



Board of Commissioners

Agenda and Materials

July 23, 2021

**STATE BAR OF MICHIGAN
BOARD OF COMMISSIONERS
FRIDAY, JULY 23, 2021
HYBRID MEETING
9:30 a.m.
AGENDA**

State Bar of Michigan Statement of Purpose

“...The State Bar of Michigan shall aid in promoting improvements in the administration of justice and advancements in jurisprudence, in improving relations between the legal profession and the public, and in promoting the interests of the legal profession in this state.”

Rule 1 of the Supreme Court Rules Concerning the State Bar of Michigan

- I. Call to Order..... Robert J. Buchanan President

CONSENT AGENDA

- II. **Minutes**
A. June 11, 2021, Board of Commissioners*
B. June 1, 2021, Executive Committee *
- III. **President’s Activities**..... Robert J. Buchanan, President
A. Recent Activities*
- IV. **Executive Director’s Activities**..... Janet K. Welch, Executive Director
A. Recent Activities*
- V. **Finance**..... Joseph P. McGill, Chairperson
A. FY 2021 Financial Reports through May 2021*
- VI. **Professional Standards** Daniel D. Quick, Chairperson
A. Client Protection Fund Claims*
- VII. **Public Policy**..... Dana M. Warnez, Chairperson
A. Model Criminal Jury Instructions*
- VIII. **Section Bylaw Amendments** Darin Day, Outreach Program Director
A. Elder Law and Disability Rights Section (ELDRS)*

OFFICER ELECTIONS

- IX. **Officer Elections** Robert J. Buchanan, President

LEADERSHIP REPORTS

- X. **President's and Executive Director's Report** Robert J. Buchanan, President
Janet K. Welch, Executive Director
 - A. Committee Reports
 - B. Dissolution of Sections**
 - C. Presidential Stipend and Spousal Reimbursement**

- XI. **Representative Assembly Report** Chelsea M. Rebeck, Chairperson
 - A. September 18, 2021, Meeting

- XII. **Young Lawyers Section Report** Samantha J. Orvis, Chairperson

COMMISSIONER COMMITTEES

- XIII. **Finance**..... Joseph P. McGill, Chairperson
 - A. Financial Report
 - B. FY 2022 Proposed Budget*

- XIV. **Audit** Joseph P. McGill Chairperson

- XV. **Professional Standards** Daniel D. Quick, Chairperson
 - A. ICLE Executive Committee Appointment**
 - B. Michigan Indian Legal Services Board of Trustees Appointments**
 - C. Proposed Pro Hac Vice Amendments*

- XVI. **Communications and Member Services** James W. Heath, Chairperson

- XVII. **Public Policy**..... Dana M. Warnez, Chairperson
 - A. Court Rules**
 - B. Other**

FOR THE GOOD OF THE PUBLIC AND THE PROFESSION

- XVIII. **Comments or questions from Commissioners**

- XIX. **Comments or questions from the public**

- XX. **Adjournment**

*Materials included with agenda.

**Materials delivered or to be delivered under separate cover or handed out.

**STATE BAR OF MICHIGAN
BOARD OF COMMISSIONERS MEETING MINUTES**

President Buchanan called the meeting to order at 9:05 a.m. on Friday, June 11, 2021, via a hybrid format. Board members were in person in the Theater Room at the Grand Hotel or were attending via videoconference.

Commissioners present:

Danielle Mason Anderson
David C. Anderson
Kristina A. Bilowus
Robert J. Buchanan, President
Erika L. Butler
Hon. B. Chris Christenson
Thomas P. Clement
Josephine A. DeLorenzo
Robert A. Easterly
Lisa J. Hamameh
James W. Heath, Vice President
Thomas H. Howlett
Sarah E. Kuchon
Suzanne C. Larsen
James W. Low
Gerrow D. “Gerry” Mason

E. Thomas McCarthy Jr.
Joseph P. McGill, Treasurer
Valerie R. Newman
Takura N. Nyamfukudza
Nicholas M. Ohanesian
Samantha J. Orvis
Hon. David A. Perkins
Barry R. Powers
Daniel D. Quick, Secretary
Chelsea M. Rebeck
Thomas G. Sinas
Dana M. Warnez, President-Elect
Hon. Erane C. Washington
Mark A. Wisniewski
Ryan Zemke

Commissioners absent:

Hon. Clinton Canady III

State Bar staff present:

Janet Welch, Executive Director
Margaret Bossenbery, Executive Coordinator
Nancy Brown, Assistant Executive Director
Gregory Conyers, Program Director, Diversity Development Program
Peter Cunningham, Assistant Executive Director and Director, Governmental Relations
Darin Day, Program Director, Outreach
Michelle Erskine, Research Assistant & Event Specialist
Tatiana Goodkin, Chief Financial Officer
Kathryn Hennessey, General Counsel
Robert Mathis, Pro Bono Services & Justice Initiatives Counsel
Molly Ranns, Director, Lawyers & Judges Assistance Program
Carrie Sharlow, Administrative Assistant
Janna Sheppard, Administrative Assistant
Kari Thrush, Program Director, Lawyer Services
Anne Vrooman, Program Director, Research & Development

Consent Agenda:

The Board received the minutes from the April 23, 2021, Board meeting.
The Board received the minutes from the April 6 and May 11, 2021, Executive Committee meetings.
The Board received the recent activities of the president.
The Board received the recent activities of the executive director.
The Board received the draft FY 2021 financial reports through April 2021.

Mr. Buchanan asked the Board if any items needed to be removed from the consent agenda. There were none.

A motion was offered and supported to approve the consent agenda. The motion was approved.

LEADERSHIP REPORTS

President and Executive Director's Report: Robert J. Buchanan, President and Janet K. Welch, Executive Director

Mr. Buchanan recognized Past Presidents Buiteweg and Keefe and RA Past Chairs Cunningham and Radke.

Officer Election

Mr. Buchanan stated that the deadline for submitting applications for the treasurer position was June 8 and that he received an application from Ms. Hamameh. The election of officers takes place at the July Board meeting.

2021-2022 Committee Resolution

Ms. Welch recognized the work of the Strategic Planning Committee and Ms. Hennessey in preparing the resolution and explained the major amendments from last year. A motion was offered to approve the 2021-2022 Committee Resolution. The motion was seconded and approved.

Committee Reports

Strategic Planning Committee

Mr. Howlett provided the Board with an update on the work of the Strategic Planning Committee.

Executive Director Search Work Group

Ms. Warnez provided the Board with an update of the work of the Executive Director Search work group.

Operations, Structure, and Governance Special Committee

Mr. Quick provided the Board with an update on the work of the Operations, Structure, and Governance Special Committee.

Representative Assembly (RA) Report: Chelsea Rebeck, Chairperson

Ms. Rebeck reported that at its April meeting the RA approved the proposed fee increase and that she is looking forward to the September meeting which may be in a hybrid format.

Young Lawyers Section (YLS) Report: Samantha Orvis, Chairperson

Ms. Orvis provided the Board with an update on past and upcoming programs and activities of the YLS.

Ms. Orvis mentioned that the Board will receive information from Ms. Bilowus regarding the annual BOC v YLS Challenge. She stated that it will be a health and wellness challenge for the entire summer.

COMMISSIONER COMMITTEES

Finance: Joseph P. McGill, Chairperson

Mr. McGill reviewed the FY 2020 financial results through April 2021.

FY 2022 Budget Assumptions

Mr. McGill reported that officer and Finance Committee approval of the FY22 budget assumptions. He reviewed the highlights of the budget assumptions with the Board.

Mr. McGill asked Ms. Welch to review the memo she provided the Board regarding “Outstanding FY22 Budget Assumption Issues.” She stated that staff have been informed that the State Bar building would not be open fully until September and that the executive and senior management team is studying which elements of remote work might be continued indefinitely.

Audit: Joseph P. McGill, Chairperson

Mr. McGill reported that the auditors will begin interim testing in August.

Professional Standards: Daniel D. Quick, Chairperson

Mr. Quick reported that there is no report for this meeting.

Communications and Member Services (CAMS): James W. Heath, Chairperson

Mr. Heath reported that the committee had not met but stated that President Buchanan has placed the Rule of Law work group under the jurisdiction of the CAMS committee, and CAMS will review the subject matter at the July meeting.

Public Policy: Dana M. Warnez, Chairperson

Court Rules

ADM File No. 2002-37: Proposed Amendment of MCR 1.109

The proposed amendment of MCR 1.109 would address e-filing issues relating to updating authorized user accounts and e-service of documents that are returned as undeliverable to a registered email address.

A motion was offered to support the proposed amendments to Rule 1.109(G)(1)(a) and (G)(3)(j) but oppose the proposed amendments to (G)(6)(a)(iv) concerning the treatment of undeliverable email. The motion was seconded and approved.

ADM File No. 2020-36: Proposed Amendments of MCR 3.903, 3.966, 3.975, and 3.976

The proposed amendments of MCR 3.903, 3.966, 3.975, and 3.976 would make procedural changes for cases involving the placement of foster care children in a qualified residential treatment program as required by state and federal statutory revisions.

A motion was offered to support the proposed amendments. The motion was seconded and approved.

ADM File No. 2021-09: Amendments of MCR 3.903 and 3.925

The amendments of MCR 3.903 and 3.925 make the rules consistent with MCL 712A.28(5)(d) by requiring that previously public juvenile case records be made nonpublic and accessible only to those with a legitimate interest. The effective date makes the rule change consistent with the statutory revision effective date in 2020 PA 362.

A motion was offered to support the amendments. The motion was seconded and approved.

ADM File No. 2021-09: Amendment of MCR 3.944

The amendment of MCR 3.944 incorporates new requirements for courts that detain juvenile status offender violators in secure facilities, in accordance with MCL 712A.15(3) and MCL 712A.18(1)(k). The effective date of these amendments is consistent with the effective date of the new statutory provisions included in 2020 PA 389.

A motion was offered to support the amendments Rules 3.903, 3.925, and 3.944, and recommend that Rule 3.944 include (1) more specific criteria about the qualifications of the person conducting the mental health or substance abuse assessment and (2) that the assessment is done in a culturally honoring manner. The motion was seconded and approved.

ADM File No. 2018-29: Proposed Amendments of MCR 6.302 & 6.610

The proposed amendments of MCR 6.302 and MCR 6.610 would eliminate the ability for a court to establish support for a finding that defendant is guilty of the offense charged as opposed to an offense to which defendant is pleading guilty or nolo contendere. The sentencing guidelines make clear that offense variables are to be scored on the basis of the “sentencing offense alone,” not the charged offense. Further, an “offense to which defendant is pleading” would include the charged offense (if defendant is pleading to the charged offense) as well as any other offense that may have been offered by the prosecutor, so the “charged offense” clause may well be unnecessary.

A motion was offered to oppose the proposed amendments and include the explanations to the questions posed by the Court from the Access to Justice Policy Committee position. The motion was seconded and approved.

Legislation

HB 4164 (Berman) Courts: records; online attorney access to court actions and filed documents without fees; provide for. Amends secs. 1985 & 1991 of 1961 PA 236 (MCL 600.1985 & 600.1991) & adds sec. 1991a.

A motion was offered that this legislation is Keller permissible. The motion was seconded and supported.

A motion was offered to support this proposed amendment with a recommendation to change the date of implementation from January 2023 to no earlier than January 2024 and to allow sections to submit comments.

A roll call vote was taken.

Yes: Bilowus, Christenson, DeLorenzo, Easterly, Hamameh, Heath, Larsen, McCarthy, McGill, Newman, Orvis, Perkins, Sinas, Warnez, Wisniewski, and Zemke

No: Anderson, Danielle; Anderson, David; Butler; Clement; Howlett; Kuchon; Low; Mason; Ohanesian; Quick; Rebeck; Washington; and Buchanan.

Abstain: Powers

The motion failed, 16 to 13, with 1 abstention.

A motion was offered to support the concept of making court records available electronically to the public and encourage the legislature and courts to work together to devise a way to make records accessible to the public as it improves functioning of the courts and increases access to justice.

A roll call vote was taken:

Yes: Anderson, Danielle; Anderson, David; Bilowus; Buchanan; Butler; Christenson; Clement; DeLorenzo; Easterly; Hamameh; Heath; Howlett; Kuchon; Larsen; Low; McCarthy; McGill; Newman; Ohanesian; Orvis; Perkins; Quick; Rebeck; Sinas; Warnez; Washington; Wisniewski; and Zemke

No: Mason

Abstain: Powers

The motion passed, 28 to 1, with 1 abstention.

HB 4195 (Hornberger) Family law: marriage and divorce; public disclosure of divorce filings; modify. Amends 1846 RS 84 (MCL 552.1 - 552.45) by adding sec. 6a.

A motion was offered that this legislation is Keller permissible. The motion was seconded and approved.

A motion was offered to rescind previous support of the bill from the previous legislative session (HB 5296), take no position on HB 4195, and allow sections to advocate their position. The motion was seconded and approved.

SB 408 (Victory) Civil procedure: other; new trial; revise procedure for granting. Amends 1961 PA 236 (MCL 600.101 - 600.9947) by adding sec. 309a.

A motion was offered that this legislation is Keller permissible. The motion was seconded and approved.

A motion was offered to oppose this proposed legislation. The motion was seconded and approved.

FOR THE GOOD OF THE PUBLIC AND THE PROFESSION

Comments or questions from Commissioners

There were none.

Comments or questions from the public

There were none.

A motion was offered to go into a closed session to discuss litigation. The motion was seconded and approved.

The Board went into closed session at 11:18 a.m. Ms. Welch, Mr. Cunningham, and Ms. Hennessey from the SBM staff were also asked to join the closed session.

The Board went into open session at 12:22 p.m.

Adjournment

The meeting was adjourned at 12:23 p.m.

State Bar of Michigan
Executive Committee Virtual Meeting
Tuesday, June 1, 2021
4:00 p.m.

Call to Order: President Buchanan called the meeting to order at 4:01 p.m.

Members Present: President Robert J. Buchanan; President-Elect Dana Warnez; Secretary Daniel D. Quick; Treasurer Joseph P. McGill; Representative Assembly Chair Chelsea M. Rebeck; Representative Assembly Vice Chair Nicholas M. Ohanesian; and Commissioners Erika L. Butler, Lisa J. Hamameh, and Thomas H. Howlett

Members Absent: Vice President James W. Heath

State Bar Staff Present: Janet Welch, Executive Director; Margaret Bossenbery, Executive Coordinator; Nancy Brown, Assistant Executive Director; Peter Cunningham, Assistant Executive Director; Kathryn Hennessey, General Counsel; and Tatiana Goodkin, Finance Director

Minutes from the May 11, 2021, Executive Committee Meeting

A motion was offered to approve the minutes from the May 11, 2021, Executive Committee meeting. The motion was seconded and approved.

President and Executive Director's Report

Mr. Buchanan asked for status reports from the special committees and work groups working on projects for the Board.

Ms. Warnez reported on the work of the Executive Director Search Work Group. She stated that a contract for the consultant, Ms. Derrico, had been prepared and reviewed by Ms. Hennessey. She stated that Ms. Derrico is not available until the middle of the month to review the contract and once that is done the contract will be executed and a meeting with the work group scheduled.

Mr. Quick reported on the work of the Operations, Structure, and Governance Special Committee. He reported that a document describing conceptual recommendations is being reviewed by the committee members and may be ready for the Board to review at its June meeting. Mr. Quick remarked that some preliminary discussion had taken place about continuing this committee in some form.

Mr. Howlett reported that the Strategic Planning Committee is scheduling a meeting in late June after receiving input from the Board at the June meeting. Mr. Howlett anticipates presenting the final report to the Board at the July meeting.

Ms. Welch reminded the committee that in April 2020 the Board adopted a policy about section guidelines that include guidance and clarification for the creation, modification, or discontinuance of sections. There are two or three sections not following these guidelines; the Board will be asked to consider what action should be taken at the July meeting.

Representative Assembly

Ms. Rebeck stated that the RA continues to work on drafting the permanent adoption of its Diversity Committee and working on determining if the September meeting will be held virtually, in person, or some combination of the two.

FY 2022 Budget Assumptions

Mr. McGill stated that the officers and Finance Committee reviewed FY21/22 Budget Assumptions, and the SBM management team presented to the committee the assumptions applicable to their areas of responsibility within the Bar. Mr. McGill asked Ms. Welch and Ms. Goodkin to review the FY 21/22 Budget Assumptions with the Executive Committee. After responding to questions, Ms. Welch stated that the FY 21/22 budget will be presented to the Board for consideration at its July meeting.

June 11, 2021, Board of Commissioners Agenda

A motion was offered to approve the agenda for the June 11, 2021, Board of Commissioners meeting. The motion was seconded and approved.

Ms. Welch reported there are three hours set aside in the afternoon for a retreat. The plan is to have three discussion tables focusing on the direction of the legal profession and SBM's role, with Ms. Hennessey, Mr. Cunningham, and herself staffing the tables.

Other

No other business.

Adjournment

The meeting was adjourned at 5:13 p.m.

President Robert J. Buchanan
President's Activities
June 12 through July 23, 2021

Date	Event	Location
June 14	Meeting with Executive Director Janet Welch	Virtual
June 14	Justice for All Commission workgroup meeting	Virtual
June 16	Michigan State Bar Foundation Board meeting	Virtual
June 18	Calls with candidates for Board of Commissioners contested elections	
June 22	Video interview with Kylie Thompson for Michigan Legal Milestone	Ada
June 23	Strategic Planning Committee meeting	Virtual
June 29	Justice for All Executive Committee meeting	Virtual
July 1	Executive Director's Search Work Group meeting	Virtual
July 13	Executive Committee meeting	Virtual
July 14	Meeting with Executive Director Janet Welch, Asst. Exec. Director Peter Cunningham, General Counsel Katie Hennessey, and Commissioner James Heath	Virtual
July 21	Justice for All workgroup meeting	Virtual
July 22	Justice for All Executive Committee meeting	Virtual
July 23	Board meeting	

**Executive Director Janet K. Welch
Executive Director Activities
June 12 through July 23, 2021**

Date	Event
June 14	Justice for All (JFA) Commission meeting
June 14 - 17	Meetings with JFA Regulatory and Practice Reform Work Group members
June 16	Meeting with David Watson, Executive Director ICLE
June 16	ABA Standing Committee on Bar Activities and Services (SCOBAS) meeting
June 18	JFA Technology and Reform Work Group meeting
June 23	International Working Group - Transition after Pandemic Restrictions
June 23	Strategic Planning Committee meeting
June 23 – 25	Interviews for Director of Communications Position
June 24	All Staff meeting
June 24	JFA Executive Committee meeting
June 30	Finance Committee meeting with SBM SMT
July 1	Executive Director Search Work Group meeting
July 9	JFA Delivery Committee meeting
July 13	Executive Committee meeting
July 14	Attorney Discipline System meeting
July 14	Executive meeting on request for paid advertising
July 15	CAMS Committee meeting
July 16	Virtual Board Retreat
July 16	JFA Technology and Data Sharing Committee meeting
July 21	International Working Group - Transition after Pandemic Restrictions
July 21	Finance Committee meeting
July 22	Public Policy Committee meeting
July 22	JFA Executive Committee meeting
July 23	Professional Standards Committee meeting
July 23	Board meeting

State Bar of Michigan Financial Results Summary

For the Eight Months Ended May 31, 2021

Fiscal Year 2021

Administrative Fund - Summary of Results as of May 31, 2021

Operating Revenue	\$6,332,071
Operating Expense	<u>\$6,568,291</u>
Operating Loss	(\$236,220)
Non-Operating Income	<u>\$843,473</u>
Change in Net Position	<u><u>\$607,253</u></u>
Net Position, October 1, 2020	\$11,571,907
Net Position, May 31, 2021	<u><u>\$12,179,160</u></u>

As of May 31, 2021, Net Position excluding Retiree Healthcare Trust was \$8,960,900, a decrease of \$221,751 since the beginning of the year. However, the decrease was **favorable** to budget by \$711,315.

YTD Operating Revenue variance - \$33,507 favorable to budget (0.5%):

Operating revenue was favorable to budget primarily due to higher late fees, driving the overall positive variance. Revenues in C&F, Directory and Print Center were lower than budget due to lower bar exam applications and lower demand for printing services, moving the member directory on-line and loss of printing advertising revenue, and cancellation of BLF/UML events.

YTD Operating Expense variance - \$687,782 favorable to budget (9.5%):

Salaries and Employee Benefits/ Payroll Taxes – \$316,235, favorable (6.7%)

- Under budget in salaries and benefits due to vacancies and health care.

Non-Labor Operating Expenses - \$371,547, favorable (14.9%)

- Legal - \$25,601, favorable (24.9%) – Under budget primarily in UPL, Ethics and General Counsel.
- Public and Bar Services - \$94,918, favorable (15.7%) – Under budget primarily due to timing in Outreach, 50 Year Celebration, and LJAP, and cancellation of UMLI and BLF.
- Operations and Policy - \$251,028, favorable (14%) – under budget primarily in BJ 11, Website, Financial Services, Print Center, Media, RA, Executive Office, BOC, and Facilities, some due to timing of expenses.

YTD Non-Operating Revenue Budget Variance - \$780,806 favorable to budget:

- Operating investment income is unfavorable to budget by \$9,974 (15.9%) due to lower interest rates.
- Retiree Health Care Trust net investment income is favorable by \$790,780 due to investment gain (this amount is not budgeted).

Cash and Investment Balance

As of May 31, 2021, the cash and investment balance in the State Bar Admin Fund (net of “*due to Sections, Client Protection Fund, and Retiree Health Care Trust*”) was \$8,541,747, an increase of \$1,056,337 so far in FY 2021 due to the collection of license fees.

SBM Retiree Health Care Trust

As of May 31, 2021, the SBM Retiree Health Care Trust investments were \$4,678,166, an increase of \$829,002 since the beginning of the year and consisted of trust income of \$799,975, SBM contributions of \$38,223 and paid advisor fees of \$9,195.

Capital Budget

As of May 31, 2021, YTD capital expenditures totaled \$262,067 which is under the annual capital budget by \$142,993 due to timing of projects.

Client Protection Fund

The Net Position of the Client Protection Fund as of May 31, 2021, totaled \$2,168,342, an increase of \$136,632 so far in FY 2021. Claims expenses recorded this year totaled \$232,226, including \$12,070 in approved claims awaiting signed subrogation agreements.

SBM Membership

As of May 31, 2021, the active, inactive and emeritus membership in good standing totaled 46,345 attorneys, a net increase of 25 attorneys since the beginning of the year; the number of

paying attorneys decreased by 77. A total of 670 new attorneys have joined the SBM since the beginning of the year.

FY 2021 Forecast

License fees and related revenues are expected to be at the FY 2021 budgeted levels, with exception of late fees which are higher than the budget and are driving the positive variance of \$86,000. Other operating revenues are expected to be lower by \$129,235 primarily due to cancellation of UMLI and BLF events and lower revenue for LRS, Print Center and BJ Directory.

Salaries and benefits are expected to be lower than budget due to vacancies, with expected savings of \$370,913.

Operational costs are expected to be lower than budget by \$391,238 due to cancellation of events (BLF and UMLI), transitioning to virtual events (RA, 50 Year Golden Celebration), cost savings in Bar Journal, Facilities, BOC, EO, and other areas due to efficiencies, remote work, and reduced travel and meeting expenses.

Current trends indicate a favorable year-end budget variance of \$686,155.

Capital expenditures for FY 2021 are expected to be \$377,867 compared to the approved budget of \$405,000, with planned completion of the new Data Center, network firewalls, upgrade of the conference rooms for hybrid in-person/virtual meetings, and continued SBM website development.

**STATE BAR OF MICHIGAN
ADMINISTRATIVE FUND**

Unaudited and For Internal Use Only

**FINANCIAL REPORTS
May 31, 2021**

FY 2021

Note: License fee revenue is recognized and budgeted as earned each month throughout the year.

State Bar of Michigan
Statement of Net Position
Administrative Fund
For the Eight Months Ending May 31, 2021

	4/30/2021	5/31/2021	Increase (Decrease)	%	Beginning of FY 2021 10/1/20
ASSETS AND DEFERRED OUTFLOWS					
Cash	\$4,373,073	\$3,230,994	(\$1,142,079)	(26.1%)	\$2,555,783
Investments	8,226,848	8,729,540	502,692	6.1%	7,593,526
Accounts Receivable	60,384	63,773	3,389	5.6%	256,921
Due from ADS	-	-	-	0.0%	75,128
Due from (to) CPF	(338)	(548)	(210)	62.2%	(44,159)
Due to Sections	(3,481,489)	(3,418,239)	63,250	(1.8%)	(2,619,740)
Prepaid Expenses	380,249	356,388	(23,862)	(6.3%)	352,958
Capital Assets	3,427,876	3,409,217	(18,658)	(0.5%)	3,555,659
SBM Retiree Health Care Trust	4,658,329	4,678,166	19,837	0.4%	3,849,164
Total Assets	\$17,644,933	\$17,049,291	(\$595,641)	(3.4%)	\$15,575,240
Deferred outflows of resources related to pensions	36,627	36,627	-	0.0%	36,627
Deferred outflows of resources related to OPEB	448,630	448,630	-	0.0%	448,630
Total Deferred outflows of resources	485,257	485,257	-	0.0%	485,257
Total Assets and Deferred Outflows of Resources	18,130,189	17,534,548	(595,641)	(3.3%)	16,060,497
LIABILITIES, DERERRED INFLOWS AND NET POSITION					
Liabilities					
Accounts Payable	\$125	\$170	\$45	36.0%	\$280,767
Accrued Expenses	593,259	597,354	4,095	0.7%	559,657
Deferred Revenue	3,083,353	2,469,897	(613,456)	(19.9%)	1,360,196
Net Pension Liability	364,363	364,363	-	0.0%	364,363
Net OPEB Liability	1,581,433	1,581,433	-	0.0%	1,581,433
Total Liabilities	5,622,533	5,013,217	(609,317)	(10.8%)	4,146,416
Deferred Inflows of resources related to pensions	15,069	15,069	-	0.0%	15,069
Deferred Inflows of resources related to OPEB	327,105	327,105	-	0.0%	327,105
Total Deferred inflows of resources	342,174	342,174	-	0.0%	342,174
Total Liabilities and Deferred Inflows	5,964,707	5,355,391	(609,317)	(10.2%)	4,488,590
Net Assets					
Invested in Capital Assets, Net of Related Debt	3,427,876	3,409,217	(18,658)	(0.5%)	3,555,659
Restricted for Retiree Health Care Trust	3,198,420	3,218,258	19,837	0.6%	2,389,256
Unrestricted	5,539,186	5,551,683	12,497	0.2%	5,626,992
Total Net Position	12,165,482	12,179,158	13,676	0.1%	11,571,907
Total Liabilities, Deferred Inflows and Net Position	\$18,130,189	\$17,534,548	(\$595,641)	(3.3%)	\$16,060,497
Net Position <u>excluding</u> the impacts of retiree health care	8,967,062	8,960,900	(6,161)	-1%	9,182,651

Note: Cash and investments actually available to the State Bar Administrative Fund, after deduction of the "Due to Sections" and "Due to CPF" and not including the "Retiree Health Care Trust" is \$8,541,748 (see below)

CASH AND INVESTMENT BALANCES

Cash (including CD's and Money Market)	\$4,373,073	\$3,230,994	(\$1,142,079)	(26.1%)	\$2,555,783
Investments	8,226,848	8,729,540	502,692	6.1%	7,593,528
Total Available Cash and Investments	12,599,921	11,960,534	(639,387)	(5.1%)	10,149,310
Less:					
Due to Sections	3,481,489	3,418,239	(63,250)	(1.8%)	2,619,740
Due to CPF	338	548	210	62.2%	44,159
Due to Sections and CPF	3,481,827	3,418,787	(63,040)	(1.8%)	2,663,899
Net Administrative Fund Cash and Investment Balance	9,118,095	8,541,748	(576,347)	(6.3%)	7,485,412

State Bar of Michigan
Statement of Revenue, Expense, and Net Assets
Administrative Fund
For the Eight Months Ending May 31, 2021

	Actual YTD	Budget YTD	Variance	Percentage	Prior Year YTD	Variance	Percentage
Revenue							
Legal							
Ethics	\$6,300	\$5,360	\$940	17.54%	\$4,990	\$1,310	26.25%
Character & Fitness	303,735	344,167	(40,432)	(11.75%)	312,960	(9,225)	(2.95%)
Legal Total	310,035	349,527	(39,492)	(11.30%)	317,950	(7,915)	(2.49%)
Public and Bar Services							
Lawyer Services	143,536	140,620	2,916	2.07%	127,357	16,179	12.70%
Bar Leadership Forum	-	9,725	(9,725)	(100.00%)	986	(986)	(100.00%)
Upper Michigan Legal Institute	-	10,900	(10,900)	(100.00%)	975	(975)	(100.00%)
Practice Management Resource Center	1,000	667	333	49.93%	520	480	92.31%
Lawyer Referral Service	98,776	99,333	(557)	(0.56%)	108,877	(10,101)	(9.28%)
LJAP	38,051	35,000	3,051	8.72%	27,075	10,976	40.54%
Public and Bar Services Total	281,363	296,245	(14,882)	(5.02%)	265,790	15,573	5.86%
Operations and Policy							
License Fees	5,266,031	5,165,242	100,789	1.95%	5,255,625	10,406	0.20%
Other Revenue	250,901	242,900	8,001	3.29%	279,093	(28,192)	(10.10%)
Bar Journal Directory	13,464	32,750	(19,286)	(58.89%)	39,045	(25,581)	(65.52%)
Bar Journal 11 issues	120,249	121,650	(1,401)	(1.15%)	110,316	9,933	9.00%
Print Center	29,354	36,483	(7,129)	(19.54%)	35,410	(6,056)	(17.10%)
e-Journal	23,370	21,100	2,270	10.76%	20,056	3,314	16.52%
Website	37,304	32,667	4,637	14.19%	35,466	1,838	5.18%
Operations and Policy Total	5,740,673	5,652,792	87,881	1.55%	5,775,011	(34,338)	(0.59%)
Non-Operating Revenue							
Investment Income - SBM Operations	52,693	62,667	(9,974)	(15.92%)	153,962	(101,269)	(65.78%)
Investment Income - Ret HC Trust	790,780	-	790,780	0.00%	(14,510)	805,290	(5,549.90%)
Total Non-Operating Revenue	843,473	62,667	780,806	1,245.96%	139,452	704,021	504.85%
Total Revenue	7,175,544	6,361,231	814,313	12.80%	6,498,203	677,341	10.42%

State Bar of Michigan
Statement of Revenue, Expense and Net Assets
Administrative Fund
For the Eight Months Ending May 31, 2021

	Actual YTD	Budget YTD	Variance	Percentage	Prior Year YTD	Variance	Percentage
Expense							
Legal							
Ethics	\$1,640	\$5,522	(\$3,882)	(70.30%)	\$6,734	(\$5,094)	(75.65%)
Client Protection Fund Dept	1,580	4,587	(3,007)	(65.55%)	2,163	(583)	(26.95%)
Character & Fitness	33,080	33,697	(617)	(1.83%)	18,606	14,474	77.79%
UPL	2,560	8,608	(6,048)	(70.26%)	10,116	(7,556)	(74.69%)
General Counsel	11,170	17,722	(6,552)	(36.97%)	31,144	(19,974)	(64.13%)
Human Resources	1,210,653	1,333,947	(123,294)	(9.24%)	1,264,412	(53,759)	(4.25%)
Salaries	730,328	792,897	(62,569)	(7.89%)	696,873	33,455	4.80%
Legal Total	1,991,011	2,196,980	(205,969)	(9.38%)	2,030,048	(39,037)	(1.92%)
Public and Bar Services							
Annual Meeting	1,144	-	1,144	0.00%	18,778	(17,634)	(93.91%)
Lawyer Services	17,926	19,156	(1,230)	(6.42%)	68,638	(50,712)	(73.88%)
Bar Leadership Forum	-	1,100	(1,100)	(100.00%)	847	(847)	(100.00%)
UMLI	-	4,900	(4,900)	(100.00%)	3,393	(3,393)	(100.00%)
50 Yr. Golden Celebration	1,178	21,725	(20,547)	(94.58%)	1,643	(465)	(28.30%)
Practice Management Resource Center	1,766	2,672	(906)	(33.91%)	3,778	(2,012)	(53.26%)
Lawyer Referral Service	6,137	6,606	(469)	(7.10%)	1,270	4,867	383.23%
Outreach	21,454	76,117	(54,663)	(71.81%)	104,895	(83,441)	(79.55%)
Diversity	21,076	23,089	(2,013)	(8.72%)	5,918	15,158	256.13%
LJAP	3,660	15,917	(12,257)	(77.01%)	12,863	(9,203)	(71.55%)
IT	436,192	434,169	2,023	0.47%	317,282	118,910	37.48%
Salaries	1,124,784	1,213,758	(88,974)	(7.33%)	1,364,768	(239,984)	(17.58%)
Total Public and Bar Services	1,635,317	1,819,209	(183,892)	(10.11%)	1,904,073	(268,756)	(14.11%)
Operations and Policy							
Administration	66,760	69,083	(2,323)	(3.36%)	19,415	47,345	243.86%
Financial Services	719,386	736,468	(17,082)	(2.32%)	681,734	37,652	5.52%

State Bar of Michigan
Statement of Revenue, Expense and Net Assets
Administrative Fund
For the Eight Months Ending May 31, 2021

	Actual YTD	Budget YTD	Variance	Percentage	Prior Year YTD	Variance	Percentage
Expense							
Bar Journal Directory	1,519	6,000	(4,481)	(74.68%)	51,689	(50,170)	(97.06%)
Bar Journal 11 Issues	239,777	306,136	(66,359)	(21.68%)	259,138	(19,361)	(7.47%)
Print Center	23,844	39,550	(15,706)	(39.71%)	30,627	(6,783)	(22.15%)
Website	61,970	88,500	(26,530)	(29.98%)	67,454	(5,484)	(8.13%)
e-Journal	26,050	27,367	(1,317)	(4.81%)	24,032	2,018	8.40%
Media Relations	9,340	19,578	(10,238)	(52.29%)	22,513	(13,173)	(58.51%)
Executive Office	18,658	35,128	(16,470)	(46.89%)	53,663	(35,005)	(65.23%)
Board of Commissioners	2,035	25,267	(23,232)	(91.95%)	26,184	(24,149)	(92.23%)
Representative Assembly	1,275	18,250	(16,975)	(93.01%)	(475)	1,750	(368.42%)
Governmental Relations	37,045	46,600	(9,555)	(20.50%)	39,094	(2,049)	(5.24%)
Research and Development	904	4,383	(3,479)	(79.37%)	8,270	(7,366)	(89.07%)
Facilities Services	207,077	241,712	(34,635)	(14.33%)	234,672	(27,595)	(11.76%)
Justice Initiatives	126,976	129,622	(2,646)	(2.04%)	129,767	(2,791)	(2.15%)
Salaries	1,399,347	1,446,240	(46,893)	(3.24%)	1,310,395	88,952	6.79%
Operations and Policy Total	2,941,963	3,239,884	(297,921)	(9.20%)	2,958,172	(16,209)	(0.55%)
Total Expense	6,568,291	7,256,073	(687,782)	(9.48%)	6,892,293	(324,002)	(4.70%)
Increase (Decrease) in Net Assets	\$607,252	(\$894,843)	\$1,502,095	(167.86%)	(\$394,092)	\$1,001,344	(254.09%)
Human Resources Detail							
Payroll Taxes	237,962	265,977	(28,015)	(10.53%)	247,519	(9,557)	(3.86%)
Benefits	945,624	1,035,408	(89,784)	(8.67%)	983,476	(37,852)	(3.85%)
Other Expenses	27,067	32,562	(5,495)	(16.88%)	33,417	(6,350)	(19.00%)
Total Human Resources	1,210,653	1,333,947	(123,294)	(9.24%)	1,264,412	(53,759)	(4.25%)
Financial Services Detail							
Depreciation	373,277	389,941	(16,664)	(4.27%)	372,000	1,277	0.34%
Other Expenses	355,304	346,527	8,777	2.53%	310,620	44,684	14.39%
Total Financial Services	728,581	736,468	(7,887)	(1.07%)	682,620	45,961	6.73%

State Bar of Michigan
Statement of Revenue, Expense and Net Assets
Administrative Fund
For the Eight Months Ending May 31, 2021

	Actual YTD	Budget YTD	Variance	Percentage	Prior Year YTD	Variance	Percentage
Expense							
Salaries							
Legal	730,328	792,897	(62,569)	(7.89%)	696,873	33,455	4.80%
Public and Bar Services	1,124,784	1,213,758	(88,974)	(7.33%)	1,364,768	(239,984)	(17.58%)
Operations and Policy	1,399,347	1,446,240	(46,893)	(3.24%)	1,310,395	88,952	6.79%
Total Salaries Expense	3,254,459	3,452,895	(198,436)	(5.75%)	3,372,036	(117,577)	(3.49%)
Non-Labor Expense Summary							
Legal	77,097	102,698	(25,601)	(24.93%)	102,180	(25,083)	(24.55%)
Public and Bar Services	510,533	605,451	(94,918)	(15.68%)	539,305	(28,772)	(5.34%)
Operations and Policy	1,542,616	1,793,644	(251,028)	(14.00%)	1,647,777	(105,161)	(6.38%)
Total Non-Labor Expense	2,130,246	2,501,793	(371,547)	(14.85%)	2,289,262	(159,016)	(6.95%)

State Bar of Michigan
Statement of Revenue, Expense and Net Assets
For the Eight Months Ending May 31, 2021

YTD FY 2021 Increase (Decrease) in Net Position Summary

	Actual YTD	Budget YTD	Variance	Percentage	Prior Year Actual YTD	Variance
Operating Revenue						
- License Fees, Dues & Related	5,266,031	5,165,242	100,789	2.0%	5,255,625	10,406
- All Other Op Revenue	1,066,040	1,133,322	(67,282)	(5.9%)	1,103,126	(37,086)
Total Operating Revenue	<u>6,332,071</u>	<u>6,298,564</u>	<u>33,507</u>	<u>0.5%</u>	<u>6,358,751</u>	<u>(26,680)</u>
Operating Expenses						
- Labor-related Operating Expenses						
Salaries	3,254,459	3,452,895	(198,436)	(5.7%)	3,372,036	(117,577)
Benefits and PR Taxes	1,183,586	1,301,385	(117,799)	(9.1%)	1,230,995	(47,409)
Total Labor-related Operating Expenses	<u>4,438,045</u>	<u>4,754,280</u>	<u>(316,235)</u>	<u>(6.7%)</u>	<u>4,603,031</u>	<u>(164,986)</u>
- Non-labor Operating Expenses						
Legal	77,097	102,698	(25,601)	(24.9%)	102,180	(25,083)
Public and Bar Services	510,533	605,451	(94,918)	(15.7%)	539,305	(28,772)
Operations and Policy	1,542,616	1,793,644	(251,028)	(14.0%)	1,647,777	(105,161)
Total Non-labor Operating Expenses	<u>2,130,246</u>	<u>2,501,793</u>	<u>(371,547)</u>	<u>(14.9%)</u>	<u>2,289,262</u>	<u>(159,016)</u>
Total Operating Expenses	<u>6,568,291</u>	<u>7,256,073</u>	<u>(687,782)</u>	<u>(9.5%)</u>	<u>6,892,293</u>	<u>(324,002)</u>
Operating Income (Loss)	(236,220)	(957,509)	721,289	(75.3%)	(533,542)	297,322
Non-operating Revenue (Expenses)						
Investment Income	52,693	62,667	(9,974)	(15.9%)	153,962	(101,269)
Investment Income - Ret HC Trust	790,780	-	790,780	N/A	(14,510)	805,290
Loss on Disposal of Capital Asset	-	-	-	0.0%	-	-
Net Non-operating Revenue (Expenses)	<u>843,473</u>	<u>62,667</u>	<u>780,806</u>	<u>1,246%</u>	<u>139,452</u>	<u>704,021</u>
Increase (Decrease) in Net Position	<u>607,253</u>	<u>(894,842)</u>	<u>1,502,095</u>	<u>N/A</u>	<u>(394,090)</u>	<u>1,001,343</u>
Net Position - Beginning the Year	11,571,907	11,571,907	-	0.0%	12,217,220	(645,313)
Net Position - Year-to-Date	<u>12,179,160</u>	<u>10,677,065</u>	<u>1,502,095</u>	<u>14.1%</u>	<u>11,823,130</u>	<u>356,030</u>
Increase (Decrease) in Net Position Excluding Ret HC Trust Inv. Income	(183,527)	(894,842)	711,315	(79.5%)	(379,580)	196,053

State Bar of Michigan Administrative Fund
Revenues, Expenses and Net Assets
FY 2021 - Year-End Forecast
Updated June 18, 2021

	FY 2021 Year-End Forecast	FY 2021 Budget	Variance	Percentage	FY 2020 Actual
Operating Revenue					
- License Fees, Dues & Related	7,727,000	7,641,000	86,000	1.13%	7,732,165
- All Other Op Revenue	1,365,655	1,494,890	(129,235)	(8.65%)	1,390,427
Total Operating Revenue	9,092,655	9,135,890	(43,235)	(0.47%)	9,122,592
Operating Expenses					
- Labor-related Operating Expenses					
Salaries	5,068,308	5,330,899	(262,591)	(4.93%)	5,281,014
Benefits, PR Taxes, and Ret HC Exp	1,807,036	1,915,358	(108,322)	(5.66%)	1,776,147
Total Labor-related Operating Expenses	6,875,344	7,246,257	(370,913)	(5.12%)	7,057,161
- Non-labor Operating Expenses					
Legal	176,488	191,920	(15,432)	(1.50%)	183,254
Public and Bar Services	925,859	1,027,080	(101,221)	(52.74%)	745,450
Operations and Policy	2,439,060	2,713,645	(274,585)	(10.12%)	2,292,296
Total Non-labor Operating Expenses	3,541,407	3,932,645	(391,238)	(9.95%)	3,221,000
Total Operating Expenses	10,416,751	11,178,902	(762,151)	(6.82%)	10,278,161
Operating Income (Loss)	(1,324,096)	(2,043,012)	718,916	N/A	(1,155,569)
Non-operating Revenue (Expenses)					
Investment Income	61,240	94,000	(32,760)	(34.85%)	199,067
Investment Income - Ret HC Trust*	-	-	-	N/A	328,761
Loss on Disposal of Capital Assets	-	-	-	N/A	(17,570)
Net Non-operating Revenue (Expenses)	61,240	94,000	(32,760)	(34.85%)	510,258
Increase (Decrease) in Net Position	(1,262,857)	(1,949,012)	686,155	(35.21%)	(645,311)

Operating Revenue Forecast:

- License fees and related - Expected to be close to budget for license fees and related revenues. Late fees are higher (\$80k).
- All other operating revenue - Expected to be under budget due to cancellation of UMLI and BLF (\$24k) and lower revenues for C&F (\$41k), LRS (\$20k), Print Center (\$14.8k), and BJ Directory (\$19k).

Labor Forecast:

- Salaries - Expected to be under budget due to vacancies .
- Benefits - Expected to be under budget due to vacancies.

Non-labor Forecast:

Legal

- Expected to be under budget due to savings in UPL, HR, and CPF/Ethics/IAP (\$19k) offset by higher C&F (\$3k).

Public and Bar Services

- Expected to be under budget in Lawyer Services primarily due to cancellation of UMLI and BLF and savings due to a virtual 50 year celebration (83k).
- Expected to be under budget in LJAP (\$9k) and Outreach (\$13k) due to lower travel and meeting expenses.
- Expected to be higher in IT (\$9k) due to higher phone and software expenses and prepaid data center maintenance (which was included in the FY 2021 capital budget), offset by lower IMIS support services and maintenance costs.

Operations and Policy

- Executive Offices & BOC - Expected to be under budget primarily in meetings and travel (\$60k).
- Finance & Administration - Expected to be under budget (\$21k), primarily due to lower depreciation (\$20k) and staffing expenses (\$10k), offset by higher credit card fees (\$17k).
- Communications - Expected to be under budget primarily due to Bar Journal (\$85k), Website (\$27k), Media (\$12k) and Print Center (\$8k) due to savings on paper, postage and other expenses.
- Expected to be under budget in Facilities (\$29k) due to lower operating expenses, in RA (\$12k) and Governmental Relations (\$11k) primarily due to lower meeting and travel expenses.

Non-Operating Income forecast:

- Investment Income - Expected to be under budget due to lower interest rates.
- Retiree Health Care Trust Investment Income was not budgeted nor forecasted.

State Bar of Michigan
Administrative Fund
FY 2021 Capital Expenditures vs Budget
For the Eight Months Ending May 31, 2021

	YTD Actual	YTD Budget	YTD Variance	Notes and Variance Explanations	Total Approved FY 2021 Budget	FY 2021 Year-End Forecast	Projected Year-end Variance
FACILITIES, FURNITURE & OFFICE EQUIPMENT							
Elevator Upgrade/Modernization	-	\$20,000	(\$20,000)	Installation of the control panel	\$20,000	\$20,000	-
Meeting room upgrades for virtual capabilities	-	20,000	(20,000)	In process, obtaining bids.	20,000	20,000	-
Replacement of Floor Copiers/Scanners	-	35,000	(35,000)	On hold	35,000	-	(35,000)
Total Facilities, Furniture & Office Equipment:	-	\$75,000	(\$75,000)		75,000	40,000	(35,000)
INFORMATION TECHNOLOGY							
<u>IT Infrastructure:</u>							
Network Firewalls (2)	-	\$25,000	(\$25,000)	In process, obtaining bids.	25,000	15,600	(9,400)
Data Center	133,267	125,000	8,267	Includes a three year service contract for \$35,231.24.	125,000	133,267	8,267
<u>Application Software Development:</u>							
Receivership /Interim Administrator Program data portal	-	30,000	(30,000)	Pending MI Supreme Court program approval	30,000	-	(30,000)
E-commerce store	-	15,000	(15,000)		15,000	7,500	(7,500)
E-commerce License Fee Portal	19,875	-	19,875	Not budgeted, to be offset by other projects	-	35,000	35,000
Firm Billing/Invoices for License Fees	-	10,000	(10,000)		10,000	10,000	-
Firm Administration Application	-	10,000	(10,000)		10,000	10,000	-
Unauthorized Practice of Law Portal	-	20,000	(20,000)		20,000	-	(20,000)
Client Protection Fund Portal	2,500	30,000	(27,500)		30,000	-	(30,000)
Website Functionality Enhancements	33,950	25,000	8,950		25,000	31,500	6,500
Lawyer Referral Module Enhancements	29,975	40,000	(10,025)		40,000	40,000	-

	YTD Actual	YTD Budget	YTD Variance	Notes and Variance Explanations	Total Approved FY 2021 Budget	FY 2021 Year-End Forecast	Projected Year-end Variance
Volunteer Application Portal	2,500		2,500	Not budgeted, to be offset by other projects		2,500	2,500
Character & Fitness Hearings Module	37,500	-	37,500	Not budgeted, to be offset by other projects	-	50,000	50,000
MIFILE Court Database	2,500	-	2,500	Not budgeted, to be offset by other projects	-	2,500	2,500
Total Information Technology:	\$262,067	\$330,000	(\$67,933)		330,000	337,867	7,867
Total Capital Budget:	\$262,067	\$405,000	(\$142,933)		405,000	377,867	(\$27,133)

**STATE BAR OF MICHIGAN
CLIENT PROTECTION FUND**

Unaudited and For Internal Use Only

FINANCIAL REPORTS

May 31, 2021

FY 2021

Note: License fee revenue is recognized and budgeted as earned each month throughout the year.

State Bar Of Michigan
Client Protection Fund
Comparative Statement of Net Assets
For the Eight Months Ending May 31, 2021

	4/30/2021	5/31/2021	Increase (Decrease)	%	Beginning of FY 2021 10/1/20
Assets					
Cash-Checking	\$23,803	\$29,039	\$5,236	22.0%	\$121,712
Savings	2,171,784	2,138,923	(32,861)	(1.5%)	826,370
Investment	-	-	-	-	-
Account Receivable	234,785	233,204	(1,581)	(0.7%)	217,066
Due From SBM	338	548	210	62.2%	44,159
Accrued Interest Receivable	-	-	-	-	2,682
Total Assets	\$2,430,710	\$2,401,713	(\$28,997)	(1.2%)	\$2,211,989
Liabilities					
Accounts Payable	\$31,208	\$12,070	(\$19,138)	(61.3%)	\$82,247
Deferred Revenue	273,434	221,301	(52,133)	(19.1%)	98,033
Total Liabilities	304,642	233,371	(71,270)	(23.4%)	180,280
Fund Balance					
Fund Balance at Beginning of Year	2,031,710	2,031,710		0.0%	1,996,790
Net Income (Expense) Year to Date	94,358	136,632	42,274	44.8%	34,920
Total Fund Balance	2,126,068	2,168,342	42,274	2.0%	2,031,710
Total Liabilities and Fund Balance	\$2,430,710	\$2,401,713	(\$28,997)	(1.2%)	\$2,211,989

Note 1:

	4/30/2021	5/31/2021
Change in Accounts Receivable		
+ New approved claims receivables	-	765
- Claims payments received	(1,660)	(2,346)
- Allowance for new approved claims	-	-
+ Decrease (increase) in claims allowance	-	-
	\$ (1,660)	\$ (1,581)

Note 2:

Beginning October 1, 2020, CPF is recording claim expense when claims are approved. As of May 31, 2021, \$12,070 authorized claims were recorded as expense, but were not paid awaiting signed subrogation agreements.

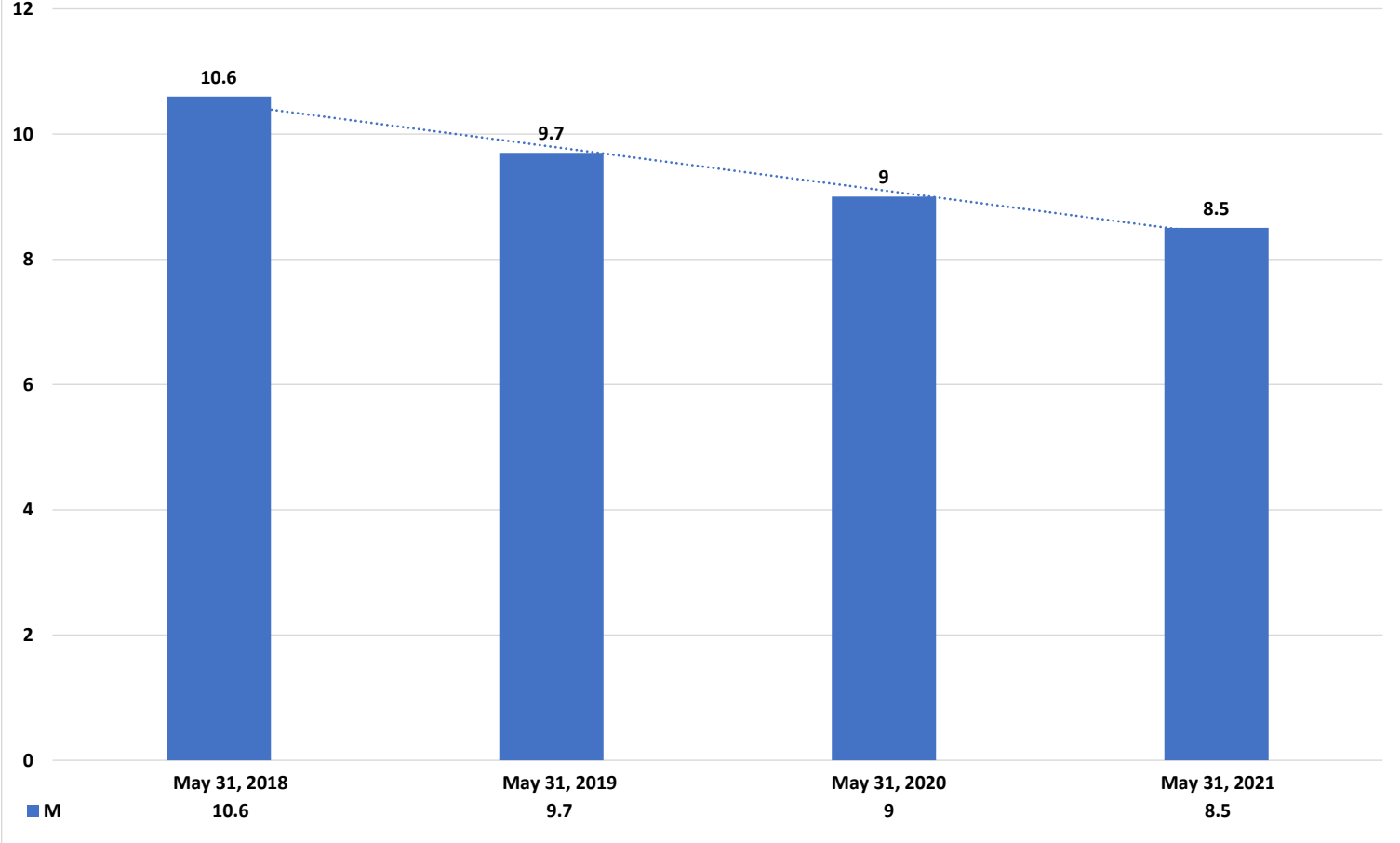
Client Protection Fund
Statement of Revenue, Expenses, and Changes in Net Assets
For the Eight Months Ending May 31, 2021

	2021 YTD	2020 YTD
Income:		
3-7-00-000-0005 Contributions Received	6,025	3,061
3-7-00-000-0050 License Fees Assessment	421,445	433,456
3-7-00-000-0051 Pro Hac Vice Fees	8,850	8,025
3-7-00-000-0890 Claims Recovery ¹	37,730	31,732
3-7-00-000-0891 Claims Income ²	2,043	0
Total Income	476,093	476,274
Expenses:		
3-9-00-000-0200 Claims Payments	232,226	244,290
3-9-00-000-0910 Administrative Fee	110,111	145,333
3-9-00-000-0994 Bank Service Charges	287	500
Total Expenses	342,625	390,123
Investment Income	3,163	14,740
Increase/Decrease in Net Position	136,631	100,891
Net Position, Beginning of Year	2,031,710	1,996,791
Net Position - End of Period	\$ 2,168,341	\$ 2,097,682

¹ Represents expected claims recoveries

² Represents miscellaneous income collected

State Bar of Michigan Cash & Investments
Excluding Sections, Client Protection Fund and Retiree Health Care Trust
For the Eight Months Ending May 31, 2021
\$8.5M



Note: The State Bar of Michigan has no bank debt outstanding

Monthly SBM Attorney and Affiliate Report - May 31, 2021

FY 2021

Attorneys and Affiliates In Good Standing	September 30 2014	September 30 2015	September 30 2016	September 30 2017	September 30 2018	September 30 2019	September 30 2020	May 31 2021	FY Increase (Decrease)
Active	41,093	41,608	41,921	42,100	42,342	42,506	42,401	42,226	(175)
Less than 50 yrs serv	40,036	40,490	40,725	40,833	40,973	41,036	40,559	40,562	3
50 yrs or greater	1,057	1,118	1,196	1,267	1,369	1,470	1,842	1,664	(178)
Voluntary Inactive	1,211	1,218	1,250	1,243	1,169	1,139	1,192	1,105	(87)
Less than 50 yrs serv	1,184	1,195	1,230	1,217	1,142	1,105	1,149	1,069	(80)
50 yrs or greater	27	23	20	26	27	34	43	36	(7)
Emeritus	1,552	1,678	1,841	1,973	2,204	2,447	2,727	3,014	287
Total Attorneys in Good Standing	43,856	44,504	45,012	45,316	45,715	46,092	46,320	46,345	25
Fees paying Attorneys (Active & Inactive less than 50 yrs of Serv)	41,220	41,685	41,955	42,050	42,115	42,141	41,708	41,631	(77)
Affiliates									
Legal Administrators	14	13	13	13	10	10	8	8	0
Legal Assistants	413	425	405	400	401	393	317	337	20
Total Affiliates in Good Standing	427	438	418	413	411	403	325	345	20
Total Attorneys and Former Attorneys in the Database									
State Bar of Michigan Attorney and Affiliate Type	September 30 2014	September 30 2015	September 30 2016	September 30 2017	September 30 2018	September 30 2019	September 30 2020	May 31 2021	FY Increase (Decrease)
Attorneys in Good Standing:									
ATA (Active)	41,093	41,608	41,921	42,100	42,342	42,506	42,401	42,226	(175)
ATVI (Voluntary Inactive)	1,211	1,218	1,250	1,243	1,169	1,139	1,192	1,105	(87)
ATE (Emeritus)	1,552	1,678	1,841	1,973	2,204	2,447	2,727	3,014	287
Total Attorneys in Good Standing	43,856	44,504	45,012	45,316	45,715	46,092	46,320	46,345	25
Attorneys Not in Good Standing:									
ATN (Suspended for Non-Payment of Dues)	5,427	5,578	5,743	5,888	6,072	6,246	6,416	6,644	228
ATDS (Discipline Suspension - Active)	407	415	418	430	439	440	445	446	1
ATDI (Discipline Suspension - Inactive)	12	11	18	19	19	24	25	25	0
ATDC (Discipline Suspension - Non-Payment of Court Costs)	1	3	3	16	15	16	16	15	(1)
ATNS (Discipline Suspension - Non-Payment of Other Costs)	83	92	99	94	95	98	100	101	1
ATS (Attorney Suspension - Other)*	1	1	1	0	1	1	2	1	(1)
ATR (Revoked)	521	517	534	562	583	596	613	622	9
ATU (Status Unknown - Last known status was inactive)**	2,088	2,076	2,074	2,070	2,070	2,070	2,070	2,070	0
Total Attorneys Not in Good Standing	8,540	8,693	8,890	9,079	9,294	9,491	9,687	9,924	237
Other:									
ATSC (Former special certificate)	136	140	145	152	155	157	158	158	0
ATW (Resigned)	1,429	1,483	1,539	1,612	1,689	1,798	1,907	2,014	107
ATX (Deceased)	8,127	8,445	8,720	9,042	9,287	9,524	9,793	10,091	298
Total Other	9,692	10,068	10,404	10,806	11,131	11,479	11,858	12,263	405
Total Attorneys in Database	62,088	63,265	64,306	65,201	66,140	67,062	67,865	68,532	667

* ATS is a new status added effective August 2012 - suspended by a court, administrative agency, or similar authority

** ATU is a new status added in 2010 to account for approximately 2,600 attorneys who were found not to be accounted for in the iMIS database. The last known status was inactive and many are likely deceased. We are researching these attorneys to determine a final disposition.

N/R - not reported

Notes: Through May 31, 2021 a total of 670 new attorneys joined the SBM so far in FY 2021

TO: Board of Commissioners
FROM: Professional Standards Committee
DATE: July 23, 2021, BOC Meeting
RE: Client Protection Fund Claims for Consent Agenda

Rule 15 of the Client Protection Fund Rules provides that “claims, proceedings and reports involving claims for reimbursement are confidential until the Board authorizes reimbursement to the claimant.” To protect CPF claim information as required in the Rule, and to avoid negative publicity about a lawyer subject to a claim, which has been denied and appealed, the CPF Report to the Board of Commissioners is designated “confidential.”

**CONSENT AGENDA
 CLIENT PROTECTION FUND**

Claims recommended for payment:

- a. Consent Agenda

	<u>Claim No.</u>	<u>Amt. Recommended</u>
1.	CPF 3606	\$400.00
2.	CPF 3619	\$3,600.00
3.	CPF 3627	\$38,000.00
4.	CPF 3636	\$1,500.00
5.	CPF 3698	\$1,100.00
6.	CPF 3703	\$1,200.00
7.	CPF 3708	\$625.00
8.	CPF 3716	\$1,200.00
9.	CPF 3728	<u>\$1,035.00</u>
	TOTAL	\$48,660.00

The Professional Standards Committee recommends payment of these claims by the State Bar of Michigan Client Protection Fund:

1. CPF 3606 \$400.00

Respondent was retained to represent Claimant in trademark infringement matter for an hourly fee of \$350. Claimant paid \$12,900 in advance. Respondent charged, and Claimant paid, \$400 to file the complaint in Massachusetts, but the filing fee was paid by Claimant's Massachusetts attorney. The failure of a respondent's law firm or estate to reimburse claimant the \$400 violates MRPC 1.15 and is a reimbursable loss.

2. CPF 3619 \$3,600.00

Respondent was retained to represent Claimant in a divorce matter and prepare a will for a fee of \$3,600. Before work commenced, Claimant informed Respondent that the divorce was no longer wanted. Respondent offered to complete wills for Claimant and spouse, but the parties could not agree on the legal services to be provided. Respondent provided no legal services on Claimant's behalf. Respondent's failure to return the unearned fee constitutes dishonest conduct and is a reimbursable loss as provided by CPF Rules 9(C)(1) and 9(C)(6) and 11(B).

3. CPF 3627 \$38,000.00

Respondent was retained to represent Claimant regarding mortgages on a parcel of real property. Claimant, at the request of Respondent, provided \$39,000 to be held in trust in the event of a settlement. Respondent misappropriated the funds. Claimant obtained a Judgment for \$39,000 against Respondent. Respondent has made to \$500 payments to Claimant leaving an outstanding balance of \$38,000.00 Respondent's embezzlement of the funds to be held in safekeeping is a reimbursable loss under CPF Rule 9(C) and 11(B). Also, CPF staff is granted permission to adjust the amount payable to reflect any additional payments received by Claimant before the Fund receiving an executed subrogation agreement and issuing issue a check, without further review.

4. CPF 3636 \$1,500.00

Respondent was retained to represent Claimant in a faulty furnace matter for \$1,500. Respondent did not file suit, explain why the matter was not filed, or return the unearned retainer fee. Respondent's failure to return the unearned fee constitutes dishonest conduct and is a reimbursable loss as provided by CPF Rules 9(C)(1) and 9(C)(6).

5. CPF 3698 \$1,100.00

Respondent was retained to represent Claimant in divorce matter for an advanced fee of \$1,500. Respondent met with Claimant twice, called opposing counsel, filed an Answer and Stipulation on Claimant's behalf, invoicing Claimant \$400 for the services. Respondent did not complete the legal services before he passed away or safeguard the advanced fee in an attorney trust account until earned. The failure of a respondent's law firm or estate to reimburse Claimant after a premature death is a failure to return an unearned fee in violation of MRPC 1.15 and is a reimbursable loss under CPF Rule 9(C)(1) and Rule 9(D)(6).

6. CPF 3703 \$1,200.00

Respondent was retained to represent Claimant in a divorce matter for a flat fee of \$1,200, plus costs. Claimant paid Respondent \$1,375. Respondent died before completing any legal services and the Receiver returned \$175 to Claimant. Respondent completed no legal services before passing away or safeguard the retainer fee in an attorney trust account until the fees were earned, in violation of MRPC 1.15. The failure of a respondent's law firm or estate to reimburse claimant after death is a failure to return an unearned fee in violation of MRPC 1.15 and is a reimbursable loss payable under CPF Rule 9(C)(1) and Rule 9(D)(6).

7. CPF 3708 \$625.00

Respondent was retained to represent Claimant in a Chapter 7 Bankruptcy for a flat fee of \$700, plus the \$335 filing fee. Claimant paid \$625. Respondent passed away before filing the petition. In claims involving a deceased respondent, the death of the respondent is not considered dishonest conduct. However, the death of the respondent leads to the discovery of dishonest conduct. Unless an attorney has a written fee agreement that comports with *Cooper*,¹ the fee is refundable and must be held in an attorney trust account. A flat fee is not earned until the conclusion of the representation and must be held in trust until earned.² A respondent's failure to safeguard the funds in an attorney trust account until the conclusion of the representation, which is when the fees are earned, violates MRPC 1.15. The failure of a respondent's law firm or estate to reimburse claimant after Respondent's death is a failure to return an unearned fee in violation of MRPC 1.15 and is a reimbursable loss under CPF Rule 9(C)(1) and Rule 9(D)(6).

8. CPF 3716 \$1,200.00

Respondent was retained to represent Claimant in a divorce matter and paid \$1,200 for the representation and \$255 for costs. The check for \$255 was returned to Claimant by the Receiver. Respondent did not place the funds in an attorney trust account and completed no legal services before he passed away. The failure of a respondent's law firm or estate to reimburse claimant after a premature death is a failure to return an unearned fee in violation of MRPC 1.15 and is a reimbursable loss under CPF Rule 9(C)(1) and Rule 9(D)(6).

9. CPF 3728 \$1,035.00

Respondent was retained to represent Claimant in a Chapter 7 Bankruptcy for a flat fee of \$700, plus the \$335 filing fee. When retained, Respondent was ill and knew recovery was doubtful. Respondent passed away before filing the petition. In claims involving a deceased respondent, the

¹ *Grievance Adm'r v Cooper*, 757 NW2d 867 (2008), the Michigan Supreme Court ruled as follows regarding a nonrefundable retainer:

As written, the agreement clearly and unambiguously provided that the respondent was retained to represent the client and that the minimum fee was incurred upon execution of the agreement, regardless of whether the representation was terminated by the client before the billings at the stated hourly rate exceeded the minimum. So understood, neither the agreement nor the respondent's retention of the minimum fee after the client terminated the representation violated existing MRPC 1.5(a), MRPC 1.15(b) or MRPC 1.16(d).

² RI-069

death of the respondent is not considered dishonest conduct. However, the death of the respondent leads to the discovery of dishonest conduct. Unless an attorney has a written fee agreement that comports with *Cooper*, the fee is refundable and must be held in an attorney trust account. A flat fee is not earned until the conclusion of the representation and must be held in trust until earned. A respondent's failure to safeguard the funds in an attorney trust account until the conclusion of the representation, which is when the fees are earned, violates MRPC 1.15. The failure of a respondent's law firm or estate to reimburse claimant after Respondent's death is a failure to return an unearned fee in violation of MRPC 1.15 and is a reimbursable loss under CPF Rules 9(C)(1) and 9(D)(6).

Total payments recommended: \$48,660.00



**FROM THE COMMITTEE
ON MODEL CRIMINAL
JURY INSTRUCTIONS**

=====

The Committee on Model Criminal Jury Instructions solicits comment on the following proposal by August 1, 2021. Comments may be sent in writing to Samuel R. Smith, Reporter, Committee on Model Criminal Jury Instructions, Michigan Hall of Justice, P.O. Box 30052, Lansing, MI 48909-7604, or electronically to MCrimJI@courts.mi.gov .

=====

PROPOSED

The Committee proposes a new instruction, M Crim JI 25.7 [Trespassing], for the crimes delineated in MCL 750.552.

[NEW] M Crim JI 25.7 Trespassing

(1) The defendant is charged with trespassing. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that *[name complainant]* owned or legally occupied property located at *[provide property address or location]*.

[Select from the following three options according to the charge and the evidence:]

(3) Second, that *[name complainant or agent]* told the defendant *[he / she]* could not come onto the property.

(4) Third, that the defendant entered on the property after being forbidden to do so.

[or]

(3) Second, that the defendant was on the property owned or occupied by *[name complainant]*.

(4) Third, that *[name complainant or agent]* told the defendant *[he / she]* had to leave the property.

(5) Fourth, that the defendant remained on the property after being directed to depart.

(6) Fifth, that the defendant had no legal authority to remain on the property.¹

[*or*]

(3) Second, that the property was farm property.

(4) Third, that the property was fenced or posted with signs that forbid entry on the property.

(5) Fourth, that the defendant entered on the property without having obtained permission from [*name complainant or agent*].

[Provide the following element only when the defendant offers the defense of being a process server serving process and provides evidence in support of that defense. The paragraph numbers correspond to the respective options above:]

(5 / 7 / 6) [Fourth / Sixth / Fifth], that the defendant was not a process server attempting to serve legal documents on an owner, occupant, or lessee of the property, or on an agent of an owner, occupant, or lessee.

Use Note

1. Read this only when the defendant presents some evidence that he or she had a legal right to remain on the premises.

**Public Policy Position
M Crim JI 25.7**

Support

Explanation:

The committee voted unanimously (19) to support the proposed Model Criminal Jury Instruction 25.7 as drafted.

Position Vote:

Voted For position: 19

Voted against position: 0

Abstained from vote: 0

Did not vote (absence): 4

Contact Persons:

Mark A. Holsomback mahols@kalcounty.com

Sofia V. Nelson snelson@sado.org



MEMORANDUM

To: SBM Board of Commissioners
From: Darin Day
Director of Outreach
Date: July 13, 2021
Re: Proposed Bylaws Amendments:
Elder Law & Disability Rights Section (ELDRS)

Rule 12, Section 2 of the Supreme Court Rules Concerning the State Bar of Michigan requires each SBM section to maintain bylaws “not inconsistent with these Rules or the bylaws of the State Bar of Michigan” and further that “[s]ection bylaws or amendments thereof shall become effective when approved by the Board of Commissioners.”

Upon review of documents submitted by the section, staff confirms that the section has followed all steps necessary to propose bylaws changes in accordance with the procedures set forth in the section’s current bylaws. The only remaining step is for this body to approve the section’s proposed amendments. The section’s current bylaws are attached and redlined to highlight the proposed changes.

No proposed amendment is inconsistent with Supreme Court Rules or SBM bylaws. Thus, staff recommends the proposal be APPROVED.

**BYLAWS OF THE
ELDER LAW AND DISABILITY RIGHTS SECTION
OF THE STATE BAR OF MICHIGAN**

**ARTICLE I
PURPOSE**

SECTION 1. SECTION NAME: This Section shall be known as the ELDER LAW AND DISABILITY RIGHTS SECTION (hereinafter the Section) of the State Bar of Michigan.

SECTION 2. PURPOSE: The purpose of this Section shall be to advocate for the rights of elders and persons with disabilities, educate members of the State Bar, as well as the public, so that all elders and persons with disabilities can have access to quality legal services.

SECTION 3. GOALS: The goals of the Section shall be to:

3.1 Serve the elder and disability populations and advocate on behalf of their interests concerning professional practices, legislation, and public policy which affect the practice of elder law, disability law, and related issues; and

3.2 Provide education and pro bono services to elders and persons with disabilities with regard to legal practices, rights and consumer issues; and

3.3 Advocate and serve as an educational resource for members of the State Bar for the purpose of fostering professional development and the advancement of "best practice" elder law and disability law standards; and

3.4 Recognize the diversity and serve the specialized needs of the elder and disabled populations; and

3.5 Establish and maintain viable working relationships with the aging and disability networks and the human services system; and

3.6 Promote awareness and involvement of the State Bar members, human service professionals and the general public regarding the purpose and work of the Elder Law and Disability Rights Section.

ARTICLE II MEMBERSHIP

SECTION 1. CLASSIFICATION OF MEMBERSHIP: The membership of the Section shall be Active Members, Affiliate Members, Law Student Members, and Auxillary Members as described below. Dues shall be payable in advance at the beginning of each fiscal year of the State Bar of Michigan. Any member of the Section whose annual dues shall be more than six months past due shall automatically cease to be a member of this Section. Members enrolled and whose dues are timely paid shall constitute the membership of the Section.

SECTION 2. ACTIVE MEMBERS

2.1 ACTIVE MEMBERS of the State Bar of Michigan may join the Section by paying annual dues to the State Bar of Michigan in ~~the amount of Thirty Five Dollars (\$35.00), or~~ an amount as determined by the Section Council. All lawyers admitted to practice in Michigan shall be considered members of the Section until the end of the fiscal year of the State Bar of Michigan following the year of their admission and shall not be required to pay dues until after that time.

2.2 ACTIVE MEMBERS OVER AGE 70 of this Section pay dues equal to 1/2 the current dues rate.

SECTION 3. AFFILIATE MEMBERS of the State Bar may join the Section at the current dues rate for active members.

SECTION 4. LAW STUDENT MEMBERS of the State Bar of Michigan join the Section at no charge. Law Student members shall be entitled to receive Section publications and attend meetings of the Section. Law Student Section members shall not be eligible to vote or hold office.

SECTION 5. AUXILIARY MEMBERS The Council may appoint such Auxiliary members as it shall deem appropriate, and for such term as it determines. Auxiliary members shall be subject to the payment of dues at the current rate for active members. Auxiliary members shall not be eligible to vote or hold office. Auxiliary members must be:

5.1- Attorneys who are not members of the Michigan Bar, but who are Attorneys employed as faculty of an accredited Law School or who are engaged in educating/advocating for elderly and/or rights of persons with disabilities; or

5.2- Non-attorney members of a nonprofit organization that provides legal services to elderly and/or persons with disabilities; or

5.3 A non-attorney intimately involved in the legal system/process who actively advocates for the rights of the elderly and/or persons with disabilities.

ARTICLE III COUNCIL AND OFFICERS

SECTION 1. OFFICERS: The Officers of the Section shall be a Chair, a Chair-Elect, a Secretary, a Treasurer, and the Immediate Past Chair of the Section. All officers must be Active Members of the Section.

SECTION 2. COUNCIL: There shall be a council of the Section consisting of the Chair, Chair-Elect, Secretary and Treasurer, together with fifteen (15) at-large members to be elected as provided within this Article. The Immediate Past Chair shall remain as a member of the Council the year following his/her service as Chair of the Section. The Immediate Past Chair shall be included in determining whether a quorum is present at any meeting and shall have the right to vote on matters brought before the Council. All Council Members must be Active Members of the Section. Other Past Chairpersons shall also automatically remain as members of the Council so long as they maintain membership in the Section. However, other past Chairpersons shall not be included in determining whether a quorum is present at any meeting and they shall have no right to vote on matters brought before the Council, unless otherwise elected as active members of the Council.

~~**SECTION 3. SELECTION OF OFFICERS:** The Chair, Chair-Elect, Secretary and Treasurer shall be nominated and elected at each annual meeting of the Section, to hold office for a term beginning at the close of the annual meeting at which they have been elected, and ending at the close of the next succeeding annual meeting of the Section, when their successors shall have been qualified and elected.~~

~~**SECTION 4. TERMS OF OFFICE:** In addition to officers, the Council consists of fifteen (15) members nominated and elected to this position. Council members serve for three (3) year terms. One-third of the terms expire each year. In order to reach this size, additional members shall be nominated and elected to serve shorter terms to bring the Council up to full-size. Members of the Council shall be elected to fulfill expired terms at each subsequent annual meeting of the Section following the expiration of any term. All subsequent terms shall be for a period of three (3) years. ("Years" defined as a term beginning at the close of the annual meeting at which the Council members shall have been elected and ending at the close of the succeeding annual meeting of the Section.)~~

~~**SECTION 5. TERM LIMITATIONS**~~

~~5.1 No Council member shall be eligible for re-election to the Council (other than as an officer) if she/he has served without interruption for two (2) consecutive terms preceding the term for which the election is held.~~

~~5.2 No person who has served in the same office without interruption for two (2) consecutive terms shall be eligible for re-election to that office.~~

SECTION 6. VACANCIES: The Council may appoint any member of the Section as an officer or council member to act until the next election in the event of death, disability, removal or resignation or other vacancy of any officer or council member.

ARTICLE IV ELECTIONS

SECTION 1. NOMINATIONS: At the second to last scheduled meeting of the Council prior to the annual meeting, or at such other time as shall be convenient, ~~the Chair shall appoint a Nominating Committee consisting of three (3) members of the Section, at least two (2) of whom are members of the Council.~~

SECTION 2. ELECTIONS: The ~~nominations committee~~Nominating Committee shall annually prepare nominations for officers and at-large members of the Council in accord with these bylaws. The Nominating Committee shall report its slate of nominees to the Council at the last scheduled meeting of the Council prior to the annual meeting. Nominations shall also be accepted from the floor at the last scheduled meeting of the Council prior to the annual meeting if the nominee is willing to serve. ~~All elections shall be by voice vote of the members except to fill vacancies as provided in Article III, Section 6 unless~~Unless otherwise ordered by resolution duly adopted by the Section at the Annual Meeting at which the ~~Election is held.~~election is held, the Chair may conduct all elections for officers and/or at-large member of the Council by voice vote, or may direct another method of conducting the election, such as a show of hands, paper ballot or other method. If any election is contested, the Chair shall announce the method of voting two (2) weeks in advance of the election.

ARTICLE V DUTIES OF OFFICERS

SECTION 1. CHAIR: The Chair shall preside at all meetings of the Section and of the Council. The Chair shall formulate and present at each annual meeting of the State Bar of Michigan a report of the work of the Section for the current year. The Chair shall perform such other duties and acts that pertain to the office.

~~**SECTION 2. CHAIR-ELECT:** In the absence of the Chair, the Chair-Elect shall perform the duties of the Chair. The Chair-Elect shall automatically succeed to the office of the Chair the year following his/her election to Chair-Elect. The Chair-Elect shall be responsible for the public relations activities of the Section, including acting as a liaison with the State Bar of Michigan's Communications Committee, and for such other duties as the Chair may designate.~~

SECTION 3. SECRETARY: The Secretary shall cause to be kept all books, papers, documents, and other property of the Section except money. The Secretary shall keep a true record of the proceedings of all meetings of the Section and of the Council. With the Chair, the Secretary shall prepare a summary or digest of the proceedings of the Section at its annual meeting, for publication in the Annual Report of the State Bar of Michigan. The Secretary shall publicize all public policy positions taken by the Section - transmitting each, as required, to the appropriate personnel at the State Bar of Michigan. In conjunction with the Chair, the Secretary as authorized by the Council, shall attend generally to the business of the Section.

SECTION 4. TREASURER: The Treasurer of the Elder Law and Disability Rights Section shall:

4.1 Cause to be kept a record of all monies received and disbursed; and

4.2 Submit a financial report to the Council regularly; and

4.3 Annually prepare a financial report for presentation to the membership of the Section and to the Board of Commissioners of the State Bar of Michigan; and

4.4 Sign any application for and execute any bond as may be requested by any officer of the Section and/or member of the Council pursuant to any resolution duly adopted for any bond for the purpose of protecting the monies of the Section. Any cost or premium for such bond shall be an expense of the Section and paid from the funds of the Section; and ~~4.5 Annually prepare a Section budget within two months of taking office to assist the Council in financial decisions in the upcoming fiscal year,~~

4.5 Annually prepare a Section budget to assist the Council in financial decisions in the upcoming fiscal year,

SECTION 5. OTHER DUTIES. The council may assign other duties to officers or other section members.

ARTICLE VI DUTIES AND POWERS OF THE COUNCIL

SECTION 1. GENERAL: The Council shall have general supervision and control of the affairs of the Section, subject to the Supreme Court Rules Concerning the State Bar of Michigan and the bylaws of the State Bar of Michigan and the bylaws of the Section. It shall especially authorize all commitments or contracts, which entail the payment of money, and shall authorize the expenditure of all monies appropriated for the use or benefit of the Section. ~~It shall not, however, authorize commitments or contracts, which entail the payment of more money during any fiscal year than the amount, which has been appropriated to the Section for that fiscal year.~~

SECTION 2. COMMITTEE APPOINTMENT: The Chair will appoint committees and their Chairs from Section members, to perform such duties and exercise such powers as the Council may direct. The Council shall remove any committee chair or committee member for cause, and fill vacancies created by such removal or resignation.

-SECTION 3. VACANCIES: The Council shall, between annual meetings of the Section, fill vacancies in its own membership or in the offices of the Secretary or Treasurer. In the event of a vacancy in both the office of Chair and Chair-Elect, the Council shall fill the office of Chair. Officers and members of the Council so selected shall serve until the close of the next annual meeting of the Section, at which time the vacancies shall be filled for the remainder of their respective terms by a special election conducted concurrently with the regular elections as provided in Article IV.

-SECTION 4. QUORUM: A quorum of the Council shall consist of a majority of the officers and elected members of the Council. A quorum being present, the Council shall act on the affirmative vote of a majority of those present at any meeting.

-SECTION 5. MEETINGS:

5.1 The Council shall designate the time and place of its regular meetings, but shall schedule no fewer than four (4) meetings per fiscal year.

5.2 Special ~~meetings~~Meetings of the Council may be called upon notice by the Chair or upon written request to the Secretary of any five (5) members of the Council. Council members shall receive at least 24 ~~hours~~hours' notice of a Special Meeting of the Council. Notice of Special Meetings shall include the topic for which the meeting was called.

~~5.1-3~~ 5.1-3 Members of the Council may participate in any meeting in person, by telephone or by other conferencing method.

SECTION 6. EMERGENCY VOTES.

6.1 When the Chair deems there is insufficient time for a needed decision to be made at a regular meeting or special meeting, the Chair may, upon notice to all Council members, conduct a vote on proposed action via telephone, e-mail or other communications means. ~~The Secretary shall prepare a written record of the emergency vote on the proposed action.~~

6.2 There must be ~~three consecutive calendar days~~forty-eight (48) hours between the presentation of the proposal including announcement of the vote and the ~~taking~~closing of the vote to allow time for consideration of the proposal and discussion of the matter upon which the emergency vote will be taken. The 48 hour waiting period may be shortened if all of those eligible to vote have voted prior to the expiration of the 48 hour time period.

6.3 The Secretary shall prepare a written record of the emergency vote on the proposed action and record the outcome of the vote in the meeting minutes of the next Regular Meeting of the Section.

SECTION 7. UNEXCUSED ABSENCES: Any member of the Council who shall be absent from three (3) consecutive regular meetings of the Council, unless excused by the Chair, shall be deemed to have resigned and the vacancy created shall be filled by the Council as specified in Article III, Section 6.

ARTICLE VII COMMITTEES

SECTION 1. STANDING COMMITTEES: Every year a Nominating Committee shall be appointed. The Council may create other standing committees as it sees fit.

SECTION 2. NOMINATING: The Nominating Committee shall recommend nominees to the Section for the offices of Chair, Chair-Elect, Secretary, Treasurer, and members of the Council on an annual basis. This report shall be submitted in writing to the Chair no later than two months prior to the annual meeting of the Section; ~~nominations.~~ Nominations shall be published to Section members no later than 30 days prior to the annual meeting of the Section. Other nominations may be made from the floor. The Nominating Committee shall ~~consider~~seek to have the diversity of ~~Council~~our Section's membership, ~~including race, gender, reflected in its nominations to fill Officer and geographic diversity; and representation by public interest as well as private practitioners.~~ Council positions.

SECTION 3. COMMITTEE MEETINGS: The Committee meetings will be called as necessary by the Section or Committee Chairs.

~~-~~**SECTION 4. REPORTS:** The Chair of each committee shall submit a written report of Committee activities during the preceding year to the Council. This annual report is due ~~two months~~fourteen (14) days prior to the annual meeting of the Section.

**ARTICLE VIII
SECTION MEETINGS**

SECTION 1. ANNUAL MEETING: The annual meeting of the Section shall be held at such time and place as determined by the Council.

-SECTION 2. SPECIAL MEETINGS: Special meetings of the Section may be called by the Chair upon approval of the Council, at such time and place as the Council may determine.

-SECTION 3. QUORUM: Fifteen (15) members of the Section present at any meeting shall constitute a quorum for the transaction of business.

**ARTICLE IX
MISCELLANEOUS PROVISIONS**

SECTION 1. FISCAL YEAR: The fiscal year of the Section shall be the same as that of the State Bar of Michigan.

-SECTION 2. DISBURSEMENTS: Any bills incurred by the Section to be forwarded to the State Bar Fiscal Officer for payment shall first be approved by the Chair or the Treasurer, or otherwise, as the Council shall direct. Disbursements shall then be made by an officer of the State Bar of Michigan, or someone designated by the State Bar Commissioners.

SECTION 3. COMPENSATION: No salary or compensation shall be paid to any Officer, ~~Council Member~~, or Committee ~~member~~Member; however, Officer, Council and Committee members may be reimbursed for actual expenses for Section business.

-SECTION 4. DEFINITIONS. Attendance includes participation via any electronic means that allows one to participate in discussions before decisions are made. A meeting may be held entirely by electronic means. In such instances, the date of the meeting for purposes of notice shall be the date by which decisions are made. Writing includes all fixed, tangible means of expression, including e-mails and faxes.

-SECTION 5. EFFECTIVE DATE: These bylaws shall become effective upon the approval by the Commissioners of the State Bar of Michigan.

**ARTICLE X
AMENDMENTS**

SECTION 1. VOTE: These bylaws may be amended at any meeting of the Section at which a quorum is present, by a two-thirds (2/3) vote of the members of the Section present and voting, provided such proposed amendment shall first have been submitted to the Council for its recommendation in accordance with Section 2. No amendment so adopted shall become effective until approved by the Commissioners of the State Bar of Michigan.

SECTION 2. AMENDMENT FORM: Any proposed amendment shall be submitted in writing to the Council in the form of a petition by at least ten (10) members of the Section. The Council shall consider the proposed amendment, prepare recommendations, and publish a complete and accurate text of the proposed amendment in the section newsletter, the Section list-serve e-mail list, or any acceptable and regularly used means of mass communication to Section members at least thirty (30) days prior to the meeting of the Section at which it is to be considered.

Created 1993

Amended as of 9/26/96

Current as of 12/15/99

Amended 9/27/02

Amended 11/17/06

Amended 7/20/07

Amended 7/24/15

**State Bar of Michigan
FY 2022 Proposed Budget Summary**

	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2021 Budget	FY 2021 Forecast	FY 2021 Forecast vs. FY 2021 Budget	FY 2022 Proposed Budget	FY 2022 Prop. Budget vs. FY 2021 Forecast	FY 2022 Prop. Budget vs. FY 2021 Budget
Operating Revenues									
- License Fees and Related	7,732,040	7,750,310	7,732,165	7,641,000	7,727,000	86,000	7,653,000	(74,000)	12,000
- All Other Operating Revenue	1,632,612	1,601,163	1,390,417	1,494,890	1,365,655	(129,235)	1,467,850	102,195	(27,040)
Total Operating Revenue	9,364,652	9,351,473	9,122,582	9,135,890	9,092,655	(43,235)	9,120,850	28,195	(15,040)
Operating Expenses									
- Labor-related Operating Expenses									
Salaries	4,819,766	5,051,419	5,281,014	5,330,899	5,068,308	(262,591)	5,437,140	368,832	106,241
Employee Benefits & Payroll Taxes	1,775,841	1,833,191	1,776,147	1,915,358	1,807,036	(108,322)	1,912,006	104,970	(3,352)
Retiree Health Care Liability Exp	-	-	-	-	-	-	-	-	-
Total Labor-related Operating Expenses	6,595,607	6,884,610	7,057,161	7,246,257	6,875,344	(370,913)	7,349,146	473,802	102,889
- Non-labor Operating Expenses									
Legal	152,260	215,715	183,249	191,920	176,488	(15,432)	224,875	48,387	32,955
Public and Bar Services	938,232	906,733	746,721	1,027,080	925,859	(101,221)	1,079,949	154,089	52,869
Operations and Policy	2,566,982	2,558,329	2,291,020	2,713,645	2,439,060	(274,585)	2,582,870	143,810	(130,775)
Total Non-labor Operating Expenses	3,657,474	3,680,777	3,220,990	3,932,645	3,541,407	(391,238)	3,887,694	346,287	(44,951)
Total Operating Expenses	10,253,081	10,565,387	10,278,151	11,178,902	10,416,751	(762,151)	11,236,840	820,088	57,938
Total Operating Income (Loss)	(888,429)	(1,213,914)	(1,155,569)	(2,043,012)	(1,324,096)	718,916	(2,115,990)	(791,893)	(72,978)
Non-Operating Rev / (Exp)									
- Investment Income	179,640	249,731	199,067	94,000	61,240	(32,760)	33,000	(28,240)	(61,000)
- Investment Income - Retiree Health Care Trust	202,417	384,630	328,761	-	-	-	-	-	-
- Capital Contributions	-	-	-	-	-	-	-	-	-
- Loss on Disposal of Capital Asset	(34,963)	(4,000)	(17,570)	-	-	-	-	-	-
Total Non-OperRev / (Exp)	347,094	630,361	510,258	94,000	61,240	(32,760)	33,000	(28,240)	(61,000)
Incr / (Decr) in Net Position	(541,335)	(583,553)	(645,311)	(1,949,012)	(1,262,857)	686,155	(2,082,990)	(820,133)	(133,978)

**FY 2022 Proposed Budget
Legal**

	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2021 Budget	FY 2021 Forecast	FY 2021 Forecast vs. FY 2021 Budget	FY 2022 Proposed Budget	FY 2022 Prop. Budget vs. FY 2021 Forecast	FY 2022 Prop. Budget vs. FY 2021 Budget
Legal									
Operating Revenues									
- Ethics	8,620	7,895	6,090	6,700	7,125	425	4,875	(2,250)	(1,825)
- Character & Fitness	218,495	294,335	325,940	358,625	317,650	(40,975)	358,125	40,475	(500)
Total Op Revenues	227,115	302,230	332,030	365,325	324,775	(40,550)	363,000	38,225	(2,325)
Legal Salaries	-	-	1,062,557	1,224,066	1,116,575	(107,491)	1,261,316	144,741	37,250
Other Operating Expenses									
- Ethics	10,531	16,490	7,201	7,005	3,795	(3,210)	10,795	7,000	3,790
- Client Protection Fund	16,735	11,096	2,461	6,865	3,990	(2,875)	12,930	8,940	6,065
- Interim Administrator Program	-	-	-	4,500	-	(4,500)	1,150	1,150	(3,350)
- Character & Fitness	45,350	52,843	40,663	52,000	55,000	3,000	61,750	6,750	9,750
- Unauthorized Practice of Law	16,718	16,582	15,704	12,750	6,350	(6,400)	13,050	6,700	300
- General Counsel	7,019	40,749	64,581	55,800	56,300	500	61,000	4,700	5,200
- Human Resources	55,907	77,955	52,639	53,000	51,053	(1,947)	64,200	13,147	11,200
- Employee Benefits & Payroll Taxes	1,775,841	1,833,191	1,776,147	1,915,358	1,807,036	(108,322)	1,912,006	104,970	(3,352)
- Retiree Health Care Liability Contribution	-	-	-	-	-	-	-	-	-
Total Other Operating Expense	1,928,101	2,048,906	1,959,396	2,107,278	1,983,524	(123,754)	2,136,881	153,357	29,603

**FY 2022 Proposed Budget
Public and Bar Services**

	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2021 Budget	FY 2021 Forecast	FY 2021 Forecast vs. FY 2021 Budget	FY 2022 Proposed Budget	FY 2022 Prop. Budget vs. FY 2021 Forecast	FY 2022 Prop. Budget vs. FY 2021 Budget
Public and Bar Services									
Operating Revenues									
- Annual Meeting	115,388	26,246	-	31,000	31,000	-	31,000	-	-
- Lawyer Services	288,154	235,016	195,734	204,650	201,870	(2,780)	205,025	3,155	375
- Bar Leadership Forum	11,377	12,097	946	11,725	-	(11,725)	11,725	11,725	-
- UMLI	12,193	14,030	597	12,500	-	(12,500)	12,500	12,500	-
- 50 Year Golden Celebration	-	-	-	2,350	-	(2,350)	3,350	3,350	1,000
- Practice Management Resource Center	125	20	530	1,000	1,000	-	3,500	2,500	2,500
- Lawyer Referral Service	148,667	190,605	127,560	140,000	120,000	(20,000)	150,000	30,000	10,000
- Lawyers & Judges Assistance Program	40,718	42,724	41,315	51,990	54,000	2,010	60,000	6,000	8,010
Total Op Revenues	<u>616,622</u>	<u>520,738</u>	<u>366,683</u>	<u>455,215</u>	<u>407,870</u>	<u>(47,345)</u>	<u>477,100</u>	<u>69,230</u>	<u>21,885</u>
Public and Bar Services Salaries	-	-	2,201,813	1,875,536	1,780,762	(94,774)	1,934,171	153,409	58,635
Other Operating Expenses									
- Annual Meeting	187,706	57,660	21,186	56,400	53,925	(2,475)	69,000	15,075	12,600
- Lawyer Services	96,441	93,380	77,518	31,500	31,070	(430)	34,150	3,080	2,650
- Bar Leadership Forum	28,736	24,801	847	33,000	-	(33,000)	34,500	34,500	1,500
- UMLI	23,644	25,409	3,393	28,900	-	(28,900)	31,400	31,400	2,500
- 50 Year Golden Celebration	-	-	1,643	27,225	5,800	(21,425)	38,200	32,400	10,975
- Practice Management Resource Center	6,105	3,697	5,118	5,455	3,430	(2,025)	10,505	7,075	5,050
- Lawyer Referral Service	17,640	5,052	1,270	7,750	8,630	880	10,350	1,720	2,600
- Outreach, Committees, Sections & Local / Affinity Bars	110,617	110,914	41,716	136,500	123,710	(12,790)	134,500	10,790	(2,000)
- Diversity	47,464	42,182	5,919	35,000	34,400	(600)	36,700	2,300	1,700
- Lawyers & Judges Assistance Program	38,461	25,991	14,800	24,450	15,223	(9,228)	23,600	8,378	(850)
- Information Technology Services	381,418	517,647	573,310	640,900	649,672	8,772	657,044	7,372	16,144
Total Other Operating Expense	<u>938,232</u>	<u>906,733</u>	<u>746,721</u>	<u>1,027,080</u>	<u>925,859</u>	<u>(101,221)</u>	<u>1,079,949</u>	<u>154,089</u>	<u>52,869</u>

**FY 2022 Proposed Budget
Operations and Policy**

	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2021 Budget	FY 2021 Forecast	FY 2021 Forecast vs. FY 2021 Budget	FY 2022 Proposed Budget	FY 2022 Prop. Budget vs. FY 2021 Forecast	FY 2022 Prop. Budget vs. FY 2021 Budget
Operations and Policy									
Operating Revenues									
- License Fees & Related	7,732,040	7,750,310	7,732,165	7,641,000	7,727,000	86,000	7,653,000	(74,000)	12,000
- Chargeback to CPF	217,479	211,833	171,626	169,000	162,000	(7,000)	172,500	10,500	3,500
- Other Revenues	191,330	214,173	208,434	195,900	196,850	950	198,700	1,850	2,800
- Bar Journal Directory	74,358	40,231	39,645	32,750	13,464	(19,286)	-	(13,464)	(32,750)
- Bar Journal	167,549	149,326	146,149	148,400	145,396	(3,004)	146,050	654	(2,350)
- Print & Design Center	64,559	67,921	50,219	54,300	39,500	(14,800)	37,000	(2,500)	(17,300)
- Digital (Website)	40,547	59,109	51,610	49,000	50,000	1,000	48,500	(1,500)	(500)
- e-Journal	33,053	25,602	24,022	25,000	25,800	800	25,000	(800)	-
- Misc Revenue	-	10,000	-	-	-	-	-	-	-
Total Operating Revenues	8,520,915	8,528,505	8,423,870	8,315,350	8,360,010	44,660	8,280,750	(79,260)	(34,600)
Non-Operating Revenue									
- Investment Income	179,640	249,731	94,000	94,000	61,240	(32,760)	33,000	(28,240)	(61,000)
- Investment Income - Retiree Health Care Trust	202,417	384,630	328,761	-	-	-	-	-	-
- Capital Contributions	-	-	-	-	-	-	-	-	-
- Loss on Disposal of Capital Asset	(34,963)	(4,000)	(17,570)	-	-	-	-	-	-
Total Non-Operating Revenues	347,094	630,361	405,191	94,000	61,240	(32,760)	33,000	(28,240)	(61,000)
Operations & Policy Salaries	-	-	2,016,644	2,231,297	2,170,971	(60,326)	2,241,653	70,682	10,356
Other Operating Expenses									
- Admin	32,522	36,865	31,454	82,800	85,230	2,430	97,200	11,970	14,400
- Depreciation	436,514	476,985	528,855	558,000	538,500	(19,500)	560,000	21,500	2,000
- Property Taxes (in lieu of)	69,178	74,405	77,839	78,000	78,000	-	78,000	-	-
- Financial Services	258,599	286,625	284,253	324,295	320,720	(3,575)	348,590	27,870	24,295
- Bar Journal Directory	83,164	53,908	53,165	6,000	1,500	(4,500)	-	(1,500)	(6,000)
- Bar Journal	509,212	504,917	440,712	510,550	425,425	(85,125)	381,040	(44,385)	(129,510)
- Print & Design Center	61,487	65,391	42,139	61,500	53,810	(7,690)	53,850	40	(7,650)
- Digital (Website)	127,015	87,783	105,383	147,500	120,155	(27,345)	129,100	8,945	(18,400)
- e-Journal	36,080	32,932	36,228	33,050	33,805	755	16,005	(17,800)	(17,045)
- General Communications (Media Relations)	67,742	56,936	31,658	30,700	19,170	(11,530)	33,350	14,180	2,650
- Executive Office	65,147	89,965	59,943	60,200	39,750	(20,450)	65,950	26,200	5,750
- Board of Commissioners	147,100	141,644	35,261	134,900	95,750	(39,150)	133,250	37,500	(1,650)
- Representative Assembly	54,723	48,078	788	41,000	28,750	(12,250)	54,200	25,450	13,200
- Governmental Relations	66,629	70,482	57,300	68,830	57,490	(11,340)	63,920	6,430	(4,910)
- Research & Development	26,855	21,751	29,773	21,310	21,210	(100)	21,640	430	330
- Facilities Services	382,921	375,834	343,909	419,760	390,402	(29,358)	409,500	19,098	(10,260)
- Justice Initiatives (Combines PBI, RDI, JPI & CII)	51,888	137,828	132,363	135,250	129,393	(5,857)	137,275	7,882	2,025
- Criminal Issues Initiative	228	-	-	-	-	-	-	-	-
- Pro Bono Initiative/ Pro Bono	13,490	-	-	-	-	-	-	-	-
- Resource Development Initiative	76,356	-	-	-	-	-	-	-	-
- Justice Policy Initiative	132	-	-	-	-	-	-	-	-
Total Other Operating Expense	2,566,982	2,562,329	2,291,022	2,713,645	2,439,060	(274,585)	2,582,870	143,810	(130,775)

Administrative Fund	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2021 Budget	FY 2021 Forecast	FY 2022 Budget
Beginning Position	12,277,875	12,800,771	12,217,220	11,571,909	11,571,909	10,309,052
Ending Position	12,800,771	12,217,220	11,571,909	9,622,897 (1)	10,309,052 (1)	8,226,062 (1)
Retiree H/C Restricted Assets**	1,500,028	1,953,454	2,389,256		3,218,258 (4)	
Change	(541,335) (2)(3)	(583,551) (3)	(645,311) (3)	(1,949,012)	(1,262,857)	(2,082,990)

Notes:

- (1) Budget and forecast do not include income of healthcare trust and GASB 68/75 year-end adjustments for pensions and retiree healthcare liability.
- (2) Excludes effect of FY 2018 accounting adjustment.
- (3) Actuals include Retiree Healthcare Trust income.
- (4) Estimate only - Retiree Healthcare Trust assets as of May 2021 less state's allocation of GASB 75 liability as of September 2020. This amount includes YTD May 2021 H/C Trust income of \$790,780

FY 2022 Proposed Budget

Key Budget Assumptions

Ver. 07.07.21

General

The FY 2022 budget is based on the following assumptions related to SBM operations and the impact of COVID-19:

- SBM will continue the programs and services as directed by the SBM Strategic Plan with no planned changes in the scope of SBM activities in the upcoming year.
- There is no change to the current SBM license fees in FY 2022. Based on member trends and FY 2021 financial data, SBM is projected to have a stable license fee and related revenue in FY 2022 at levels comparable with FY 2021. Other operating revenues which include interest income are estimated to be slightly lower compared to FY 2021 due to the continued impact of COVID-19 and low interest rates.
- SBM does not foresee a substantially material increase in FY 2022 operating expenses compared to FY 2021. Though some expenses are projected to increase, overall spending is anticipated to remain at FY 2021 budget levels due to operational savings made in FY 2021 that will continue in FY 2022.
- Conducting committee and other meetings virtually will be preferred when practical in order to save costs and increase participation. For most committee meetings, one in-person meeting is planned, with the rest of the meetings being virtual. For BOC, half of the meetings will be virtual. Changes are planned to the format of the annual meeting held in person, which will allow for higher membership participation and engagement.
- SBM will transition from fully remote work to a combination of in-office/remote work in FY 2022. In FY 2021, SBM observed lower operating costs and increased staff productivity due to remote work. SBM is working on re-opening plans and will be transitioning to in-person work based on CDC and State of Michigan guidance. There will be modest savings and costs associated with return to office and hybrid remote/in-office work in FY 2022.
- Staff out-of-state travel will be resuming in FY 2022, but likely at reduced levels. Any out-of-state travel must be pre-approved by the Executive Director.
- No fees are assumed for the proposed Interim Administrator program (pending approval by MSC).
- 75.5 FTE budget maximum (same as FY 2021).

Labor

Salaries

- Two percent vacancy float is assumed for FY 2022 based on prior year actuals (same as budgeted in FY 2021). \$50k incentive compensation remains constant from prior year. Compensation adjustments to market mid-range of pay are estimated at \$38k for 18 positions, to remain competitive and improve employee retention. Cost of living adjustment of 2.5%, estimated at \$127.5k, is planned for other positions, which is consistent with the State of Michigan COLA increase of 2.5% and CPI of 5% (May 2021).

Benefits

- Maintain the existing employee insurance benefits, with the following estimated inflationary increases:
 - Medical insurance (Blue Cross Blue Shield of Michigan and Blue Care Network) is offered at current coverage levels.
 - Continued application of the hard cap established by PA 152, the Publicly Funded Health Insurance Contributions Act (PFHICA), which sets the limits on the amounts an employer can contribute to the employee insurance coverage and requires that employees pay the premium amount over the caps. Blended FY 2022 rates (3 months at 2021 and 9 months at 2022) are \$7,239.36 single, \$15,139.75 two person, and \$19,743.75 family (this represents an annual increase of 3.6%).
 - Continued Medical insurance opt-out payment of \$1,800 to eligible employees to encourage employees to opt-out of medical coverage (no change).
 - Vision - 0% increase (rate lock, no change).
 - Dental - 5% increase (employees pay 10% of the dental insurance premium).
 - Long-term Disability (LTD), Short-term Disability (STD), Group Term Life (GTL) and Accidental Death and Dismemberment (AD&D) – 0% increase (rate lock, no change).
 - Maintain existing Retirement Plans, with estimated adjustments:
 - Defined Benefit Pension for 2 eligible Tier 1 employees – the rate is anticipated to remain flat at 23.92% applied to Tier 1 payroll. Total recognized defined benefit pension expense is based on allocation from the State of Michigan Office of Retirement Services per accounting standard GASB 68.
 - Defined Contribution Retirement for all Tier 2 employees – no change (4% contribution plus matching up to 3% of employee contributions).
 - Retiree Health Care premiums paid to the State of Michigan - budgeted 3% increase in premiums for current retirees paid to the State. Total recognized retiree health care expense is based on allocation from the State of Michigan Office of Retirement Services per accounting standard GASB 75. SBM will continue making direct payments of retiree healthcare premiums to the state and contribute to the retiree healthcare trust through February 2022, with the intent that the trust will take over premium payments for the periods beginning March 2022 and at that time trust contributions will also stop. The trust is anticipated to be fully funded by March 2022.

Payroll Taxes

- No changes to the employer FICA and Medicare tax rates – taxes are based on budgeted salaries, no wage cap for Medicare tax, and 2021 social security wage cap of \$142,800, which is increased by 3% or to \$147,084 for 2022.

Non-Labor

- Licensing fee revenue is estimated to increase by 0.2% compared to FY 2021 budget, based on the current attorneys, trends in new attorney applications, the number of character and fitness applications, attorneys returning from suspension for non-payment of dues, and estimated attorney attrition.
- Investment Income – average interest rate of 0.35% earned on available average cash and investment balances (\$61k decrease over FY 2021 budget).
- Administrative Fee charged to the Client Protection Fund – consistent with FY 2021 fees, subject to a labor cost increase.
- Attorney Discipline System (ADS) fee revenue – estimated 2% CPI increase over the FY 2021 amount. SBM continues to absorb a significant portion of credit card processing fees which are assessed on the total license fee (SBM, CPF and ADS portion).
- Michigan State Bar Foundation (MSBF) rent revenue – estimated 2% CPI increase over the FY 2021 amount.
- Administrative support to Sections for managing their dues and expenses is provided free of charge. Any additional direct costs are passed on to Sections.
- Postage – no change in USPS rates currently in effect for 2021, adjusted for reduction in mailing volumes.
- Depreciation Expense – no change in the depreciation policy; expense based upon projected asset levels and capital spending.
- Payment in Lieu of Property Tax (PILOT) – millage rates presumed flat; changes in appraised value of the building may impact the calculation.
- No short-term or long-term debt.

Specific Teams Assumptions

Legal

General Counsel

- Programs and staffing at FY 2021 budgeted levels. Litigation expenses are expected to remain the same this year. Taylor v. Buchanan is pending before the Sixth Circuit and will be considered at its July 22, 2021 sitting; the case will likely be appealed to the United States Supreme Court in FY 2021 or FY 2022, depending on when the Sixth Circuit publishes its decision. In addition, a number of other integrated bar challenges remain pending in circuit courts and could require the filing of an amicus brief in the United States Supreme Court should the Court grant a cert petition in any of those cases.

UPL

- Staffing at FY 2021 budgeted levels with no anticipated changes.
- Investigation and litigation expenses are anticipated to increase with increased litigation of UPL matters. Litigation travel expenses may increase.

Regulatory Services

- Ethics – Staffing levels unchanged compared to FY 2021. Program costs assume a combination of in-person and virtual events.
- CPF – Programs and staffing at FY 2021 budgeted levels. Meeting costs may be reduced with virtual meetings.
- IAP – Programs and staffing at FY 2021 budgeted levels, assuming the program will start in FY 2023 and ramp-up costs are incurred in FY 2022.

C&F

- Programs and staffing at FY 2021 budgeted levels except for:
 - Increased costs for C&F transcripts due to the increased length of hearings, the number of unfavorable and split recommendations and special requests from BLE in FY 2021.
 - Hearing costs (meetings and travel) are budgeted at pre-COVID amounts; however, costs may be reduced if a combination of in-person and virtual hearings are conducted.

Human Resources

- Programs and staffing at FY 2021 budgeted levels except for:
 - Recruiting fees (estimated \$10k).

Operations and Policy

Governance

- Executive Office Programs and staffing at FY 2021 budgeted levels.
- BOC programs at FY 2021 budgeted levels with BOC travel and meetings resuming, except for Past President's dinner (savings of \$10k).
- RA programs at FY 2021 budgeted levels with in-person meetings resuming; higher costs due to change in location are assumed. If adopted by the RA leadership, one of the meetings could be virtual.

Facilities

- Expenses and staffing at FY 2021 budgeted levels, except for modest additional expenses associated with office re-opening and lower outside parking costs (savings of \$12.5k). Planned fixed assets additions are listed in the Capital Expenditures budget.

Finance

- Programs and staffing at FY 2021 budgeted levels except:
 - Increase in audit fees due to inflationary increase and GASB 84 implementation.
 - Projected increase in credit card fees due to higher seminar and event registrations as well as continued increase in on-line license fee payments compared to lockbox processing. Expense is reduced by bi-annual billing to sections for their portion of credit card fees at 2% of total section dues and seminar revenue (approximately \$10k).

Administration

- Programs and staffing at FY 2021 budgeted levels except:
 - Increase in Directors & Officers' insurance policy.

Governmental Relations

- Programs and staffing at FY 2021 budgeted levels with exception of resumed travel.

Justice Initiatives

- Programs and staffing at FY 2021 budgeted levels:
 - Continuing support for Michigan Legal Help (\$50k) and ATJ Fundraising (\$75k). Same as FY 2021 budget.

Research & Development

- Programs and staffing at FY 2021 budgeted levels.

Communications

- Programs and staffing at FY 2021 budgeted levels except for:
 - The Resource Directory moved online and will only have labor and a nominal postage cost going forward.
 - The Bar Journal changed to an opt-in print delivery model and is now printed on a lower quality paper, which saves on printing and postage.
 - The Print Center is seeing reduced expenses and revenue due to a decrease in demand for services.

Public and Bar Services

Outreach

- Programs and staffing remain at FY 2021 budgeted level. Funding of Judicial and Young Lawyer sections will be based on actual expenses up to the annual amount approved in the budget (same as in FY 2021).

Diversity

- Programs and staffing at FY 2021 budgeted levels.

Lawyer Services

- Programs and staffing at FY 2021 budgeted levels except:
 - FY 2022 Annual Meeting will be held in person (as in FY 2021), with the addition of a reception/celebration to allow greater involvement of the general membership. The 50-Year Honoree Luncheon continues to be held separately and is planned in person and inviting FY 2021 and FY 2020 honorees. BLF and UMLI resuming as a combined event in FY 2022 (cancelled in FY 2021).
 - Overdrive e-library subscription is not renewed (\$10k savings).
- Advertising and partnership revenues are projected to remain largely at FY 2021 budgeted levels.

Lawyer Referral Service

- Programs and staffing at FY 2021 budgeted levels except for higher panel fees (estimated \$10k).

PMRC

- Staffing at FY 2021 budgeted levels. SBM will be expanding virtual offerings to increase attorney technical competency utilizing existing resources and staff.

Technical Services

- Programs and staffing at FY 2021 budgeted levels except for:
 - IT contractor support for cyber and network security services is increased by \$12k. IT contractor support for IMIS database is decreased by \$30k from FY 2021 budget.
 - Software subscription and maintenance expenses are expected to increase by \$29k.
 - Computer budget is decreased by \$10k from FY 2021 budget.
 - RFP process and negotiations for the new phone system are under way; the annual expense is budgeted at FY 2021 level.

LJAP

- Programs and staffing at FY 2021 budgeted levels except:
 - Contract with former LJAP Director, for up to 10 hours per week, has concluded in FY 2021.
 - LJAP has implemented a rate increase to program participants in FY 2021 as rates had not been raised in at least 9 years. New rates resulted in increased revenue and will continue to have a positive impact in FY 2022.

Capital Expenditures Summary

- The proposed FY 2022 Capital Budget of \$321.8k, as compared to \$405k for FY 2021 and \$360k for FY 2020, includes the following:
 - \$208.8k is budgeted for the portal development team in Poland (three developers at \$17,400 per month.) This is an increase of \$28.8k from the 2016 contract pricing and represents an inflationary adjustment.
 - \$35k for the new floor copier/scanner replacements (originally in the FY 2021 budget, are included in the FY 2022 budget.
 - \$20k for the upgrade of the virtual meeting room equipment for BOC meetings is estimated at.
 - \$58k for replacement of network ethernet switches on the server and floors 2, 3, 4 and garden level. The first floor has been completed in FY 2021.

FY 2022 Proposed Budget Potential Upsides & Risks

Potential Upsides

- Labor savings above the 2% vacancy float and lower benefits expenses.
- Additional savings due to higher number of virtual meetings and events.

Potential Risks

- Lower-than-anticipated license fee revenue resulting from a reduction in paying members.
- Lower-than-anticipated other operating revenues (advertising, print, lawyer referral services, interest income).
- Higher-than-anticipated operating costs due to inflation.
- Unexpected litigation.
- Additional business costs associated with COVID-19 pandemic.
- Anticipated further development and maintenance of Character and Fitness Portal for services provided to the Board of Law Examiners, with particular focus on enhanced security and protection of personal data. SBM is currently evaluating options and estimates the costs for third-party software, if needed, to be \$80,000 in FY 2022, with additional annual maintenance costs going forward. This amount has not been budgeted and may impact the FY 2022 capital expenditures and previously capitalized internal development costs.
- Uncertainty surrounding rental prices for office space in downtown Lansing may impact the rental revenue SBM receives from MSBF in FY 2022 as SBM and MSBF are negotiating the new lease agreement.

**State Bar of Michigan
FY 2022 Proposed Capital Budget**

Capital Budget Item	Justification	Budget	Division
FACILITIES, FURNITURE & OFFICE EQUIPMENT			
Replacement of Floor Copiers/Scanners	Replacement of 4 main copiers/scanners, retaining 2 existing for lower/specialized usage. The copiers/scanners were purchased in 2009 and are requiring a lot of maintenance and parts are getting harder to obtain. SBM is reviewing lease vs buy option and equipment requirements after office reopening. (Deferred from FY 2021.)	\$35,000	IT/ All Divisions
Meeting room upgrades for virtual capabilities	Remote conferencing equipment to facilitate virtual meetings.	\$20,000	Operations & Policy
Total Facilities, Furniture & Office Equipment:		\$55,000	
INFORMATION TECHNOLOGY			
<u>IT Infrastructure:</u>			
Replacement of ethernet switches for floors 2, 3, 4 and garden level	Replacing aged IT infrastructure (Note 1).	\$58,000	IT
<u>Application Software Development:</u>			
Receivership /Interim Administrator Program data portal	Required to support the new IAP anticipated to be approved by the Supreme Court. (Deferred from FY 2021.)	\$35,000	Legal
E-commerce store	Customization of IMIS RISE application storefront for event registrations.	\$15,000	Public & Bar Services/ Operations & Policy
Website Functionality Enhancements	Improve website functionality and navigation.	\$28,800	Operations & Policy
Firm Billing/Invoicing for License Fees	Build module in e-commerce system that will allow law firms and entities with many lawyers to pay license fees for all lawyers in the firm with one invoice. (Deferred from FY 2021.)	\$15,000	Public & Bar Services/ Operations & Policy

Capital Budget Item	Justification	Budget	Division
Firm Administration Application	Module to allow a firm administrator to maintain lawyer affiliation and public facing profile. (Deferred from FY 2021.)	\$15,000	Public & Bar Services/ Operations & Policy
Volunteer Application Portal	Annual update.	\$2,500	Public & Bar Services
BLE Portal	Creating the portal for BLE to reflect the Board of Law Examiners rule changes and roll-out of the national bar exam. This integrates BLE and C&F processes.	\$12,000	Public & Bar Services
Character & Fitness Hearings Module	Create an integrated portal module for management of C&F and BLE hearing processes.	\$35,500	Public & Bar Services
Consumer Portal (LRS)	LRS build that will provide consumers with tools to obtain a referral 24/7 through the Legal Resource and Referral Center. (Continuing from FY 2021.)	\$10,000	Public & Bar Services
Unauthorized Practice of Law Portal	Automate UPL processes for notification and processing of UPL complaints. (Deferred from FY 2021.)	\$20,000	Legal
Client Protection Fund Portal	Automate Client Protection fund processes for applying for and processing of CPF requests. (Deferred from FY 2021.)	\$20,000	Legal
Total Information Technology:		\$266,800	
Total Capital Budget:		\$321,800	

Notes:

(1) The purchase of new wifi switches is to address the Plante Moran IT audit recommendations (2019) for replacing the aged IT infrastructure. The original proposal from HP was MSRP \$94,225; however, HP provided special pricing to SBM as a non-profit organization and this estimate is included in the budget. SBM will be obtaining three bids prior to proceeding with the project to ensure pricing is competitive.

(2) The contract with K2dnn is continuing from previous years. The higher price represents an inflationary adjustment. The contracted amount of \$208.8k per year includes three full-time developers working 40 hours per week, or approximately \$33.46 per hour for programming work. The contract and the bid exception letter will be provided to BOC once contract is reviewed and finalized.

(3) Total programming hours by K2dnn are allocated to projects based on the annual project plan. The plan is based on the external requirements (e.g. Michigan Supreme Court, BLE) and specific department needs (license renewals, member services, etc) and is balanced to address the high-impact/critical needs first. The internal staff time allocated to development and testing is not capitalized and is not included in the capital budget.

TO: Board of Commissioners and the Professional Standards Committee
FROM: Kathryn Hennessey and Katherine Gardner
DATE: July 14, 2021
RE: *Pro Hac Vice* Rule Amendments

The State Bar of Michigan (SBM) assists courts with the administration of *pro hac vice* (PHV) applications. SBM began looking into proposed amendments to MCR 8.126 to streamline and clarify the process for PHV admission based on many questions raised by attorneys applying for PHV admission.

When reviewing the rules, SBM staff noted a more substantive problem with the current language of MCR 8.126. MCR 8.126 currently provides:

“Any person who is licensed to practice law in another state or territory, or in the District of Columbia, of the United States of America, or in any foreign country, and who is not disbarred or suspended in any jurisdiction, and who is eligible to practice in at least one jurisdiction, may be permitted to appear and practice **in a specific case in a court, before an administrative tribunal or agency, or in a specific arbitration proceeding** in this state when associated with and on motion of an active member of the State Bar of Michigan who appears of record in the case.”

When processing PHV applications, SBM has interpreted the term “case” narrowly, as to mean the specific proceeding within a particular court, meaning that out-of-state attorneys would have to reapply for PHV admission if they continue to represent their clients at the Court of Appeals and then reapply a third time if they continue to represent their clients at the Michigan Supreme Court. This was the interpretation that the Attorney Grievance Commission had previously used before SBM took over PHV processing. An alternative reading of the term “case” could mean that the attorney would continue to be admitted PHV as the specific case moves through appellate process.

To obtain feedback on this issue and the other proposed amendments to MCR 8.126, SBM circulated draft amendments to several stakeholders, including the Michigan Judges Association, Appellate Practice Section, Michigan Association for Justice, Michigan Defense Trial Counsel, Litigation Section, Insurance and Indemnity Section, Civil Procedure & Courts Committee, and Access to Justice Policy Committee. SBM specifically offered the following four options for stakeholders to consider:

- **Option 1:** Keep the status quo and require out-of-state attorneys to reapply if their case goes on appeal.
- **Option 2:** Define case more broadly to encompass the entire proceeding as it moves from trial court through appeals. This would streamline the process for out-of-state attorneys, but it could lessen judicial discretion for appellate courts to the extent that such discretion is being utilized.

- **Option 3:** Hybrid: Define case broadly as set forth in Option 2 but require attorneys to affirmatively provide appellate courts and trial courts on remand an updated certificate of good standing.
- **Option 4:** Hybrid: Define case broadly as set forth in Option 2 but impose an affirmative duty on the out-of-state attorney and sponsoring attorney to inform court if there has been a change to their good standing status in any out-of-state jurisdiction.

The stakeholders that responded all supported Option 4.¹ Stakeholder comments are included in these materials.

The Appellate Practice Section offered significant revisions to MRC 8.126 to the SBM staff proposal. The Civil Procedure & Courts and Access to Justice Policy committees had the opportunity to compare the Appellate Practice Section and the original staff proposal; both committees agreed that the Appellate Practice Section’s proposal was preferable.

The Civil Procedure & Courts Committee recommends the following amendments to the Appellate Practice Section’s proposal:

- Remove the special treatment of government attorneys set forth in MCR 8.126(A)(2) and (B)(1);
- Clarify the language in the duty to notify the court when no longer in good standing set forth in paragraph (C)(5); and
- Non-substantive changes to the language of paragraph (C)(3) to make the language consistent with the language generally used in the court rules.

The full details of the Civil Procedure & Courts Committee’s position are attached to this memo.

The Access to Justice Policy Committee offered the following suggestions for improvement to the Appellate Practice Section’s proposal:

- Inclusion of Tribal Courts in MCR 8.126(A);
- Remove the special treatment of government attorneys set forth in MCR 8.126(A)(2) and (B)(1);
- Create a special provision for out-of-state attorneys employed by Michigan legal aid providers while their application for admission is pending; and
- Clarify the language in the duty to notify the court when no longer in good standing set forth in MCR 8.126(C)(5).

The full details of ATJ Policy Committee’s position are attached to this memo.

Based on further review, SBM staff also recommends the following amendments to the Appellate Practice Section’s proposal:

- Incorporate current MCR 8.126(A)(1)(d) which provides that “[b]y seeking permission to appear under this rule, a foreign attorney consents to the jurisdiction of Michigan’s attorney disciplinary system.”

¹ SBM staff also reached out to Clerk Larry Royster at the Michigan Supreme Court for feedback who also supported Option 4.

- Incorporate an additional requirement that attorneys admitted PHV notify the tribunal and the State Bar of Michigan when they have a change of address.
- Authorize State Bar staff to make non-substantive changes to the current MCR 8.126(B)² for consistency with the language that is ultimately adopted by the Board of Commissioners to replace the current MCR 8.126(A).

² Note that neither SBM staff nor the Appellate Practice Section proposed any changes to the current MCR 8.126(B) which creates an exception to the requirement that the applicant associate with local counsel when appearing for the limited purpose of participating in a child custody proceeding under the Michigan Family Preservation Act.



APPELLATE PRACTICE SECTION

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Attn: Kathryn Loncarich Hennessey, General Counsel

Re: *Pro Hac Vice*: Proposed Amendments to MCR 8.126

Date: March 1, 2021

Dear Ms. Hennessey,

Attached please find a proposed draft of an amended MCR 8.126. The Appellate Practice Section Rules Committee reviewed the draft sent by the Bar, and submits this proposal, which incorporates “Option 4.” This draft is a suggested framework for the Bar as it decides how it wants to proceed with any proposed amendments to the Supreme Court.

Please let me know if you need the attachment in a different format (i.e. Word, Word Perfect).

Thank you.

Sincerely,

Anne Argiroff, Chair, APS

RULE 8.126 TEMPORARY ADMISSION TO THE BAR

(A) Definitions. For purposes of this rule:

- (1) a foreign attorney is an attorney who is licensed to practice law in another state or territory of the United States of America, in the District of Columbia, or in a foreign country; who is not a member of the Bar; who is not disbarred or suspended in any jurisdiction.
- (2) a government attorney is an attorney representing the United States, the armed forces of the United States, or an agency of the United States, and who is not a member of the Bar.
- (3) A sponsoring attorney is an attorney who is a member of the Bar.
- (4) a tribunal is a court, administrative agency, facilitator, mediator, or arbitrator.
- (5) the Bar is the State Bar of Michigan.

(B) Temporary Admission.

- (1) A government attorney is granted automatic temporary admission to practice before any tribunal in this state.
- (2) A foreign attorney may request temporary admission to practice before tribunals in this state through local counsel. A foreign attorney may not appear in more than five cases in any 365 day period.

(C) Procedure for Foreign Attorneys.

- (1) The sponsoring attorney must appear as counsel of record and file a motion asking the tribunal to grant the foreign attorney temporary admission to practice. The motion must be supported with:
 - (a) a certificate of good standing for the foreign attorney issued within the last 30 days by a jurisdiction where the foreign attorney is licensed and eligible to practice;
 - (b) an affidavit signed by the foreign attorney that verifies:
 - (i) the jurisdiction(s) in which the foreign attorney is or has been licensed, or has sought licensure;
 - (ii) the jurisdiction(s) in which the foreign attorney is presently admitted and eligible to practice and is in good standing in all jurisdictions where licensed;

- (iii) that he or she is not disbarred or suspended from the practice of law, or the subject of any pending disciplinary action, in any jurisdiction; and
 - (iv) that he or she is familiar with the Michigan Rules of Professional Conduct, the Michigan Rules of Evidence, and these court rules;
 - (c) a copy of any disciplinary dispositions concerning the foreign attorney;
 - (d) a statement by the sponsoring attorney that he or she:
 - (i) has read the foreign attorney's affidavit and any disciplinary dispositions concerning the foreign attorney;
 - (ii) believes the foreign attorney's representations to be true; and
 - (iii) will ensure that the procedures of this rule are followed.
 - (2) A copy of the motion must also be filed with the Bar together with a fee equal to the discipline and client-protection portions of a Bar member's annual dues. Within seven days thereafter, the Bar must report to the tribunal, the sponsoring attorney, and the foreign attorney:
 - (a) that the fee has been paid to the Bar; and
 - (b) the number of times that the foreign attorney has been granted temporary admission to practice within the past 365 days.
 - (3) If, after receiving the Bar's report, the tribunal finds that the requirements of this rule have been met, it may issue an order granting the foreign attorney temporary admission to practice in this state. The tribunal cannot enter such an order until after it receives the Bar's report.
 - (4) If a tribunal issues an order granting the foreign attorney temporary admission to practice in this state, the foreign attorney must file a copy of the order with the Bar within seven days.
 - (5) The foreign attorney must notify the tribunal and the Bar if he or she ceases to be in good standing with any jurisdiction where licensed while temporarily admitted to practice under this rule.
- (D) Duration and Scope of Temporary Admission.
- (1) If the tribunal granting temporary admission to practice is a court or administrative agency, then the temporary admission continues for the entire case, including through all appeals, any remands, and any facilitation, mediation, or arbitration that may be ordered by a court or administrative

agency. A foreign attorney is not required to reapply for temporary admission each time the case moves to or from an administrative agency or between courts.

- (2) If the tribunal granting temporary admission to practice is a facilitator, mediator, or arbitrator, the facilitator, mediator, or arbitrator only may grant a foreign attorney temporary admission to practice for the limited purpose of representing a party in the facilitation, mediation, or arbitration. If the facilitation, mediation, or arbitration results in a case or other proceeding before a court or administrative agency, then the foreign attorney must apply for temporary admission before the court or administrative agency.
- (E) Revocation. The tribunal before whom a government attorney or a foreign attorney is practicing may revoke the attorney's temporary admission at any time for misconduct.
- (F) Local Counsel.
- (1) If a tribunal allows a sponsoring attorney to withdraw, another member of the Bar must appear as local counsel with the foreign attorney. Local counsel must have the authority to conduct the case or proceeding if the foreign attorney does not or is unable to do so for any reason.
 - (2) A tribunal may waive the requirement for a foreign attorney to have local counsel.
- (G) Distribution of SBM Fee. If a request for investigation is filed with the grievance administrator against a foreign attorney temporarily admitted to practice under this rule, the entire amount of the fee(s) paid to the Bar for the case(s) in which the allegations of misconduct arose must be transferred to the disciplinary system.

From: [McNabb, Deborah](#)
To: [Kathryn Hennessey](#)
Cc: [Hegarty, Charles S. \(Charles.Hegarty@3rdcc.org\)](#); [Martha Anderson](#)
Subject: MJA: Pro Hac Vice: SBM Draft Proposed Amendments to MCR 8.126
Date: Friday, February 19, 2021 4:35:12 PM
Attachments: [image001.gif](#)
[image002.png](#)

Good Afternoon, Katie,

I solicited feedback from our rules committee, and perhaps more importantly, from our judges on the Court of Appeals. The response received was overwhelmingly in favor of:

- **Option 4:** Hybrid: Define case broadly as set forth in Option 2, but impose affirmative duty on the out-of-state attorney and sponsoring attorney to inform court if there has been a change to their good standing status in any out-of-state jurisdiction.

Thanks for reaching out to MJA regarding your work on this. I hope this feedback is helpful to you as you move forward.

Deborah L. McNabb

Presiding Judge, Family Division

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Judicial Clerk (Juvenile), *Lisa Gibson*, lisa.gibson@kentcountymi.gov, 616-632-5219



From: [Durkin, Terence P.](#)
To: [Kathryn Hennessey](#)
Cc: [Madelyne Lawry \(info@mdtc.org\)](#)
Subject: RE: MDTC: Pro Hac Vice: SBM Draft Proposed Amendments to MCR 8.126
Date: Thursday, February 25, 2021 1:38:07 PM
Attachments: [image001.jpg](#)

Ms. Hennessey-

The MDTC is in agreement with the proposed amendments to MCR 8.126 and Option 4 as the definition of "case".

If I may be of any further assistance, please contact me.

Regards,

Terry



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Public Policy Position Pro Hac Vice Proposed Amendments

Support Option 4 and Appellate Practice Section Proposal with Amendments

Explanation

The Committee supports option 4 to define case broadly to encompass the entire proceeding as it moves from trial court through appeals and impose an affirmative duty on the out-of-state and sponsoring attorney to inform the court if there has been a change to the out-of-state attorney's good standing status in any jurisdiction. The Committee also supports the language proposed by the Appellate Practice Section with the following amendments:

1. Remove the government attorney carve out in paragraphs (A)(2) and (B)(1).
2. Amend paragraph (C)(5) to clarify that an attorney has a duty to inform a court if an out-of-state attorney is no longer in good standing in a jurisdiction where temporarily admitted, as follows:

The foreign attorney must notify the tribunal and the Bar if he or she ceases to be in good standing with any jurisdiction where ~~licensed~~ **admitted (including pro hac vice)** while temporarily admitted to practice under this rule.

3. Amend paragraph (C)(3) to ensure that language is consistent through the court rules as follows:

If, after receiving the Bar's report, the tribunal finds that the requirements of this rule have been met, it may issue an order granting the foreign attorney temporary admission to practice in this state. The tribunal ~~cannot~~ **shall not** enter such an order until after it receives the Bar's report.

Contact Person: Randy J. Wallace

Email: rwallace@olsmanlaw.com

Public Policy Position
Proposed Amendments to MCR 8.126 – Pro Hac Vice

Support with Amendments

Explanation

The committee votes unanimously (20) to support the following recommendations:

Inclusion of Tribal Courts: Paragraph (A) should include attorneys licensed to practice law tribal courts, as follows:

(A) Temporary Admission. Any person who is licensed to practice law in another state or territory, or in the District of Columbia, of the United States of America, **in a Tribal Court**, or in any foreign country, and who is not disbarred or suspended in any jurisdiction, and who is eligible to practice in at least one jurisdiction, may be permitted to appear and practice in a specific case in a court, before an administrative tribunal or agency, or in a specific arbitration proceeding in this state when associated with and on motion of an active member of the State Bar of Michigan who appears of record in the case. An out-of-state attorney may be temporarily admitted to practice under this rule in no more than five cases in a 365-day period. Permission to appear and practice is within the discretion of the court, administrative tribunal or agency, or arbitrator and may be revoked at any time for misconduct. For purposes of this rule, an out-of-state attorney is one who is licensed to practice law in another state or territory, or in the District of Columbia, of the United States of America, **in a Tribal Court**, or in a foreign country and who is not a member of the State Bar of Michigan.

Government Attorneys: Paragraphs (A)(2) and (B)(1) should be amended. Remove special treatment for government attorneys and have them go through the same process as other attorneys.

Legal Aid Attorneys: Legal Aid providers have had numerous problems waiting for employees to get licensed in Michigan. Even for attorneys who are admitted without taking the bar examination, it takes six or more months for them to get licensed. To address this problem, the subcommittee recommends that a special provision is created for attorneys awaiting their admission to the bar as follows:

During the time period in which their application to be licensed in Michigan is submitted and pending before the BLE, legal aid attorneys employed by legal aid providers in Michigan (1) pay the first fee when requesting PHV admission; (2) have all subsequent pro hac vice fees waived; and (3) are not limited in the number of times they may be admitted pro hac vice.

Duty to Notify in No Longer in Good Standing: Paragraph (C)(5) should be amended as follows to ensure that attorneys are required to notify court or tribunal if they cease to be in good standing in any jurisdiction where licensed or temporarily admitted: “any jurisdiction where licensed **or admitted pro hac vice** while temporarily admitted to practice under this rule.”

Contact Persons:

Lorray S.C. Brown lorryb@mplp.org
Valerie R. Newman vnewman@waynecounty.com

SBM

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