar Association Delegates.* (a) Upon expiration of the term of office of each State Bar delegate of the House of Delegates of the American Bar Association, the successor shall be elected by the Board of Governors and every vacancy thereafter occurring in such office shall be filled in the manner specified below.

(b) The election of delegates shall be held at the meeting of the Board of Governors held in conjunction with the annual meeting of the State Bar of Wisconsin each year.

(c) Qualification for election as State Bar of Wisconsin delegate to the American Bar Association House of Delegates shall be membership in the State Bar of Wisconsin and the American Bar Association and shall be made by petition of nomination to such office endorsed by at least ten members of the State Bar of Wisconsin Board of Governors, except that a candidate for Young Lawyer delegate who is otherwise qualified under section 6.4 of the American Bar Association Constitution shall be nominated by petition endorsed by at least four members of the Young Lawyers Division Board of Directors. Members of the State Bar of Wisconsin Board of Governors or, in the case of nomination of the Young Lawyer delegate, members of the Young Lawyers Division Board of Directors, may endorse any number of candidate petitions. Petitions for nomination shall be substantially in the form of petition for election to the State Bar of Wisconsin Board of Governors as prescribed in Article III, Section 3 of the State Bar of Wisconsin Bylaws with appropriate changes in order to make the petition

germane to this purpose. Petitions for nominations shall be filed in the office of the Executive Director of the State Bar of Wisconsin no later than the 15th day of April in the year the election is to be held.

(d) Notice of election for terms of delegates expiring at the close of the American Bar Association Annual Meeting each year shall be substantially in the form as the notice attached hereto as Exhibit A. Said notice shall be published in February in an official State Bar publication pursuant to SCR10.12.

(e) Commencing with delegates elected at the meeting of the Board of Governors held in conjunction with the 1994 Annual Meeting of the State Bar of Wisconsin, no candidate shall be elected to more than three consecutive terms.

#### *Exhibit A*

Notice of Election of State Bar of Wisconsin Delegates to the American Bar Association House of Delegates.

An election of two members or in odd numbered years, one member and one member of the Young Lawyers Division, of the State Bar of Wisconsin to the American Bar Association House of Delegates (House) will be held at the meeting of the Board of Governors on the \_\_\_\_ day of \_\_\_\_ 20 \_\_\_\_\_. Those members interested in representing the State Bar of Wisconsin in such capacity are referred to Article III, Section 11 of the State Bar of Wisconsin Bylaws for qualifications for election and election procedure. Below is a brief description of the American Bar Association House of Delegates as well as the duties of said office.

The House has the ultimate responsibility for establishing Association policy, both as to the administration of the Association and its positions on professional and public issues. The House elects the officers of the Association and members of the Board of Governors upon nomination of the Nominating Committee. The House has sole authority to amend the Association's Bylaws and has authority to amend the Association's Constitution upon concurrence of the Association's Assembly of members. The House authorizes committees and Sections of the Association and has the authority to discontinue them. The House sets the dues for membership upon recommendation of the Board of Governors.

A Delegate is responsible for attending each meeting of the House, participating fully in its proceedings and discharging the responsibilities of the House. The State Bar of Wisconsin reimburses

the expenses incurred by its delegates for transportation and lodging for the meeting of the House held at the Annual Meeting of the American Bar Association. The American Bar Association reimburses the expenses, which conform to the American Bar Association policy, incurred by all delegates for transportation to the Mid-year meeting of the House. The State Bar reimburses its delegates for lodging expenses incurred by its delegates at the Mid-year meeting of the house.

It is the responsibility of each Delegate to keep his or her constituency fully apprised of the actions taken by the House, and, to the extent possible, matters pending before the House; and to assist constituent entities in presenting issues of concern for debate and action by the House.

#### **Article IV Standing Committees**

*Section 1(a). Appointment. Number of Members. Term.* Each of the standing committees other than the Committee on Legal Assistance and the Continuing Legal Education Committee shall consist of 12 members. The Committee on Legal Assistance shall consist of 18 members, 3 of whom are attorneys employed by legal services, legal aid, or legal assistance providers. The Continuing Legal Education Committee shall consist of 13 members, one of whom must be a member of the Government Lawyers Division. The Diversity and Inclusion Oversight Committee shall have at least one member from the Board of Governors. The members of each such committee shall be appointed by the President for a term of three years, so arranged that the term of office of only one-third of the members shall expire in any year. No person is eligible for appointment to the same committee for more than two consecutive terms. The Government Lawyers Division member of the Continuing Legal Education Committee shall be appointed by the President for a term of one year. The chairperson of each committee shall be designated by the President for a term of one year. In the event of any vacancy in any committee it shall be filled by appointment by the President for the unexpired term. Members of committees shall serve until the appointment of their respective successors. A majority of the members of any committee shall constitute a quorum for the transaction of business. Each committee shall keep a record of its meetings and proceedings and shall submit an annual report to the Board of

Governors. The Board of Governors may assign powers or duties to any standing committee in addition to those hereinafter set forth.

*(b) Removal for Nonattendance.* After two consecutive nonexcused absences from meetings of any committee, the chairperson of the committee shall report said absences to the President. The President shall thereupon notify such member of the member's removal from the committee, and appoint a replacement for the balance of the term of office.

*Section 2. Committee on Continuing Legal Education.* This committee shall provide guidance for the State Bar of Wisconsin's continuing legal education program, which is designed to serve the public interest by improving the competence of lawyers. Competence includes knowledge of substantive and procedural law, principles of ethics and professionalism, and techniques of law practice management. The continuing legal education program should be committed to providing a range of high quality educational and practice resources at competitive prices while recognizing that its long term vitality is dependent upon fiscal responsibility.

*Section 3. Committee on Professional Ethics.* This committee shall formulate and recommend standards and methods for the effective enforcement of high standards of ethics and conduct in the practice of law; shall consider the "Rules of Professional Conduct for Attorneys" as adopted by the Wisconsin Supreme Court and the observance thereof, and shall make recommendations for appropriate amendments thereto. The committee shall have authority to express opinions regarding proper professional conduct, upon written request of any member or officer of the State Bar. However, the committee shall not issue opinions as to the propriety of past or present conduct of specific member attorneys unless requested to do so by a grievance committee of the State Bar or by the Board of Governors of the State Bar. Unless waived by the requestor or subject, the identities of all requestors of past and current opinions or advice shall be confidential and information relating thereto shall also remain confidential. Members of the committee or designees who provide ethics advice to member attorneys shall be subject to this requirement of confidentiality.

*Section 4. Committee on Communications.* This committee shall create, develop and implement effective means and methods of communication between the State Bar, courts, attorneys, clients, all forms of media and the general public. It shall suggest, encourage and

foster the activities of local bar associations in communicating more efficiently and effectively in their respective areas. It shall be responsible for the relations of the State Bar to the public and shall report and make recommendations from time to time to the Board of Governors.

*Section 5. Committee on Legal Assistance.* This committee shall promote the establishment and efficient maintenance of legal aid organizations equipped to provide legal services to those unable to pay for such service; shall study the administration of justice as it affects persons in the low income groups; and shall study and report on methods of making legal service more readily available to persons of moderate means, and shall encourage and assist local bar associations in accomplishing this purpose.

*Section 6. Diversity and Inclusion Oversight Committee.* This committee shall carry out diversity and inclusion commitment and goals of the State Bar; shall advise, facilitate and monitor efforts of the State Bar with regard to diversity and inclusion goals and strategies; shall recommend metrics to assess and monitor the State Bar's progress in advancing diversity and inclusion; shall maintain records and results on the State Bar's diversity and inclusion initiatives; shall collect and share information on diversity and inclusion projects from other jurisdictions; and shall report directly to the Executive committee on a continuous basis. The committee shall report at least annually to the board of Governors.

*Section 7. Special Committees.* Each special committee shall consist of a number of members determined and appointed by the President or, if the special committee is a committee of the Board of Governors, such number as shall be determined and appointed by the President with the advice and consent of the Board of Governors. Appointments to special committees shall be for a term of one year. No person is eligible for appointment to the same special committee for more than four consecutive years. Creation or abolition of a special committee by the President is subject to review and approval by the Board of Governors. The Chairperson of each special committee, other than a committee of the Board, shall be designated by the President for a term of one year. The Chairperson of each committee of the Board shall be designated by the Board for a term of one year. In the event of any vacancy in any special committee, it shall be filled by appointment by the President or, in the event of a vacancy in a committee of the Board, by the Board for the unexpired

term. Members of the special committee shall serve until the appointment of their respective successors. Each special committee shall keep a record of its meetings and proceedings and shall submit an annual report to the Board of Governors. The members of any special committee shall be subject to the removal provisions contained in Section 1(b).

*Section 8. Legislative Oversight Committee.*

(a) *Composition.* The Legislative Oversight shall be a standing committee composed of nine voting members, selected as follows: The President shall appoint four committee members, including the committee chair, each year; and the Section Leaders Council shall elect one member. Members shall serve for two-year terms. The first year that this Section becomes effective, the current president shall appoint eight members: four to two year terms and four to one year terms. The Executive Director and the State Bar Director of Public Affairs shall serve as ex-officio/nonvoting members. A vacancy shall be filled by the person or body responsible for originally appointing or electing the member whose departure from the committee has created the vacancy. Members of the Legislative Oversight Committee shall represent the State Bar as a whole and do not represent any individual section, division, or constituency. The committee shall recommend action(s) consistent with the overall best interest of the State Bar.

(b) *Functions.* (1) *General.* The Legislative Oversight Committee shall review and monitor all public policy positions, as defined in subsection (c), taken or proposed to be taken by the State Bar or its sections and shall assist the State Bar government relations staff in planning, setting priorities, and allocating resources. The Legislative Oversight Committee also shall make recommendations and report to the Executive Committee and/or to the Board regarding State Bar and section public policy positions. The Legislative Oversight Committee shall also resolve all conflicts between sections seeking to take public policy positions pursuant to the procedures set forth in subsection (b)(4) and is the final arbiter of such disputes. The Legislative Oversight Committee shall be subject to the information requests and reporting requirements set forth in Article IV, Section 1(a).

(2) *State Bar Positions.* The Legislative Oversight Committee shall generally monitor State Bar government relations staff for compliance with Supreme Court Rules and compliance with the

Keller rules on permissible lobbying activity by mandatory bar associations.

(3) Section Positions. The Legislative Oversight Committee shall monitor public policy positions adopted by the sections, the setting of section lobbying fees, and the costs of each section's annual legislative activity. The committee may order a section to cease using State Bar resources or to delay publicly releasing or expressing a public policy position until reasonable notice and/or an opportunity to act is given to the Board of Governors and/or the Executive Committee if: (a) a section position is contrary to, or in conflict with, a State Bar position; (b) a section position is contrary to, or in conflict with, another section's position, or opposed by another section; (c) the proposed communication does not sufficiently and clearly communicate that the position is that of a group of lawyers within the Bar and is not the position of the State Bar; (d) the section has not complied with subsection (c)(3).

(4) Conflict Resolution. Whenever a conflict between two or more sections arises with regard to a public policy position, the following procedure will apply.

(i) The Chair shall first request the sections to meet informally to discuss the issues and try to work out an amicable resolution.

(ii) If informal discussions under (i) are unsuccessful, the Chair in his or her judgment may appoint a mediator to help the sections reach a solution;

(iii) If mediation is unsuccessful, or if in the Chair's judgment the conflict is intractable such that mediation would not be worthwhile, the Chair shall appoint a subcommittee of three members of the Committee, including a subcommittee chair, to review materials and hold a hearing on the matter. The subcommittee shall set deadlines for the submittal of materials from each section based upon the time frames involved in the issue and then shall hold a hearing, unless time does not permit for a hearing. Minutes shall be kept of any hearing. The subcommittee shall then issue a written decision governing which section, if any, may take the requested public policy position or such other guidelines and procedures for the sections to take positions on the issue in question.

(iv) The non-prevailing section in (iii) above may appeal the subcommittee's decision to the full Committee. The full Committee shall not review the matter de novo, but rather will review the materials previously submitted, the minutes from any hearing, and the



decision of the subcommittee. The full Committee shall then vote on whether the subcommittee fairly applied State Bar Rules, By-laws, and procedures in reaching its decision. The decision of the full Committee is final and non-appealable.

(v) The Chair and/or the Committee may from time to time create further policies and procedures for conflict resolution that are not in conflict with, and do not supersede, above subsections (i) – (iv), for the more efficient resolution of conflicts. Notice of such policies and procedures shall be given to all sections and the Board of Governors in a timely fashion.

(5) Meetings; voting. The Legislative Oversight Committee shall meet at the call of the chair or at the call of the President. Meetings may be held on reasonable notice. Action on any matter requires approval by the affirmative vote of a majority of the committee's members. When necessary, late voting by members unable to attend or participate in the meeting will be counted.

(c) *Public Policy Positions.* (1) Definition. Public policy positions are statements, comments, and/or expressions of opinion concerning changes or proposed changes to, proposed or existing, laws, rules, or actions of the legislative, executive, and judicial branches of government and other positions of public advocacy.

(2) Public Policy Positions of the State Bar. Public policy positions of the State Bar as a whole shall be governed by procedures as adopted by the Board of Governors, including the 60 percent requirement set forth in Article III, Section 11(b). The vote on whether to approve the taking of a public policy position shall be by roll call. Divisions and committees may not take public policy positions on behalf of themselves or the State Bar except as authorized by the Board of Governors.

(3) Public Policy Positions of Sections.

(i) Criteria. No section or State Bar member on behalf of a section may express a position on a matter involving an issue of public policy unless the following conditions are met: (a) the matter is one on which the section's views would have particular relevance; (b) the position is adopted in accordance with section bylaws; (c) the position is expressly stated to be taken only on behalf of the section; (d) the section public policy position is adopted in accordance with procedures for public policy positions adopted by the Board of Governors; (e) the position is not contrary to an expressed State Bar position; (f) the section sends a summary of the public policy to the

Legislative Oversight Committee; and (g) no section shall undertake any act which constitutes lobbying without the knowledge and consent of the State Bar's Director of Public Affairs or a designate. Review of section public policy positions shall be conducted pursuant to subsection (b)(3).

(ii) Bylaws. No section shall lobby unless its bylaws meet the requirements as set forth by the Board of Governors.

## **Article V Finance Committee**

*Section 1. Composition.* There shall be a continuing Special Committee on Finance composed of the President, President-Elect, immediate Past-President, Treasurer, Chairperson of the Continuing Legal Education Committee or his or her designee, and four members who shall be appointed by the President and shall be experienced with the governing of the Bar and with financial management. The President shall appoint the chairperson.

*Section 2. Functions.* The Committee on Finance shall review the annual budget proposed by the Executive Director and make recommendations to the Board of Governors thereon, and shall maintain continuing budget and expenditure scrutiny during the year. The committee shall also deal with other financial aspects of the Association's operation, including review of financial statements and recommendations thereon, pension administration, investment and other asset management, and long-range financial planning; shall serve as a resource on financial policies and procedures for proposed actions of the Board of Governors and the Executive Committee; and shall perform such other functions and duties as are assigned by the Board of Governors, the Executive Committee or the President.

## **Article VI Section Organization and Activities**

*Section 1. Establishment, Consolidation and Discontinuance of Sections.* Upon approval of an application for the establishment of a new section, the Board of Governors, by a vote of a majority of its members may establish such a section dedicated to a field of law not committed to any other section or committee of the Association. Every application to the Board of Governors for the establishment of a section shall set forth:

(a)The field of law to which the proposed section is to be dedicated, which shall be within the purposes of the State Bar and outside the field of law committed to any existing section or committee of the Association.

(b)A statement of the need for the proposed section.

(c)The proposed by-laws for the government of such section.

(d)The names of the several committees, if any, of the proposed section.

(e)A list of members of the Association who have signified their intention of applying for membership in the proposed section.

An application for the consolidation of existing sections shall set forth the information required in the case of an application for establishing a section. Such an application may be granted by the Board of Governors in its discretion, by vote of a majority of the members of the Board of Governors, but only after notice by mail to the members of such section.

A section may be discontinued by vote of a majority of the members of the Board of Governors but only after notice by mail to the members of such section.

*Section 2. Membership of Sections.* Any member of the State Bar shall be entitled at the member's election to enroll in any section.

*Section 3. Section Officers and Council.* Each section shall have a chairperson and council and such other officers as the section by-laws may provide. The council of a section shall consist of the officers ex officio and such other members as may be provided in the by-laws. No change in the by-laws of any section shall be effective until approved by the Board of Governors.

*Section 4. Section Dues.* The members of any section may be required to pay section dues in such amount and for such purposes as the section, with the approval of the Board of Governors, may from time to time determine.

*Section 5. Section Meetings.* The officers and directors of each section shall arrange for meetings of the section in conjunction with the annual meeting of the State Bar. Special meetings may be held at such times and places as the section boards and officers may determine.

*Section 6. Reports.* Each section shall submit to the Board of Governors prior to the annual meeting of the Association in each year a report of the activities of the section.

*Section 7. Expenses.* Expenditures out of the dues of sections shall be made only by direction of the council of the section; and the treasurer of the State Bar shall pay out of such dues only such amounts as the chairperson of the section shall certify to have been so authorized.

**Article VII Amicus Curiae Briefs** Briefs *amicus curiae* may be authorized and filed in the name of the State Bar of Wisconsin or one of its sections or divisions pursuant to the following guidelines, policies and procedures:

*Section 1. State Bar of Wisconsin Briefs.*

(a) *Authorization.* The Board of Governors may authorize the preparation and filing of a State Bar of Wisconsin brief *amicus curiae* by an affirmative vote of at least two-thirds of those members present and voting

(b) *Appropriate Cases.* Briefs *amicus curiae* may be authorized only when consistent with the purposes of the State Bar, as expressed in SCR 10.02(2).

(c) *Preparation and Filing of Briefs.*

1. A brief *amicus curiae* may be filed only after review and approval by the President of the State Bar who, in consultation with others as may be necessary and appropriate, shall insure that the brief is of high professional quality and an accurate representation of State Bar policy.

2. In addition to the person or persons actually preparing the brief, the President of the State Bar shall also appear as counsel on the brief.

3. The State Bar shall pay for the costs of printing and filing an *amicus curiae* brief but will pay no legal fees for preparation or review of such brief.

(d) *Role of Individual Members, Committees, Divisions and Sections.*

1. Whenever practicable, appropriate State Bar committees, divisions and sections shall be consulted prior to authorization of an *amicus curiae* brief.

2. Individual members, committees, divisions and sections may recommend that a brief *amicus curiae* be filed in the name of the State Bar of Wisconsin, which recommendation shall include:

a. A full statement of the facts of the controversy and the status of the litigation;

b. A statement of the principles of law to be supported with a full explanation of the applicant's reasons for believing that the case is an appropriate one for State Bar involvement;

c. A statement advising when the recommendation was authorized and a description of any dissenting views when presented by a committee, division or section;

d. A full disclosure of any personal or professional interest in the matter of any proponent of the recommendation, or of any individual member of the section or division directors or officers or committee members which authorized the submission of the recommendation;

e. The name of the person or persons who are proposed to prepare the brief *amicus curiae*;

f. The names of all interested parties to whom a copy of the recommendation has been furnished prior to submission to the Board of Governors or Executive Committee.

*(e) Involvement by State Bar Membership.*

1. Whenever practicable, before the Board of Governors or Executive Committee votes on whether to authorize the filing of an *amicus curiae* brief, notice of the proposed action, inviting comment and recommendations from State Bar members, shall be published pursuant to SCR 10.12 or distributed by a method designed to reach State Bar members as quickly as possible.

2. All comments and recommendations from the membership timely received under (e)(1) shall be considered by the Board of Governors or Executive Committee prior to taking the proposed action.

*Section 2. Section and Division Briefs.*

*(a) Authorization.* No *amicus curiae* brief shall be filed by any committee, section or division of the State Bar of Wisconsin without the authorization provided herein.

1. Upon receipt of any request to file an *amicus curiae* brief from any person, lawyer, committee, section or division of the State Bar, the President or designee shall, as soon as practical, telephonically or electronically communicate such request to counsel for the opposing party in the court below and to any other committee, section or division of the State Bar that reasonably would be expected

to have an interest in the issues of the case and invite any timely comment to such request.

2. If a request originates from a court, whether it goes first to a committee, section or division or directly to the Board of Governors, the foregoing paragraph shall not apply.

3. Authorization for the preparation and filing of a brief *amicus curiae* by a committee, section or division shall be by an affirmative vote of at least two-thirds of the members of the Board of Governors present and voting at an official meeting of the Board of Governors.

4. In the event the President of the State Bar of Wisconsin determines it is not feasible or practical for the Board of Governors to meet and act upon a requested authorization to file a brief *amicus curiae*, then Paragraph 3 shall not apply. In such case the President shall electronically communicate the request for such brief and any comments to all members of the Board of Governors, which communication shall be for informational and comment purposes only. The President shall then contact and convene, either in person or through telephonic or electronic communication, a meeting of the Executive Committee of the State Bar of Wisconsin. The committee shall then, where deemed appropriate by the President, assume the responsibilities of the Board of Governors as to the authorization of the preparation and filing of an *amicus curiae* brief by affirmative vote of at least two-thirds of the members of the Executive Committee then participating and voting, provided that those Executive Committee members participating and voting constitute at least a majority of the Executive Committee.

5. If for any reason the President of the State Bar of Wisconsin is unable to assume the duties provided for above, the President-elect shall be authorized to act in the capacity of the President of the State Bar of Wisconsin for the limited purpose of determining whether or not it is feasible and practical to require an authorization of the total Board of Governors, or whether the situation demands immediate action and therefore the convening of the Executive Committee for the purpose of considering the *amicus curiae* brief request.

6. The President has the discretion to refuse to consider a request to file an *amicus curiae* brief in the event it is not submitted in a timely manner.

(b) *Appropriate Cases.* Briefs *amicus curiae* may be authorized only when consistent with the purposes of the State Bar, as expressed

in SCR 10.02(2) and the purposes of the section or division as expressed in the section bylaws.

*(c) Preparation and Filing of Briefs.*

1. A brief *amicus curiae* may be filed only after review and approval by the chairperson of the section or president of the division who, in consultation with others as may be necessary and appropriate, shall insure that the brief is of high professional quality and an accurate representation of section or division policy and in accordance with the authorization of the Board of Governors.

2. In addition to the person or persons actually preparing the brief, the chairperson of the section or president of the division shall also appear as counsel on the brief.

3. The section or division may pay for the costs of printing and filing an *amicus curiae* brief but may not pay legal fees for preparation or review of such brief.

4. The brief must include a statement that it is filed only by the section or division, not the Board of Governors or any other State Bar entity.

*(d) Role of Individual Members, Committees, Divisions and Sections.*

1. Whenever practicable, appropriate State Bar committees, and other divisions and sections shall be consulted prior to requesting authorization of an *amicus curiae* brief by the Board of Governors.

2. A section or division request for authorization to file an *amicus curiae* brief shall include:

a. A full statement of the facts of the controversy and the status of the litigation;

b. A statement of the principles of law to be supported with a full explanation of the reasons for believing that the case is an appropriate one for section or division involvement;

c. A statement advising when and by what vote it was decided to request authorization to file an *amicus* brief and a description of any dissenting views;

d. A full disclosure of any personal or professional interest in the matter of any individual member or officer or director of the section or division;

e. The name of the person or persons who are proposed to prepare the brief *amicus curiae*;

f. The names of all interested parties to whom a copy of the request for authorization has been furnished prior to submission to the Board of Governors or Executive Committee.

*(e) Involvement by State Bar Membership.*

1. Whenever practicable, before the Board of Governors or Executive Committee votes on whether to authorize the filing of an *amicus curiae* brief, notice of the proposed action, inviting comment and recommendations from State Bar members, shall be published pursuant to SCR 10.12 or distributed by a method designed to reach State Bar members as quickly as possible.

2. All comments and recommendations from the membership timely received under (e)(1)1 shall be considered by the Board of Governors or Executive Committee prior to taking the proposed action.

**Article VIII Indemnification of Officers, Employees, and Agents**

*Section 1. Power.* The State Bar of Wisconsin (herein State Bar) shall indemnify any person who was or is a party or threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative and whether with or without merit (other than an action, suit or proceeding by or in the right of the State Bar) by reason of the fact that he or she is or was a member of the Board of Governors of the State Bar or its Executive Committee, an officer or employee of the State Bar, or an agent of the State Bar acting on its behalf as a committee, division, or section member or as an appointee of an officer or the Executive Director of the State Bar (all of the above herein designated as "State Bar Persons"), against expenses, including attorney's fees, judgments, fines and amounts paid in settlement, actually and reasonably incurred by the person in connection with such action, suit or proceeding if he or she breached or failed to perform any duty resulting solely from his or her status as a State Bar Person unless the breach or failure to perform constitutes any of the following:

(a) A willful failure to deal fairly with the State Bar or its members in connection with a matter in which the State Bar Person has a material conflict of interest.



(b) A violation of criminal law, unless the State Bar Person had reasonable cause to believe his or her conduct was lawful or no reasonable cause to believe his or her conduct was unlawful.

(c) A transaction from which the State Bar Person derived an improper personal profit.

(d) Willful misconduct.

*Section 2. Effect of Termination.* The termination of any action, suit or proceeding referred to in Section (1) by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not of itself create a presumption that indemnification of the State Bar Person is not required under this section.

*Section 3. Success on Merits.* To the extent that a State Bar Person has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in section (1), or in defense of any claim, issue or matter therein, he shall be indemnified against expenses, including attorney's fees, actually and reasonably incurred by the person in connection therewith.

*Section 4. Denial of Indemnification.* Any indemnification under section (1) shall be made by the State Bar unless there is a determination that indemnification of the State Bar Person is improper in the circumstances because he or she has breached or failed to perform a duty in a manner described in Section (1)(a) to (d). Such determination shall be made by one of the following subject to review by the court which conducted the action, suit or proceeding or by another court of competent jurisdiction:

(a) By the Executive Committee of the Board of Governors of the State Bar by a majority vote of a quorum consisting of members who were not parties to such action, suit or proceedings; or

(b) By the Board of Governors of the State Bar by a majority vote of a quorum consisting of members who were not parties to such action, suit or proceeding.

*Section 5. Advance Payment.* Expenses including attorney's fees, incurred in defending a civil or criminal action, suit or proceeding may be paid by the State Bar in advance of the final disposition of such action, suit or proceedings upon receipt of an undertaking by or on behalf of the State Bar Person to repay such amount if it is ultimately determined that he or she is not entitled to be indemnified by the State Bar as provided in this Article.

*Section 6. Insurance.* The State Bar shall have power to purchase and maintain insurance on behalf of any State Bar Person against any liability asserted against the person and incurred by him or her in any capacity as a State Bar Person whether or not the State Bar would have to indemnify against such liability under this Article. Where there is insurance coverage the State Bar will not indemnify against attorney's fees paid by the State Bar Person except where such person has reasonably retained counsel because a claim exceeds the insurance coverage.

### **Article IX Amendment**

The provisions of these By-Laws shall be subject to amendment or abrogation by (i) resolution adopted by vote of two-thirds of the members of the Board of Governors, or (ii) action of the members of the Association expressed through the referendum procedure defined in SCR 10.08. When any change in the By-Laws has been made, the Executive Director shall publish notice thereof, including a copy of the amendatory resolution, in an official publication of the State Bar pursuant to SCR 10.12, and he or she shall file a certified copy thereof with the Clerk of the Supreme Court.

A petition for review of any such change in the By-Laws will be entertained by the Court if signed by twenty-five or more active members of the Association and filed with the Clerk of the Court within sixty days after publication of notice of such change. Hearing upon such a petition will be pursuant to notice in such manner as the Court may direct.

**APPENDIX A-1**

STATE OF WISCONSIN, CIRCUIT COURT \_\_\_\_\_ COUNTY

CASE CAPTION: APPLICATION FOR ADMISSION  
PRO HAC VICE

Case Number:

I declare under penalty of perjury:

- (1) That I seek to appear pro hac vice in order to represent \_\_\_\_\_ in the above-captioned matter;
- (2) That I am admitted to practice law in the highest court(s) of the state(s) or country(ies) of \_\_\_\_\_;
- (3) That there are no disciplinary complaints filed against me for violation of the rules of those courts (if so, please explain) \_\_\_\_\_;
- (4) That I am not suspended or disbarred from practice for disciplinary reasons or reason of medical incapacity in any jurisdiction (if yes, please explain) \_\_\_\_\_;
- (5) That I am associated with Attorney \_\_\_\_\_, State Bar No. \_\_\_\_\_, an active member of the State Bar of Wisconsin (name the member of the State Bar of Wisconsin and provide his/her Member Number);
- (6) That I do not practice or hold out to practice law in the State of Wisconsin;
- (7) That I acknowledge the jurisdiction of the courts of the State of Wisconsin over my professional conduct, and I agree to abide by the rules of the relevant division of the Circuit Court of the State of Wisconsin, the Wisconsin Court of Appeals, the Wisconsin Supreme Court, and the Rules of Professional Conduct for Attorneys, if I am admitted pro hac vice;
- (8) That I have complied fully with SCR Rule 10.03 (4); and
- (9) That I am applying for admission pro hac vice for the following reasons: \_\_\_\_\_.

I have applied for admission pro hac vice in the courts of the State of Wisconsin \_\_\_\_\_ times previously in this calendar year.

I attach hereto evidence of my payment or prior payment of the pro hac vice fee to the Office of Lawyer Regulation.

Signature: \_\_\_\_\_

Print Name:

Date:

Address:

Telephone Number:

Email Address (if any):

**APPENDIX A-2**

STATE OF WISCONSIN, CIRCUIT COURT \_\_\_\_\_ COUNTY

CASE CAPTION:

APPLICATION FOR ADMISSION  
PRO HAC VICE  
Under SCR 10.03(4)(c) or (cm)

Case Number:

I declare under penalty of perjury:

- (1) That I seek to appear pro hac vice in order to represent \_\_\_\_\_ in the above-captioned matter;
- (2) That I am nonresident military counsel seeking admission under SCR 10.03(4)(c) or nonresident counsel seeking to appear for the limited purpose of participating in a child custody proceeding pursuant to the Indian Child Welfare Act of 1978, 25 U.S.C. s. 1901, et seq., under SCR 10.03(4)(cm).
- (3) That I am admitted to practice law in the highest court(s) of the state(s) or country(ies) of \_\_\_\_\_;
- (4) That I am admitted to practice law before the court(s) of the following federally recognized Indian tribes: \_\_\_\_\_;
- (5) That there are no disciplinary complaints filed against me for violation of the rules of those courts (if so, please explain) \_\_\_\_\_;
- (6) That I am not suspended or disbarred from practice for disciplinary reasons or reason of medical incapacity in any jurisdiction (if yes, please explain) \_\_\_\_\_;

- (7) That I do not practice or hold out to practice law in the State of Wisconsin;
- (8) That I acknowledge the jurisdiction of the courts of the State of Wisconsin over my professional conduct, and I agree to abide by the rules of the relevant division of the Circuit Court of the State of Wisconsin, the Wisconsin Court of Appeals, the Wisconsin Supreme Court, and the Rules of Professional Conduct for Attorneys, if I am admitted pro hac vice;
- (9) That I have complied fully with the requirements of SCR Rule 10.03(4) applicable to me;
- (10) That I am applying for admission pro hac vice for the following reasons:

\_\_\_\_\_.

I have applied for admission pro hac vice in the courts of the State of Wisconsin \_\_\_\_\_ times previously in this calendar year.

I certify I am not required to pay a pro hac vice fee to the Office of Lawyer Regulation because I qualify for an exemption from the fee under SCR 10.03(4)(c) or (cm).

Signature: \_\_\_\_\_

Print Name:

Date:

Address:

Telephone Number:

Email Address (if any):

## **APPENDIX B**

### **STATE OF WISCONSIN SUPREME COURT**

#### **In-House Counsel Registration**

I, \_\_\_\_\_, request to be registered as in-house counsel for \_\_\_\_\_, a corporation, association, or other nongovernmental entity with an office in Wisconsin pursuant to Wisconsin Supreme Court Rules 20:5.5(d)(1) and SCR 10.03(4).

Wisconsin address of corporation/entity:

Wisconsin telephone number:

I declare under penalty of perjury that:

- (1) I am employed as a lawyer by the above-named corporation/entity and that my employment conforms to the requirements of SCR 10.03 (4) (f).
- (2) The above corporation, association or non-governmental entity is in good standing with the state of Wisconsin.
- (3) I am admitted to practice law in the following jurisdictions, \_\_\_\_\_, without any restriction on my eligibility to practice law. I understand my obligation to notify this court immediately of any change respecting the status of my license to practice law in any jurisdiction in which I am licensed to practice law.
- (4) I acknowledge that I am subject to the Wisconsin Supreme Court Rules, including the Rules of Professional Conduct for Attorneys.
- (5) I understand that, as a registered in-house counsel, I am permitted to practice law in Wisconsin but only on behalf of the corporation, association or non-governmental entity for which I am employed, its directors, officers, and employees

in their respective official or employment capacities, and/or its commonly owned or controlled organizational affiliates. I understand that I shall not appear in the courts of Wisconsin or in any agency or municipal proceeding that I have reason to believe prior to the proceeding is contested, unless pro hac vice admission is required and I am admitted pro hac vice pursuant to SCR 10.03(4).

I attach hereto the documents required by SCR 10.03 (4) (f).

I attach hereto evidence of my payment of the annual in-house counsel registration fee to the Board of Bar Examiners.

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Signature

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Print Name

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Date

Address and Telephone Number

Amended March 24, 1981; April 20, 1982; June 13, 1982; June 10, 1983; October 14, 1983; June 15, 1984; August 26, 1988; January 4, 1990; June 19, 1991; September 13, 1991; June 17, 1992; April 2, 1993, April 19, 1993, June 16, 1993, October 21, 1993, June 22, 1994; January 23, 1996; September 20, 1997; January 25, 2000; April 14, 2000; March 7, 2001; April 10, 2001; January 23, 2002; January 28, 2002; March 24, 2005; November 14, 2007; February 12, 2008; January 1, 2009; May 4, 2010; June 6, 2013; Nov 25, 2013; April 24, 2015; Jan 1, 2017; February 12, 2019; May 21, 2019; September 7, 2021.