

FIDUCIARY RESPONSIBILITY OF THE BOARD

Getting the Bar's House in Order

Sample Policies and Forms

**National Conference of Bar Presidents
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Boston, Massachusetts**

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State Bar of Nevada**



State Bar of Nevada

Policies

Bylaws of the Board of Governors

Policy 1: CONFLICT OF INTEREST

- 1.1 The Board of Governors of the State Bar of Nevada (State Bar), its officers, employees, committee members and section officers must act at all times in the best interests of the State Bar and not for personal or third-party gain or financial enrichment. When encountering potential conflicts of interest, Board members shall identify the potential conflict and as required, remove themselves from all discussion and voting on the matter. Specifically, members of the Board of Governors and those mentioned above shall:
- (a) avoid placing (and avoid the appearance of placing) one's own self-interest or any third-party interest above that of the State Bar; while the receipt of incidental personal or third-party benefit may necessarily flow from certain State Bar activities, such benefit must be merely incidental to the primary benefit to the State Bar and its purposes;
 - (b) not abuse their position by improperly using their position on the Board to direct staff of the State Bar, or use State Bar, services, equipment, materials, resources, or property for their personal third-party gain or pleasure, and shall not represent to third parties that their authority as a Board member extends any further than that which it actually extends;
 - (c) not engage in any outside business, professional or other activities that would directly, or indirectly, materially adversely affect the State Bar;
 - (d) not engage in or facilitate any discriminatory or harassing behavior directed toward the State Bar staff, members, officers, directors, meeting attendees, exhibitors, advertisers, sponsors, suppliers, contractors, or others in the context of activities relating to the State Bar;
 - (e) not solicit or accept gifts, gratuities, free trips, honoraria, personal property, or any other item of value from any person or entity as a direct or indirect inducement to provide special treatment to such donor with respect to matters pertaining to the State Bar without fully disclosing such items to the Board of Governors;
 - (f) provide goods or services to the State Bar as a paid vendor to the State Bar only after full disclosure to, and advance approval by, the Board, and pursuant to any related procedures adopted by the Board;
 - (g) not persuade or attempt to persuade any member, exhibitor, advertiser, sponsor, subscriber, supplier, contractor, or any other person or entity with an actual or potential relationship to or with the State Bar to terminate, curtail or not enter into its relationship to or with the State Bar, or to in any way reduce the monetary or other benefits to the State Bar of such relationship;
 - (h) disclose, in writing, if the Board member is related to another Board member or any staff member by blood, marriage or domestic partnership; and
 - (i) disclose, in writing, if the Board member is involved in any business or other professional relationship with any staff member.
 - (j) not represent anyone with adverse action to any administrative interests of the State Bar.

- 1.2 This policy shall apply not only to all members of the Board of Governors, but also shall apply to all members of State Bar committees, task forces, and others in the State Bar governance structure, as well as to all State Bar employees. All references herein to the Board of Governors shall be construed also to refer to these additional individuals.
- 1.3 The Executive Committee of the Board of Governors shall operate as a compliance committee to insure the proper application and implementation of this policy.

Policy 3: MEDIA RELATIONS

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

Policy 4: COMMUNICATIONS

- 4.1 *General Policy* Communications of the Bar and its constituent groups and entities, including printed material and electronic communications, should be germane to the law, lawyers, the practice of law, the courts and the judicial system, legal education and the Bar in its role as a mandatory membership organization. Communications, other than permitted advertisements, should advance public understanding of the law, legal ethics and the professionalism and collegiality of the bench and Bar.
- 4.2 *Editorial Policy* The Board of Governors may approve editorial standards for Bar communications submitted by the *Nevada Lawyer* Editorial Board or the Publications Committee and material permitted by the Bar to be included in its communications concerning such matters as advertising, political communication, profanity and obscenity, letters to the editor, use of artwork, photographs and illustrations, story placement, headlines and scheduling, advertising content and rates and similar topics.
- 4.3 *Campaign Advertisements* Judicial candidates and candidates for the Board of Governors may advertise at standard charges in *Nevada Lawyer*, but partisan political advertising is not allowed. Partisan political announcements or endorsements will not be accepted for publication as letters to the editor or feature articles.
- 4.4 *Membership Surveys and Questionnaires*
- (a) A survey to specific groups of the membership from bar staff, sections or others must have the prior approval of the Executive Director.
 - (b) A section may survey its own membership without prior approval.

Policy 7: FINANCIAL MATTERS

- 7.1 *General Policy* All funds paid to the Bar will be received by the Executive Director acting for and on behalf of the Bar in a checking account or accounts with a commercial bank or financial institution. The Executive Director will make all disbursements from such accounts. The Board's Budget Committee and the Investment Committee will adopt the policy governing the investment, reinvestment, sale, conversion or other disposition of funds of the Bar, subject to the approval of the Board.

7.2 *Audits* The books of account of the Bar must be audited at least annually, unless otherwise directed by the Board.

7.3 *Borrowing*

(a) The President and the Executive Director acting for and on behalf of the Bar, are authorized and empowered:

- (1) To borrow from any bank, or other lending agency, on the terms agreed on between the officer and the lender and approved by the Board, a sum deemed prudent and necessary to effectuate the mission of the Bar.
- (2) To execute and deliver to any lender or other depository, the promissory note or notes or renewals thereof of the Bar at rates of interest and on terms as may be agreed on.
- (3) To mortgage, pledge or encumber and deliver to the lender, as security for the payment of loans, any savings of the Bar, regardless of form, on deposit with the lender.
- (4) To execute and deliver to any lender any financing statements, security agreements or other instruments in writing, of any kind or nature, that may be necessary to complete a financial transaction.
- (5) To draw on or endorse to any lender the savings on deposit or to dispose of the proceeds therefrom as may be deemed advisable.
- (6) To perform other acts and to execute and deliver to any lender other documents as may be deemed reasonable, necessary or proper.

(b) The President and the Executive Director, acting for and on behalf of the Bar, are also authorized and empowered to execute and deliver documents to any lender to memorialize or otherwise complete any borrowing or other financial transaction that has been previously authorized by the Board of Governors.

7.4 *Check Signatures* Cash disbursements of \$2,000 or more require two signatures. The Executive Director and officers are authorized signatories on State Bar accounts.

7.5 *Annual Budget* The Executive Director will develop a draft annual budget for review and approval by the Budget Committee. The Budget Committee will submit its recommendation for final approval to the Board.

7.6 *Approval by Board of Governors* After the annual budget is adopted, the Board must approve a substantive programmatic change not anticipated or included in the budget.

7.7 *Operating Account* The Operating Account will maintain cash sufficient to assure fulfillment of obligations to the membership. The account will be used to sustain an acceptable level of operation and continue service to the membership if the standard level of operations is interrupted by unforeseen events. It is also used to offset the effects of an operational reversal until expenditures can be adjusted and to fund specific future capital enhancements and improvements in the operation of the Bar.

7.8 *Reserve Funds* Separate reserve funds will be established and maintained as Board-authorized reserve funds, defined as follows:

- (a) *Operating Reserve Fund* Established and maintained within the annual budget to assure continued operation of the Bar in the event of a non-dues revenue reversal or a catastrophic event. Operating reserves are set at 10% of annual operating expenses.
- (b) *Building Reserve Fund* established as a fund to set aside capital for the eventual purchase of Las Vegas facilities. Building reserves have been set as a \$500,000 annual contribution.
- (c) *LRIS Restricted Fund* Contributions to this fund come from the LRIS program. Annual contributions come from the revenues less expenses. LRIS restricted funds are used to grant monies in the Public Service

Pro Bono Grant Program. Annual grant formula is set at 5% of restricted LRIS funds from previous years plus 50% of LRIS revenues less expenses for the prior calendar year.

- (d) *Dues Reserve* Planning for the most recent dues increase, which took effect on January 1, 2006, incorporated the concept of a five year dues cycle. The amount of the dues increase was set in anticipation of increasing cash flow sufficient to cover anticipated growing expenses from January 1, 2006, through December 31, 2011. It was anticipated that the State Bar would be in a revenue neutral position year end 2008 and begin drawing on reserves in the last years of the 5 year cycle. Revenues are projected and expenses are budgeted consistent with this five year dues cycle concept.

During the earlier years of the dues cycle, the amount by which annual revenues exceed annual expenses are accumulated in a "Dues Reserve." Funds in the Dues Reserve are available during the later years of the dues cycle, when it may be necessary to budget annual expenses in excess of annual revenues. Allocating funds to the Dues Reserve provides: (1) documentation of how well the bar is doing in budgeting and (2) a measure of its financial performance, with the goal of not raising dues for at least five years from January 1, 2006.

7.9 Investment Policy This statement of the investment policy has been adopted by the Board of Governors of the State Bar of Nevada to provide guidelines for the investment of funds held by the organization.

This policy is set forth for purposes of managing investment risk and to optimize investment returns and maintenance of liquidity. The investment policy shall be managed within the parameters outlined by Supreme Court Rule 86.11. This Policy and any amendments to it must be authorized by action of the Board of Governors.

- (a) *Investment Committee* The Investment Committee is involved in the management of State Bar of Nevada investment funds. Members of the Investment Committee include two members of the Board of Governors appointed by the President of the State Bar, the chair of the Budget and Finance Committee as a liaison, and one at-large committee member.
- (b) *Reviews* On a semiannual basis, or as deemed necessary, the Investment Committee will review the mix of investments for surplus funds to ensure the funds are managed in a fiscally sound manner and to achieve the highest return on investments within the parameters set forth by the Board of Governors. The Investment Committee shall report to the Board of Governors quarterly.
- (c) *In-house Management/Investment Manager* The Board of Governors, through the Investment Committee, may charge State Bar staff to invest funds according to the investment plan set forth by the State Bar Investment Policy. Or the Investment Committee may, with approval by the Board of Governors, contract with an investment manager for professional investment services. The selection of the investment manager shall be the subject of a request for proposal procedure every three years. The investment manager will monitor the various investment alternatives and select securities which best meet the State Bar's overall, long-term goals.
- (d) *Investment Criteria* Investment funds may be placed in:
- (1) Commercial banking or savings accounts
 - (2) Certificates of deposit
 - (3) Bonds and debentures of the United States, the maturity dates of which shall not extend more than 10 years from the date of purchase
 - (4) Bills and Notes of the United States Treasury, the maturity date of which is not more than 10 years from date of purchase
 - (5) Obligations of the United States Postal Service or the Federal National Mortgage Association, the maturity date of which is not more than 10 years from the date of purchase;
 - (6) Bonds of federal agencies, where underwritten by or payment is guaranteed by the United States.

7.10 Investment Management The Executive Director is authorized and directed to deposit, sell, convert or withdraw cash on deposit in excess of that required for current operations and to invest those funds in accordance with the Bar's reserve and investment policy using expert advice and assistance as he or she

may require. The Investment Committee will review the investment portfolio at least annually, using expert advice and assistance as it may require.

7.11 Expense Reimbursements Bar employees and members of the Board of Governors or any other special task force or committees named by the Board of Governors will be reimbursed for their expenses in accordance with this policy when acting in their official capacities. Expenses of spouses or guests will not be reimbursed except as specifically approved by the Board of Governors. The Bar must receive requests for expense reimbursement no later than 5 days after the expense has been incurred. If an expense reimbursement form is not submitted within 5 days after the meeting, it must be submitted not later than 45 days after year-end and include justification as to why it was not timely submitted. If these two requirements are not met, reimbursement will not be paid. Supporting documentation in the form of original receipts or copies of original receipts must be submitted with all requests for reimbursement of expenses while acting on official bar business.

7.12 Eligible Expenses Eligible reimbursable expenses while on official business include the following:

- (a) *Out-of-State Travel* Out-of-state travel for Board members will be reimbursed for those persons and meetings set forth in the Bar's annual budget or as otherwise approved by the Board of Governors. Employees must obtain prior approval of the Executive Director prior to traveling out-of-state.
- (b) *Transportation* Use of a personal automobile is reimbursed at the allowable IRS rate. Airfare is reimbursed at the actual cost of coach fare. Actual cost of taxi, bus or other public transportation is reimbursable. Actual cost of car rental at economy car rate when other transportation is not readily available.
- (c) *Lodging* Actual cost for a moderately priced, double-occupancy room, except when the location of the meeting or conference requires other arrangements. Receipts for lodging must be attached to the reimbursement form.
- (d) *Meals* Reimbursement for meals will be made at actual cost of the meal provided that it meets the standard of reasonableness. Meals purchased for members of the Bar or other persons in the course of official bar business will be reimbursed at actual cost with submission of receipts and an explanation provided it meets the standard of reasonableness. Official dinners, meetings or banquets of the Bar which eligible persons and their spouses or guests are expected to attend will be paid for by the Bar and, if not, will be eligible for reimbursement.
- (e) *Miscellaneous Costs* Telephone, postage, office expense, registration fees and other legitimate business expenses will be reimbursed at actual cost with submission of receipts or an explanation of the business purpose of the expense.



**State Bar of Nevada
Investment Policy Statement**

**Approved by Board of Governors
March 2008**

This statement of the investment policy has been adopted by the Board of Governors of the State Bar of Nevada to provide guidelines for the investment of funds held by the organization.

This policy is set forth for purposes of managing investment risk and to optimize investment returns and maintenance of liquidity. The investment policy shall be managed within the parameters outlined by Supreme Court Rule 86.11. This Policy and any amendments to it must be authorized by action of the Board of Governors.

Reviews – On a semiannual basis, or as deemed necessary, the Investment Subcommittee will review the mix of investments for surplus funds to ensure the funds are managed in a fiscally sound manner and to achieve the highest return on investments within the parameters set forth by the Board of Governors. The Investment Subcommittee shall report to the Board of Governors quarterly.

Budget and Finance Committee/Investment Subcommittee -- The Investment Subcommittee under the direction of the Budget and Finance Committee is involved in the management of State Bar of Nevada investment funds. Members of the Investment Subcommittee include two members of the Board of Governors appointed by the president of the State Bar, the chair of the Budget and Finance Committee as a liaison and one at-large subcommittee member.

In-house Management/Investment Manager -- The Board of Governors, through the Investment Subcommittee, may charge State Bar staff to invest funds according to the investment plan set forth by the State Bar Investment Policy. Or the Investment Subcommittee may, with approval by the Board of Governors, contract with an investment manager for professional investment services. The selection of the investment manager shall be the subject of a request for proposal procedure every three years. The investment manager will monitor the various investment alternatives and select securities which best meet the State Bar's overall, long-term goals.

Investment Criteria

Investment funds may be placed in:

- Commercial banking or savings accounts
- Certificates of deposit
- Bonds and debentures of the United States, the maturity dates of which shall not extend more than 10 years from the date of purchase
- Bills and Notes of the United States Treasury, the maturity date of which is not more than 10 years from date of purchase
- Obligations of the United States Postal Service or the Federal National Mortgage Association, the maturity date of which is not more than 10 years from the date of purchase;
- Bonds of federal agencies, where underwritten by or payment is guaranteed by the United States.

STATE BAR OF NEVADA
COMMITTEE APPLICATION FORM
- ATTORNEY APPLICANT -

Approved by
SBN review

Name: _____ Bar Number: _____

Date(s) admitted to State Bar of Nevada or in other jurisdictions: _____

Name of Committee appointment(s) you seek: _____

Employer: _____

Address: _____

City: _____ Zip: _____ Phone: _____ Email: _____

Do you have any disciplinary matters pending? If so, please explain. You may use a separate sheet of paper. _____

Have you ever had a finding of discipline – public or private- in this or any other jurisdiction? If so, please explain. You may use a separate sheet of paper. **Note: While discipline is NOT a per se disqualification, the failure to disclose discipline shall disqualify you from an appointment.**

List current or prior service on State Bar committees, boards or panels or other organizations: _____

List any State Bar Sections of which you are a member: _____

List Pro Bono activities including organizations and pro bono hours. _____

Fields in which you practice: _____

Periodically, the Board of Governors has to make appointments to various Committees on an expedited basis. Would you like to be considered for such appointments? _____

Please attach a brief statement indicating why you wish to serve on this committee and what you can contribute. You may also attach a resume or biography.

Mail your completed application form in confidence to: **Gale Skala, State Bar of Nevada, gales@nvbar.org, 600 E. Charleston Blvd., Las Vegas, NV 89104.**

**STATE BAR OF NEVADA
COMMITTEE APPLICATION FORM
- ATTORNEY APPLICANT -**

Approved by SBN review _____

Discipline Confidentiality Waiver

I, _____ having applied for appointment to a Committee of the State Bar of Nevada, do hereby waive any confidentiality and consent to disclosure to the Board of Governors and the Chair of the particular Committee(s) of all discipline files and records in jurisdictions where I am or have been admitted to practice regarding any complaints filed against me, open or closed, pending or resolved for the limited purpose of considering my application in this appointment process.

Date: _____

Signature: _____

STATE BAR OF NEVADA COMMITTEES

- Advisory Commission on Law Related Education
- Board of Bar Examiners
- Character and Fitness
- Clients Security Fund
- Continuing Legal Education
- Fee Dispute
- Functional Equivalency
- Lawyer Referral and Information Service
- Nevada Lawyer Editorial Board
- Publications
- Northern Nevada Disciplinary Board
- Southern Nevada Disciplinary Board

- Lawyer Advertising Advisory Committee
- Standing Committee on Professional Responsibility and Ethics

The State Bar Board of Governors appoints members to the following:

- Nevada Commission on Judicial Selection
- Nevada Commission on Judicial Discipline
- Nevada Law Foundation
- Nevada Standing Committee on Judicial Ethics and Election Practices
- ABA House of Delegates

STATE BAR OF NEVADA
COMMITTEE APPLICATION FORM
- NONLAWYER APPLICANT -

Approved by
SBN review

Name: _____

Name of Committee appointment(s) you seek: _____

Employer: _____

Address: _____

City: _____ Zip: _____ Phone: _____ Email: _____

Have you ever been convicted of a felony? If so, please explain. You may use a separate sheet of paper. _____

List any professional licenses you hold or have held, including the dates and jurisdictions of licensure.

For those licenses listed above, have you ever had a finding of discipline – public or private- in this or any other jurisdiction? If so, please explain. You may use a separate sheet of paper. **Note: While discipline is NOT a per se disqualification, the failure to disclose discipline shall disqualify you from an appointment.**

List current or prior service on State Bar committees, boards or panels or other organizations:

List charitable or community organizations and number of hours per year you contribute _____

Periodically, the Board of Governors has to make appointments to various Committees on an expedited basis. Would you like to be considered for such appointments? _____

Please attach a brief statement indicating why you wish to serve on this committee and what you can contribute. You may also attach a resume or biography.

Mail your completed application form in confidence to: **Gale Skala, State Bar of Nevada, gales@nvbar.org, 600 E. Charleston Blvd., Las Vegas, NV 89104.**

**STATE BAR OF NEVADA
COMMITTEE APPLICATION FORM
- NONLAWYER APPLICANT -**

Approved by SBN review _____

Professional Discipline Confidentiality Waiver

I, _____ having applied for appointment to a Committee of the State Bar of Nevada, do hereby waive any confidentiality and consent to disclosure to the Board of Governors and the Chair of the particular Committee(s) of all discipline files and records in jurisdictions where I hold or have held a professional license regarding any complaints filed against me, open or closed, pending or resolved for the limited purpose of considering my application in this appointment process.

Date: _____

Signature: _____

STATE BAR OF NEVADA COMMITTEES

- Advisory Commission on Law Related Education
- Board of Bar Examiners
- Character and Fitness
- Clients Security Fund
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The State Bar Board of Governors appoints members to the following:

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- ABA House of Delegates

CHECKLIST
ANNUAL REVIEWS BY THE BOARD OF GOVERNORS

Designation of IOLTA foundation SCR 216

The Board of Governors, with the approval of the Supreme Court, shall designate a tax-exempt bar foundation for the purposes of providing legally-related services to the poor, to the victims of domestic violence, and to children protected by or in need of protection of the juvenile court; promoting or providing law-related educational programs for members of the public; and providing similar programs which qualify for tax-exempt status by the United States Internal Revenue Service under I.R.C. section 501(c)(3) or any additions thereto or amendments thereof. To carry out these purposes, the bar foundation may utilize the income accrued from interest-bearing clients' trust accounts (IOLTA funds) as authorized by Rules 216 through 221, and as the Supreme Court may otherwise order.

Investment Policy

The Investment Committee will review the mix of investments for surplus funds to ensure the funds are managed in a fiscally sound manner and to achieve the highest return on investments within the parameters set forth by the Board of Governors. The Investment Committee shall report to the Board of Governors quarterly.

Insurance Review

On an annual basis the Board of Governors will conduct an analysis of insurance coverage held by the State Bar of Nevada.

Contractual Obligations

The Board of Governors will review the list of all long-term contracts, over 2-years. The list will include vendor, obligations, costs, terms of contract and any other pertinent information.