



# Board of Commissioners

## Agenda and Materials

April 28, 2023

STATE BAR OF MICHIGAN  
BOARD OF COMMISSIONERS  
Friday, April 28, 2023  
Michael Franck Building  
Lansing, MI  
AGENDA  
9:30 a.m.

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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

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I. Call to Order..... James W. Heath, President

**CONSENT AGENDA**

II. **Minutes**

- A. January 20, 2023 Board of Commissioners meeting\*
- B. January 5, 2023 Executive Committee meeting\*

III. **President’s Activities**..... James W. Heath, President

- A. Recent Activities\*

IV. **Executive Director’s Activities**..... Peter Cunningham, Executive Director

- A. Recent Activities\*

V. **Finance**..... Erika L. Bryant, Chairperson

- A. FY 2022 Financial Reports through February 2023\*
- B. 2022 Report of the State Bar of Michigan Retirement Plan\*
- C. 2022 Report of the State Bar of Michigan Retiree Healthcare Trust\*

VI. **Professional Standards** ..... Lisa J. Hamameh, Chairperson

- A. Client Protection Fund Claims\*

VII. **Public Policy** ..... Daniel D. Quick, Chairperson

- A. Model Criminal Jury Instructions\*

VIII. **Communications and Member Services** ..... Joseph P. McGill, Chairperson

- A. American Indian Law Section Proposed By-Law Amendment\*
- B. LBTGQ Section Proposed By-Law Amendment\*

## LEADERSHIP REPORTS

- IX. **President’s and Executive Director’s Report** ..... James W. Heath, President  
Peter Cunningham, Executive Director
- A. JFA Commission Update
  - B. DEI Commission Update
  - C. Rule 21 Update
  - D. Officer Election Materials\*
  - E. Upcoming State Bar Events
- X. **Representative Assembly Report** .....Gerrow D. Mason, Chairperson
- A. April 29, 2023 RA Meeting Calendar\*
- XI. **Young Lawyers Section Report** ..... Coleman L. Potts, Chairperson

## SPECIAL COMMITTEE REPORT

- XII. **Strategic Planning Committee Report**.....Thomas H. Howlett
- A. Strategic Planning Committee 2022-23 Goals
  - B. eJournal Review Summary
  - C. Strategic Planning Activity Report
  - D. Recommendations for Revisions to the Strategic Plan\*

## COMMISSIONER COMMITTEES

- XIII. **Public Policy**..... Daniel D. Quick, Chairperson
- A. Court Rules\*\*
  - B. Legislation\*\*
- XIV. **Finance**.....Erika L. Bryant, Chairperson
- A. Financial Report
- XV. **Professional Standards** ..... Lisa J. Hamameh, Chairperson
- A. ABA House of Delegates Appointments\*\*
- XVI. **Communications and Member Services** ..... Joseph P. McGill, Chairperson
- A. State Bar of Michigan Awards\*
  - B. Cummiskey Pro Bono Award\*
  - C. New partner program – Sofi\*

## FOR THE GOOD OF THE PUBLIC AND THE PROFESSION

- XVII. **Comments or questions from Commissioners**
- XVIII. **Comments or questions from the public**
- XIX. **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 Heath called the meeting to order at approximately 9:35 a.m. on Friday, January 20, 2023, in the Boardroom at the Michael Franck building in Lansing, Michigan.

Commissioners present:

David C. Anderson	Gerard Mantese
Kristina A. Bilowus	Gerrow D. “Gerry” Mason
Erika L. Bryant, Treasurer	Joseph P. McGill, Vice President
Aaron V. Burrell	Thomas P. Murray Jr.
Hon. B. Chris Christenson	Valerie R. Newman
Thomas P. Clement	Nicholas M. Ohanesian
Sherrice Detzler	Hon. David A. Perkins
Robert A. Easterly	Daniel D. Quick, President-Elect
Hon. Kameshia D. Gant	John W. Reiser
James W. Heath, President	Hon. Kristen D. Simmons
Thomas H. Howlett	Delphia T. Simpson
Suzanne C. Larsen	Matthew B. Van Dyk
James W. Low	Danielle Walton
	Hon. Erane C. Washington

Commissioners absent:

Yolanda Bennett	Tanya Cripps-Serra
Lisa J. Hamameh, Secretary	Takura N. Nyamfukudza
Colemon L. Potts	Mark Wisniewski

State Bar staff present:

Peter Cunningham, Executive Director  
April Alleman, Succession Planning Program Counsel  
Drew Baker, General Counsel  
Margaret Bossenbery, Executive Coordinator  
Alecia Chandler, Professional Responsibility Programs Director  
Gregory Conyers, Program Director, Diversity Development Program  
Darin Day, Program Director, Outreach  
Katherine Gardner, UPL Counsel  
Tatiana Goodkin, Chief Financial Officer  
Robert Mathis, Pro Bono Services & Justice Initiatives Counsel  
Molly Ranns, Director, Lawyers & Judges Assistance Program  
Marjory Raymer, Director of Communications  
Jeanette Socia, Director of Human Resources  
Melissa Thouvenin, Character & Fitness Investigator  
Kari Thrush, Program Director, Lawyer Services  
Nathan Triplett, Director of Governmental Relations  
Diane VanAken, Director of Character & Fitness  
Victoria Vargas, Applicant Licensing Services Specialist  
Anne Vrooman, Program Director, Research & Development  
Meng Xiong, IT Director

### Consent Agenda

The Board received the minutes from the November 18, 2022, Board meeting.  
The Board received the minutes from the October 13, 2022, Executive Committee meeting.  
The Board received the recent activities of the president.  
The Board received the recent activities of the executive director.  
The Board received the FY 2022 draft financial reports through November 30, 2022.  
The Board received Unauthorized Practice of Law (UPL) claims.  
The Board received Michigan Indian Legal Services (MILS) Board of Trustee appointment.  
The Board received Model Criminal Jury Instructions.  
The Board received section bylaw amendments from the Senior Lawyers Section.

### Audit: Erika L. Bryant, Chairperson

Ms. Bryant reported that the audit committee met in early December to review the final draft of the fiscal year 2022 final report. The committee also met with the auditors. No issues were reported, and a clean audit was provided. The audit committee also reviewed the services of AHP and found no issues.

Ms. Jamie Rabe from Andrews Hooper Pavlik (AHP) was present at the meeting and provided a brief, high-level report of the audit conducted at the conclusion of FY 2022. SBM received a clean, unmodified opinion, which is the best that can be given. The administrative fund ended FY 2022 with a total net position in the administrative fund of negative \$1.96 million, which was largely made up of the operating loss of negative \$806,000 and negative \$1.2 in investment performance in retiree healthcare trust.

The Client Protection Fund saw an increase in net position for FY 2022, with a total of \$287,000, which is primarily due to a decrease in claims expenses for the year. Sections also saw an increase in net position for FY 2022 for revenue and expenses, mainly due to events and activities resuming. The sections had a positive net change position of \$93,000.

## **LEADERSHIP REPORTS**

**President and Executive Director's Report:** James Heath, President and Peter Cunningham, Executive Director.

Mr. Heath reported that he has attended many events over the past few months and is looking forward to attending the ABA Mid-Year meeting in New Orleans with Mr. Cunningham in early February. A highlight of this trip is expected to be the National Council of Bar Presidents meeting where the attendees get together to share accomplishments, updates, and ideas with one another. Additionally, there will be a presentation of the ABA Spirit of Excellence Award, which celebrates the efforts and accomplishments of lawyers who work to promote more racial and ethical diversity in the legal profession. SBM Past President, Reggie Turner, will be honored with this award on February 4, 2023.

Mr. Heath announced that he has named members to the strategic planning committee. Mr. Thomas Howlett has been named chairperson of this committee. Besides Mr. Howlett, also serving on this committee will be Kristina Bilowus, Tom Clement, Lisa Hamameh, James Lowe, Joe McGill, Nick Ohanesian, Coleman Potts, Hon. Erane Washington, and immediate past-president, Dana Warnez. SBM staff member Anne Vroom will serve as the liaison.

Mr. Cunningham thanked State Bar staff, especially the finance team, for their diligence and hard work throughout the year to make the audit process so smooth.

Mr. Cunningham acknowledged Ms. VanAken who has been with the Bar for 33 years and has been the director of the character and fitness department for over 20 years. Ms. VanAken is retiring, effective February 20, 2023. Mr. Cunningham shared a timeline of Ms. VanAken's ascension to director as well as the many accomplishments and updates that she has guided the department through over the years.

Mr. Cunningham also noted that Keith Wilkinson, who has been an SBM character and fitness investigator for many years, will take over as director upon Ms. VanAken's departure next month.

Ms. VanAken introduced Ms. Thouvenin and Ms. Vargas. Ms. Thouvenin has been with the Bar since June 2018 as a character and fitness applicant licensing services specialist, and in August 2022, she was promoted to investigator for character and fitness upon the retirement of the previous investigator. Ms. Vargas was hired in October 2022 to replace Ms. Thouvenin in her former role as an applicant licensing services specialist.

Ms. Chandler introduced Ms. Alleman who was hired as the new interim administrator program director. Ms. Alleman previously worked as an estate planning attorney and brings a wealth of succession planning experience to the position.

Mr. Cunningham provided an update on the status of dues and membership. As of November 30, 2022, there were 46,844 attorneys with an active, inactive, or emeritus status. That is a net increase of 71 members since the beginning of the Bar year.

Last week, pre-suspension letters were sent to 2,150 active attorneys and 342 inactive attorneys who have not yet paid their dues. These members have until February 14, 2023, to pay their dues before being suspended for non-payment of dues. The Bar is exactly on pace with previous years with 96% of active members having already paid their Bar dues.

Mr. Cunningham provided an update on the credit card processing fees that the Board authorized at its July 2022 meeting. Last year the Bar was charged approximately \$217,000 in credit card processing fees. There is now a 2.5% surcharge for members who choose to pay their dues using a credit card. With the new credit card surcharge implemented, the Bar is estimated to have reduced the net cost of processing credit card fees to \$34,000. In addition to the use of credit cards, members are still able to pay their dues using three methods for which there is no surcharge: check, debit card, or ACH transfer.

The Economics of Law Practice Survey will be sent out on January 31, 2023. There are two primary objectives to this survey: 1) To provide timely, relevant, and accurate information, to inform and guide practical management and planning decisions by Michigan attorneys, including private and non-private practitioners; and 2) To monitor key trends within the legal professional. This survey has been conducted for over two decades. This year's survey will also include specific questions about the impact of Covid-19 on the legal profession.

**Representative Assembly (RA) Report:** Gerrow D. Mason, Chairperson

Mr. Mason shared that the next RA meeting is scheduled for April 29, 2023, and he reported that he has asked Mr. Ohanesian to lead a special committee to make recommendations for improvements for the RA.

Mr. Mason also asked commissioners to support the Access to Justice Fund. He would like to say that 100% of the commissioners are supporting the ATJ Fund. Mr. Mason also encouraged commissioners to share their volunteer activities with the “A Lawyer Helps” program to highlight the important contributions that attorneys make in their communities.

**Young Lawyers Section (YLS) Report:** Colemon L. Potts, Chairperson

Kristina Bilowus provided the report on behalf of Mr. Potts. The YLS has been busy and is continuing its mission of pay it back and pay it forward. Their last meeting was on January 7, and its next meeting is scheduled for February 18, 2023. Their work continues to plan and solidify the YLS 2023 Summit, which is expected to occur in late August. YLS also intends to solicit nominations for both the 2022 and 2023 Outstanding Lawyer Award. Ms. Bilowus encouraged commissioners to pass this information along to others.

The YLS will be launching a new outreach initiative at the February 18 meeting. They will be working with each of the law schools throughout the state. The first will be with Michigan State University College of Law and working with the Ingham County Bar’s Young Lawyers Sections, and with WLAM.

In February, YLS will be hosting a webinar that will teach about the use of add-ins and add-ons with Microsoft Word, as well as helping young lawyers accommodate hybrid work opportunities.

## COMMISSIONER COMMITTEES

**Public Policy:** Dan D. Quick, Chairperson

Mr. Quick provided the report for the Public Policy committee.

Court Rules

**1. ADM File No. 2021-50: Proposed Amendments of MCR 2.421**

The proposed addition of MCR 2.421 would address notice of a bankruptcy proceeding that affects a pending state court action.

A motion was offered and supported to support ADM File No. 2021-50 with the amendments proposed by Trent Collier in his letter dated December 16, 2022. The motion was approved.

**2. ADM File No. 2022-34: Proposed Amendments of Rules 3.913, 3.943, 3.977, and 3.993 and Proposed Addition of MCR 3.937**

The proposed amendments of MCR 3.913 and 3.943 and proposed addition of MCR 3.937 would provide greater due process protections for juveniles in the justice system by ensuring that they are fully advised of their appellate rights at appropriate times and in a manner that is designed to ensure understanding of those rights. The proposed amendments of MCR 3.977 and 3.993 would extend the timeframe for requesting appointment of appellate counsel to 21 days, which mirrors the timeframe for filing a claim of appeal in cases subject to those rules.

A motion was offered and supported to support ADM File No. 2022-34 with an addition to proposed amendment to Rule 3.993(F) as follows:

“If a party was denied the right to appellate review or the appointment of appellate counsel due to errors by the party's prior attorney or the court, or other factors outside the party's control, the trial court must issue an order restating the time in which to file an appeal or request counsel, except that the court must not issue any order which would extend the time for appealing an order terminating parental rights beyond 63 days from entry of the order terminating rights.”

The motion was approved.

**3. ADM File No. 2022-05: Proposed Amendments of MCR 3.977, 3.993, 7.311, and 7.316**

The proposed amendments of MCR 3.977, 3.993, 7.311, and 7.316 would establish a procedure for assessing whether a respondent in a termination of parental rights case was denied the effective assistance of appellate counsel, and if so, provide relief.

A motion was offered and supported to support ADM File No. 2022-05 as drafted. The motion was approved.

**4. ADM File No. 2022-32: Proposed Amendments of MCR 7.201, 7.202, 7.203, 7.204, 7.205, 7.206, 7.207, 7.208, 7.209, 7.210, 7.211, 7.212, 7.213, 7.215, 7.216, 7.217, and 7.219**

The proposed amendments of subchapter 7.200 would make technical amendments of the ~~COA~~ rules in an effort to modernize them and ensure they reflect the COA's established practices.

A motion was offered and supported to support ADM File No. 2022-32 as drafted. The motion was approved.

Juvenile Justice Task Force Report & Recommendations

**Report and Recommendations of the Michigan Task Force on Juvenile Justice Reform**

A motion was offered that Recommendations 1, 2, 9, 11, 12, 13, 14, 15, 16, 18, 19, 29, 30, 31, and 32 are *Keller* permissible. The motion to support was seconded and approved.

A motion was offered to support Recommendation 3, with an additional recommendation of (a) a broader definition of the youth defense mandate and (b) establishing appellate attorney fee incentives consistent with MIDC Act and a requirement for the state to reimburse local systems for these fees, with emphasis to prioritize funding. The committee recommended that specialized juvenile justice training for all attorneys (i.e., both prosecutors and juvenile defenders) be required. The motion was seconded and approved.

A motion was offered to support Recommendations 7, 8, 10, and 17, with an additional recommendation that any statements made during an assessment must not be admitted as evidence at an adjudicative hearing. Additionally, risk assessment tools must be peer validated and free from bias. Any information, written policies, data, etc. used to develop or validate such tools must be open to public inspection, auditing, and testing. Any case party to review the calculations and data of the pretrial risk assessment. The motion was seconded and approved.

A motion was offered to support Recommendations 1, 2, 9, 11, 12, 13, 14, 15, 16, 18, 19, 29, 30, 31, and 32 as written. The motion was approved.



**Finance:** Erika L. Bryant, Chairperson

Tatiana Goodkin provided a report on the financial status of the Bar. The net position of the administrative fund is \$10.7 million, which is an increase of \$932,000 since the beginning of the year, which is favorable to budget. The retiree healthcare trust has seen a positive trend since last year. The Client Protection Fund also has a net position of \$2.1 million, with a \$23,000 increase since the beginning of the year. Increases in costs have been observed across the board, which will be likely discussed at the next meeting.

Drew Baker provided a report on the ADS/SBM Retiree Healthcare Trust Merger, which was initially brought to the attention of the Board of Commissioners in November 2022. Ms. Baker discussed the benefits of merging the trusts. A motion was offered to support the merger. The motion was approved.

Ms. Bryant shared that a budget amendment is necessary to increase the capital expenditure line item. Mr. Cunningham provided a description of the purpose for this amendment. The State Bar building's main sewer line out of the building, which is the original that was placed with the building, needs to be replaced. There is one bid of \$110,000, and other bids are being sought. The budget amendment requested is for \$120,000. A motion was offered to increase the capital expenditure line item. The motion was approved.

**Professional Standards:** Lisa J. Hamameh, Chairperson

There was no report.

**Communications and Member Services (CAMS):** Joseph P. McGill, Chairperson

Mr. McGill reported that the committee met on January 10, 2023. Mr. McGill reported that a new business credit card option is being considered as a SBM Partner Program. The Bar had a previous partnership with Bank of America that was discontinued in 2018. A motion was made to move forward with the program pending general counsels review and approval of a contract with the card provider. The motion was approved.

The 50 Year Celebration for this year will take place at the Inn at St. Johns on May 25, 2023. Former State Bar presidents Ed Pappas and Ron Keefe and Tom Ryan will be honored at this year's event. Mr. McGill encouraged commissioners to attend.

**FOR THE GOOD OF THE PUBLIC AND THE PROFESSION**

**Comments or questions from Commissioners**

On behalf of the Social Action Committee of her sorority's Detroit chapter, Ms. Bryant shared that January is Human Trafficking Awareness month. Ms. Bryant's sorority is hosting a Zoom event next Thursday, January 26, 2023. She passed around information pamphlets. The purpose of the event is to make the public aware. Survivors have been invited to share and celebrate their survival.

**Comments or questions from the public**

There were none.

**Adjournment**

The meeting was adjourned at 11:00 a.m.

**State Bar of Michigan**  
**Executive Committee Virtual Meeting**  
**Thursday, January 5, 2023**  
**4:00 p.m.**

President Heath called the meeting to order at 4:02 p.m.

**Members Present:** President James W. Heath, President-Elect Daniel D. Quick, Vice President Joseph P. McGill, Secretary Lisa Hamameh, Treasurer Erika L. Bryant, Representative Assembly Chair Gerrow (Gerry) Mason, RA Chair-Elect Yolanda Bennett, and Commissioners Aaron V. Burrell, Suzanne Larsen, and Hon. David Perkins

**Members Absent:** None

**State Bar Staff Present:** Peter Cunningham, Executive Director; Drew Baker, General Counsel; Margaret Bossenbery, Executive Coordinator; Nancy Brown, Assistant Executive Director; and Robert Mathis, Pro Bono Service and Justice Initiatives Counsel

**Minutes:**

A motion was offered to approve the October 13, 2022 minutes. The motion was seconded and approved.

**President and Executive Director's Report**

Mr. Heath mentioned that he had attended about 10 holiday events in December in his role as president. He stated that it was great to meet so many State Bar members, old friends and new.

Mr. Heath informed the Executive Committee he had appointed Commissioners Bilowus, Clement, Hamameh, Low, McGill, Potts, Ohanesian, and Washington to the Strategic Planning Committee. He stated that Immediate Past President Dana Warnez will also serve on the committee and that Commissioner Howlett will serve as the chair of the committee. He said that if Commissioners Quick and Bryant want to serve they would be welcome.

Mr. Cunningham reminded the committee that the State Bar was working with the Attorney Grievance Commission and the Attorney Discipline Board to combine their Retiree Health Care Trusts. This item will be brought before the Board at its January 20 meeting.

Mr. Cunningham informed the committee that Ms. Diane Van Aken, director of the Character and Fitness Program, is retiring in February after 33 years of service to the State Bar of Michigan. Mr. Keith Wilkinson will become the director when she retires.

### **Representative Assembly (RA)**

Mr. Mason reported that he is encouraging the RA members to volunteer more and let Mr. Mathis know so they can be highlighted on the A Lawyer Helps webpage.

Mr. Mason informed the committee he has talked with Coach Harbaugh, head coach of the University of Michigan's football team, about working on an ATJ fundraising event. Mr. Mason wants to see 100% contributions from the RA and BOC members to the ATJ campaign.

Mr. Mason stated that he would like a Face of Justice Program and an ATJ presentation at a future RA meeting.

### **SBM Recommendation for Appointment – Legal Aid of Western Michigan Board of Directors**

A motion was offered and offered to approve the appointment of Angelique Camfield to Legal Aid of Western Michigan's Board of Directors. The motion was seconded and approved.

### **January 20, 2023 Board of Commissioners meeting agenda**

A motion was offered to approve the agenda for the January 20, 2023 Board meeting. The motion was seconded and approved.

### **Other Items**

There were none.

### **Adjournment**

The meeting was adjourned at 4:20 p.m.

**President James W. Heath**  
**President's Activities**  
**January 20 through April 28, 2023**

Date	Event	Location
January 21	University of Detroit High School "Cub Lawyer" Event	Detroit
January 25	Federal Bar Association – New Lawyers Program	Virtual
February 9	Executive Committee meeting	Virtual
February 2 - 7	ABA Midyear meeting	New Orleans
February 13	Michigan Asian Pacific American Bar Association	Farmington Hills
February 28	Face of Justice Program	Dearborn
March 1	Michigan Association of Black Judges	Southfield
March 15	Meeting with Gerry Mason and Peter Cunningham	Virtual
March 16	Calhoun County Bar Association	Marshall
March 20	Genesee County Bar Association	Flint
March 21	Rochester Bar Association	Rochester
March 22	Pipeline Clerkship meeting	Farmington Hills
March 27 – 29	ABA Law Days	Washington, DC
April 11	Wayne State University Law School Professionalism in Action	Detroit
April 12	SBM Board Officers meeting	TBD
April 13	Executive Committee meeting	Virtual
April 20	Michigan Supreme Court Historical Society Annual Meeting	Detroit
April 20	Meet The Council of the Young Lawyers Section	Detroit

Date	Event	Location
April 21	Michigan Lawyers Weekly Hall of Fame/ Up & Coming Lawyers	Troy
April 28	SBM Board of Commissioners meeting	Lansing

**Executive Director Peter Cunningham**  
**Executive Director Activities**  
**January 21 through April 28, 2023**

Date	Event
January 26	Meeting with Thomas Howlett and Anne Vrooman
January 26	State Body Planning meeting
January 27	JFA Legal Aid Funding committee meeting
January 30	Diversity, Equity, and Inclusion (DEI) Commission Meeting
January 31	Meeting with David Watson, Executive Director, ICLE
February 1	All Staff meeting
February 2	JFA Executive Committee meeting
February 3 - 6	ABA Midyear meeting
February 9	Executive Committee meeting
February 13	JFA Resource Committee meeting
February 13	RA Proposals meeting
February 14	Strategic Planning Committee meeting
February 14	DEI Executive Committee meeting
February 16	Meeting about Reliaguide
February 16	JFA Co-Chairs Monthly meeting
February 16	JFA Executive Committee meeting
February 16	JFA - Communications Committee meeting
February 21	Diversity Pipeline meeting
February 22	ICLE Executive Committee meeting
February 22	Meeting with the RA Officers
February 23	RA Proposals meeting
February 24	DEI Executive Committee meeting
February 27	DEI Commission meeting
March 1	JFA Executive Committee meeting
March 8	Meeting with Rep. Andrew Fink
March 10	DEI Commission meeting
March 13	JFA Commission meeting

Date	Event
March 14 – 15	NABE Chief Executive Retreat
March 14	Strategic Planning Committee meeting
March 15 – 17	ABA Bar Leadership Institute
March 15	Meeting with James Heath and Gerry Mason
March 20	(DEI) Executive Committee meeting
March 22 – 23	Budget Forecast meetings with Strategic Management Team
March 22	Pipeline Clerkship Program meeting
March 27	Meeting with David Watson, Executive Director, ICLE
March 27 - 29	Meetings in Washington, DC with members of Congress to discuss Legal Services Corporation Funding
March 31	DEI Commission meeting
April 3	Meeting with Drew Baker, Nancy Brown, Kari Thrush, Anne Vrooman, Cliff Flood, and Janet Welch – Cloudlaw contract
April 4	JFA Legal Aid Funding committee meeting
April 6	ATJ Campaign Steering Committee meeting
April 6	Meeting with Nick Ohanesian
April 6	JFA Executive Committee meeting
April 11	Strategic Planning Committee meeting
April 12	SBM Board Officers meeting
April 18	Communications and Membership Services (CAMS) Committee meeting
April 20	Michigan Supreme Court Historical Society Annual Meeting
April 20	JFA Co-Chairs meeting
April 21	Michigan Lawyers Weekly Class of 2023 Hall of Fame, Up & Coming Lawyers
April 25	Finance Committee Meeting
April 26	Professional Standards Committee Meeting
April 27	Public Policy Committee Meeting
April 27	JFA Executive Committee meeting
April 27	Public Body Planning Committee meeting
April 28	Diversity, Equity, and Inclusion (DEI) Executive Committee meeting

Date	Event
April 28	Board of Commissioners meeting



# State Bar of Michigan Financial Results Summary

For the Five Months Ended February 28, 2023  
Fiscal Year 2023

## Administrative Fund - Summary of Results as of February 28, 2023

Operating Revenue	\$5,604,438
Operating Expense	<u>\$4,615,272</u>
Operating Income (Loss)	\$989,166
Non-Operating Income (Loss)	<u>\$624,013</u>
Change in Net Position	<u><u>\$1,613,179</u></u>
Net Position, October 1, 2022	\$9,813,122
Net Position, February 28, 2023	\$11,426,301

As of February 28, 2023, Net Position excluding Retiree Healthcare Trust was \$8,640,096, an increase of \$1,201,043 since the beginning of the year and favorable to budget by \$441,487.

### **YTD Operating Revenue variance - \$8,606, unfavorable to budget (0.2%):**

Operating revenue was lower primarily due to lower license fee and related revenue and credit card processing fee recovery revenue, offset by higher LRS and C&F revenues.

### **YTD Operating Expense variance - \$322,237, favorable to budget (6.5%):**

Salaries and Employee Benefits/ Payroll Taxes – \$101,397, favorable (3%)

- Under budget due to lower salary expenses (\$65,269), and lower payroll taxes and benefits (\$36,128).

Non-Labor Operating Expenses - \$220,840, favorable (13.8%)

- Legal - \$27,526, favorable (35.2%) – Under budget primarily in C&F and General Counsel.
- Public and Bar Services - \$73,422, favorable (20.2%) – Under budget primarily in Outreach and IT due to timing of expenses.

- Operations and Policy - \$119,892, favorable (10.4%) – Under budget with the largest variance in Finance due to lower credit card processing fees and BOC/EO expenses.

**YTD Non-Operating Revenue Budget Variance - \$543,178 favorable to budget 672%:**

- Interest income is favorable to budget by \$127,856 (158.2%).
- Retiree Health Care Trust net investment gain of \$415,322 (this amount is *not* budgeted).

**Cash and Investment Balance**

As of February 28, 2023, 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 \$12,318,076, an increase of \$5,086,297 from the beginning of the year primarily due to collection of license fees.

**SBM Retiree Health Care Trust**

As of February 28, 2023, the SBM Retiree Health Care Trust investments were \$3,953,463, an increase of \$412,136 since the beginning of the year. The change is due to investment gains of \$420,447, net of advisor fees of \$8,311.

**Capital Budget**

Year-to-date capital expenditures totaled \$104,406, or 18.4% of the FY 2023 capital expenditures budget of \$568,100.

**Client Protection Fund**

The Net Position of the Client Protection Fund as of February 28, 2023 totaled \$2,314,749, an increase of \$192,958 from the beginning of the year. Claims expenses totaled \$69,238, including \$2,500 of authorized but not paid claims awaiting signed subrogation agreements.

**SBM Membership**

As of February 28, 2023, the active, inactive, and emeritus membership in good standing totaled 46,441 attorneys, a net decrease of 332 attorneys since the beginning of the year; the number of paying attorneys decreased by 866. A total of 469 new attorneys have joined SBM since the beginning of the year.

## **FY 2023 Forecast**

Excluding income of the SBM retiree healthcare trust, which is not budgeted or forecasted, SBM projects FY 2023 net increase in net position of \$1,470,062, with a favorable year-end budget variance of \$356,387.

- **License fees and related revenues** are expected to be lower than budget due to a decrease in paying members, offset by higher late fees which results in an overall negative variance of \$103,500.
- **Other operating revenues** are expected to be lower than budget by \$54,183 primarily due to lower revenue in Administration for credit card processing fees, offset by higher revenue in C&F and LRS.
- **Salaries and benefits** are expected to be lower than budget primarily due to lower benefits costs (\$102,027).
- **Operating expenses** are expected to be lower than budget by \$117,351 due to lower credit card processing fees and lower travel, meeting and program expenses (RA, LRS, LJAP, Diversity, and EO/BOC).
- **Interest income** is projected to be higher by \$294,691 due to higher interest rates.

**Capital expenditures** for FY 2023 are expected to lower than budget by \$26,902 (\$541,198 compared to the approved budget of \$568,100).

**STATE BAR OF MICHIGAN  
ADMINISTRATIVE FUND**

**Unaudited and For Internal Use Only**

**FINANCIAL REPORTS  
February 28, 2023**

**FY 2023**

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 Five Months Ending February 28, 2023

	1/31/2023	2/28/2023	Increase (Decrease)	%	Beginning of FY 2023 10/1/22
<b>ASSETS AND DEFERRED OUTFLOWS</b>					
Cash	\$686,593	\$674,621	(\$11,972)	(1.7%)	\$2,451,119
Investments	15,842,591	15,460,645	(381,946)	(2.4%)	7,953,650
Accounts Receivable	59,604	40,718	(18,887)	(31.7%)	54,731
Due from (to) CPF	(5,808)	(1,512)	4,297	(74.0%)	(4,068)
Due to Sections	(3,879,124)	(3,815,678)	63,446	(1.6%)	(3,076,129)
Prepaid Expenses	296,818	284,937	(11,881)	(4.0%)	396,913
Lease Receivable	38,205	37,346	(859)	(2.2%)	41,636
Capital Assets	3,125,779	3,113,370	(12,408)	(0.4%)	3,193,128
SBM Retiree Health Care Trust	4,055,604	3,953,463	(102,141)	(2.5%)	3,541,327
<b>Total Assets</b>	<b>\$20,220,262</b>	<b>\$19,747,910</b>	<b>(\$472,350)</b>	<b>(2.3%)</b>	<b>\$14,552,308</b>
Deferred outflows of resources related to pensions	38,227	38,227		0.0%	38,227
Deferred outflows of resources related to OPEB	616,028	616,028		0.0%	616,028
<b>Total Deferred outflows of resources</b>	<b>654,255</b>	<b>654,255</b>		<b>0.0%</b>	<b>654,255</b>
<b>Total Assets and Deferred Outflows of Resources</b>	<b>20,874,517</b>	<b>20,402,165</b>	<b>(472,350)</b>	<b>(2.3%)</b>	<b>15,206,563</b>

	1/31/2023	2/28/2023	Increase (Decrease)	%	Beginning of FY 2023 10/1/22
<b>LIABILITIES, DERERRED INFLOWS AND NET POSITION</b>					
<b>Liabilities</b>					
Accounts Payable	\$2,848	\$882	(\$1,966)	(69.0%)	\$336,346
Accrued Expenses	661,641	750,848	89,207	13.5%	633,546
Deferred Revenue	6,827,343	6,067,288	(760,054)	(11.1%)	2,263,179
Net Pension Liability	232,483	232,483		0.0%	232,483
Net OPEB Liability	872,429	872,429		0.0%	872,429
<b>Total Liabilities</b>	<b>8,596,744</b>	<b>7,923,930</b>	<b>(672,813)</b>	<b>(7.8%)</b>	<b>4,337,983</b>
Deferred Inflows Leases	38,711	38,006	(705)	(1.8%)	41,530
Deferred Inflows of resources related to pensions	103,071	103,071		0.0%	103,071
Deferred Inflows of resources related to OPEB	910,857	910,857		0.0%	910,857
<b>Total Deferred inflows of resources</b>	<b>1,052,639</b>	<b>1,051,934</b>	<b>(705)</b>	<b>(0.1%)</b>	<b>1,055,458</b>
<b>Total Liabilities and Deferred Inflows</b>	<b>9,649,383</b>	<b>8,975,864</b>	<b>(673,518)</b>	<b>(7.0%)</b>	<b>5,393,441</b>
<b>Net Assets</b>					
Invested in Capital Assets, Net of Related Debt	3,125,779	3,113,370	(12,408)	(0.4%)	3,193,128
Restricted for Retiree Health Care Trust	2,888,345	2,786,205	(102,141)	(3.5%)	2,374,069
Unrestricted	5,211,010	5,526,726	315,717	6.1%	4,245,924
<b>Total Net Position</b>	<b>11,225,134</b>	<b>11,426,301</b>	<b>201,168</b>	<b>1.8%</b>	<b>9,813,122</b>
<b>Total Liabilities, Deferred Inflows and Net Position</b>	<b>\$20,874,517</b>	<b>\$20,402,165</b>	<b>(\$472,350)</b>	<b>(2.3%)</b>	<b>\$15,206,563</b>
<b>Net Position <u>excluding</u> the impacts of retiree health care</b>	<b>\$8,336,789</b>	<b>\$8,640,096</b>	<b>\$303,309</b>	<b>3.5%</b>	<b>\$7,439,053</b>

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 \$12,318,076 (see below)

	1/31/2023	2/28/2023	Increase (Decrease)	%	Beginning of FY 2023 10/1/22
<b>CASH AND INVESTMENT BALANCES</b>					
Cash (including CD's and Money Market)	\$686,593	\$674,621	(\$11,972)	(1.7%)	\$2,451,119
Investments	15,842,591	15,460,645	(381,946)	(2.4%)	7,953,650
Total Available Cash and Investments	16,529,184	16,135,266	(393,918)	(2.4%)	10,404,769
Less:					
Due to Sections	3,879,124	3,815,678	(63,446)	(1.6%)	3,076,129
Due to CPF	5,808	1,512	(4,297)	(74.0%)	4,068
Due to Sections and CPF	3,884,932	3,817,190	(67,743)	(1.7%)	3,080,196
Net Administrative Fund Cash and Investment Balance	12,644,252	12,318,076	(326,175)	(2.6%)	7,324,573

State Bar of Michigan  
Statement of Revenue, Expense, and Net Assets  
Administrative Fund  
For the Five Months Ending February 28, 2023

	Actual YTD	Budget YTD	Variance	Percentage	Prior Year YTD	Variance	Percentage
Revenue							
Legal							
Ethics	\$1,550	\$2,925	(\$1,375)	(47.01%)	\$800	\$750	93.75%
Character & Fitness	223,385	197,867	25,518	12.90%	158,550	64,835	40.89%
Legal Total	224,935	200,792	24,143	12.02%	159,350	65,585	41.16%
Public and Bar Services							
Lawyer Services	97,883	98,750	(867)	(0.88%)	97,731	152	0.16%
Bar Leadership Forum	580	580	-	0.00%	-	580	0.00%
Practice Management Resource Center	2,505	1,250	1,255	100.40%	-	2,505	0.00%
Lawyer Referral Service	104,384	62,502	41,882	67.01%	104,758	(374)	(0.36%)
LJAP	22,767	24,790	(2,023)	(8.16%)	20,927	1,840	8.79%
Public and Bar Services Total	228,119	187,872	40,247	21.42%	223,416	4,703	2.11%
Operations and Policy							
License Fees	4,657,930	4,659,545	(1,615)	(0.03%)	3,314,630	1,343,300	40.53%
Other Revenue	315,261	386,415	(71,154)	(18.41%)	151,942	163,319	107.49%
Bar Journal Directory	213	-	213	0.00%	125	88	70.40%
Bar Journal	118,395	120,602	(2,207)	(1.83%)	110,102	8,293	7.53%
Print and Design	16,972	17,075	(103)	(0.60%)	18,640	(1,668)	(8.95%)
e-Journal	21,323	20,950	373	1.78%	19,698	1,625	8.25%
Digital	21,290	19,793	1,497	7.56%	20,929	361	1.72%
Operations and Policy Total	5,151,384	5,224,380	(72,996)	(1.40%)	3,636,066	1,515,318	41.67%
Non-Operating Revenue							
Investment Income - SBM Operations	208,691	80,835	127,856	158.17%	18,908	189,783	1,003.72%
Investment Income - Ret HC Trust	415,322	-	415,322	0.00%	(363,584)	778,906	(214.23%)
Total Non-Operating Revenue	624,013	80,835	543,178	671.96%	(344,676)	968,689	(281.04%)
Total Revenue	6,228,451	5,693,879	534,572	9.39%	3,674,156	2,554,295	69.52%



State Bar of Michigan  
Statement of Revenue, Expense and Net Assets  
Administrative Fund  
For the Five Months Ending February 28, 2023

	Actual YTD	Budget YTD	Variance	Percentage	Prior Year YTD	Variance	Percentage
Expense							
Legal							
Ethics	\$2,100	\$3,385	(\$1,285)	(37.96%)	\$1,938	\$162	8.36%
Client Protection Fund Dept	2,009	2,665	(656)	(24.62%)	7,487	(5,478)	(73.17%)
Interim Administrator Program	94	415	(321)	(77.35%)	-	94	0.00%
Character & Fitness	15,939	23,742	(7,803)	(32.87%)	13,943	1,996	14.32%
UPL	2,934	5,051	(2,117)	(41.91%)	1,932	1,002	51.86%
General Counsel	4,229	16,753	(12,524)	(74.76%)	4,157	72	1.73%
Human Resources	851,919	890,867	(38,948)	(4.37%)	812,101	39,818	4.90%
Salaries	565,701	571,131	(5,430)	(0.95%)	486,417	79,284	16.30%
Legal Total	1,444,925	1,514,009	(69,084)	(4.56%)	1,327,975	116,950	8.81%
Public and Bar Services							
Inaugural and Awards Luncheon (Formerly Annual Meeting)	25	-	25	0.00%	-	25	0.00%
Lawyer Services	13,130	14,448	(1,318)	(9.12%)	12,788	342	2.67%
UMLI	13	-	13	0.00%	-	13	0.00%
50 Yr. Golden Celebration	4,865	3,995	870	21.78%	-	4,865	0.00%
Practice Management Resource Center	2,820	4,540	(1,720)	(37.89%)	1,103	1,717	155.67%
Lawyer Referral Service	3,954	5,333	(1,379)	(25.86%)	1,001	2,953	295.00%
Outreach	42,092	58,862	(16,770)	(28.49%)	25,493	16,599	65.11%
Diversity	7,932	9,265	(1,333)	(14.39%)	269	7,663	2,848.70%
LJAP	5,076	8,315	(3,239)	(38.95%)	625	4,451	712.16%
Technical Services	210,757	259,328	(48,571)	(18.73%)	211,877	(1,120)	(0.53%)
Salaries	879,829	890,257	(10,428)	(1.17%)	829,157	50,672	6.11%
Total Public and Bar Services	1,170,493	1,254,343	(83,850)	(6.68%)	1,082,313	88,180	8.15%
Operations and Policy							
Administration	73,417	74,248	(831)	(1.12%)	69,305	4,112	5.93%
Financial Services	479,125	539,583	(60,458)	(11.20%)	493,729	(14,604)	(2.96%)
Bar Journal Directory	55	-	55	0.00%	50	5	10.00%
Bar Journal	141,186	144,435	(3,249)	(2.25%)	140,690	496	0.35%
Print and Design	17,393	24,215	(6,822)	(28.17%)	12,688	4,705	37.08%
Digital	66,050	74,540	(8,490)	(11.39%)	69,099	(3,049)	(4.41%)
e-Journal	5,506	7,495	(1,989)	(26.54%)	5,201	305	5.86%
General Communications	2,475	7,771	(5,296)	(68.15%)	2,211	264	11.94%
Executive Office	7,794	27,066	(19,272)	(71.20%)	8,657	(863)	(9.97%)
Board of Commissioners	23,850	32,175	(8,325)	(25.87%)	4,710	19,140	406.37%

	Actual YTD	Budget YTD	Variance	Percentage	Prior Year YTD	Variance	Percentage
Expense							
Governmental Relations	24,248	25,600	(1,352)	(5.28%)	23,960	288	1.20%
Research and Development	6,532	10,013	(3,481)	(34.76%)	309	6,223	2,013.92%
Facilities Services	188,375	188,108	267	0.14%	129,589	58,786	45.36%
Justice Initiatives	1,887	2,536	(649)	(25.59%)	1,976	(89)	(4.50%)
Salaries	961,961	1,011,372	(49,411)	(4.89%)	953,859	8,102	0.85%
Operations and Policy Total	1,999,854	2,169,157	(169,303)	(7.81%)	1,916,033	83,821	4.37%
Total Expense	4,615,272	4,937,509	(322,237)	(6.53%)	4,326,321	288,951	6.68%
Increase (Decrease) in Net Assets	\$1,613,178	\$756,369	\$856,809	113.28%	(\$652,164)	\$2,265,342	(347.36%)
Human Resources Detail							
Payroll Taxes	178,716	190,784	(12,068)	(6.33%)	165,021	13,695	8.30%
Benefits	649,766	673,826	(24,060)	(3.57%)	625,495	24,271	3.88%
Other Expenses	23,437	26,257	(2,820)	(10.74%)	21,585	1,852	8.58%
Total Human Resources	851,919	890,867	(38,948)	(4.37%)	812,101	39,818	4.90%
Financial Services Detail							
Depreciation	184,165	192,500	(8,335)	(4.33%)	187,249	(3,084)	(1.65%)
Other Expenses	294,960	347,083	(52,123)	(15.02%)	306,480	(11,520)	(3.76%)
Total Financial Services	479,125	539,583	(60,458)	(11.20%)	493,729	(14,604)	(2.96%)
Salaries							
Legal	565,701	571,131	(5,430)	(0.95%)	486,417	79,284	16.30%
Public and Bar Services	879,829	890,257	(10,428)	(1.17%)	829,157	50,672	6.11%
Operations and Policy	961,961	1,011,372	(49,411)	(4.89%)	953,859	8,102	0.85%
Total Salaries Expense	2,407,491	2,472,760	(65,269)	(2.64%)	2,269,433	138,058	6.08%
Non-Labor Expense Summary							
Legal	50,742	78,268	(27,526)	(35.17%)	51,042	(300)	(0.59%)
Public and Bar Services	290,664	364,086	(73,422)	(20.17%)	253,156	37,508	14.82%
Operations and Policy	1,037,893	1,157,785	(119,892)	(10.36%)	962,174	75,719	7.87%
Total Non-Labor Expense	1,379,299	1,600,139	(220,840)	(13.80%)	1,266,372	112,927	8.92%

State Bar of Michigan  
Statement of Revenue, Expense and Net Assets  
For the Five Months Ending February 28, 2023

**YTD FY 2023 Increase (Decrease) in Net Position Summary**

	Actual YTD	Budget YTD	Variance	Percentage	Prior Year Actual YTD	Variance	Percentage
<b>Operating Revenue</b>							
- License Fees, Dues & Related	4,657,930	4,659,545	(1,615)	(0.0%)	3,314,630	1,343,300	40.5%
- All Other Op Revenue	946,508	953,499	(6,991)	(0.7%)	704,202	242,306	34.4%
<b>Total Operating Revenue</b>	<b>5,604,438</b>	<b>5,613,044</b>	<b>(8,606)</b>	<b>(0.2%)</b>	<b>4,018,832</b>	<b>1,585,606</b>	<b>39.5%</b>
<b>Operating Expenses</b>							
- Labor-related Operating Expenses							
Salaries	2,407,491	2,472,760	(65,269)	(2.6%)	2,269,433	138,058	6.1%
Benefits and PR Taxes	828,482	864,610	(36,128)	(4.2%)	790,516	37,966	4.8%
<b>Total Labor-related Operating Expenses</b>	<b>3,235,973</b>	<b>3,337,370</b>	<b>(101,397)</b>	<b>(3.0%)</b>	<b>3,059,949</b>	<b>176,024</b>	<b>5.8%</b>
- Non-labor Operating Expenses							
Legal	50,742	78,268	(27,526)	(35.2%)	51,042	(300)	(0.6%)
Public and Bar Services	290,664	364,086	(73,422)	(20.2%)	253,156	37,508	14.8%
Operations and Policy	1,037,893	1,157,785	(119,892)	(10.4%)	962,174	75,719	7.9%
<b>Total Non-labor Operating Expenses</b>	<b>1,379,299</b>	<b>1,600,139</b>	<b>(220,840)</b>	<b>(13.8%)</b>	<b>1,266,372</b>	<b>112,927</b>	<b>8.9%</b>
<b>Total Operating Expenses</b>	<b>4,615,272</b>	<b>4,937,509</b>	<b>(322,237)</b>	<b>(6.5%)</b>	<b>4,326,321</b>	<b>288,951</b>	<b>6.7%</b>
<b>Operating Income (Loss)</b>	<b>989,166</b>	<b>675,535</b>	<b>313,631</b>	<b>46.4%</b>	<b>(307,489)</b>	<b>1,296,655</b>	<b>(421.7%)</b>
<b>Non-operating Revenue (Expenses)</b>							
Investment Income	208,691	80,835	127,856	158.2%	18,908	189,783	1003.7%
Investment Income - Ret HC Trust	415,322	-	415,322	N/A	(363,584)	778,906	N/A
Loss on Disposal of Capital Asset	-	-	-	N/A	-	-	N/A
<b>Net Non-operating Revenue (Expenses)</b>	<b>624,013</b>	<b>80,835</b>	<b>543,178</b>	<b>672%</b>	<b>(344,676)</b>	<b>968,689</b>	<b>(281.1%)</b>
<b>Increase (Decrease) in Net Position</b>	<b>1,613,179</b>	<b>756,370</b>	<b>856,809</b>	<b>N/A</b>	<b>(652,165)</b>	<b>2,265,344</b>	<b>N/A</b>
<b>Net Position - Beginning the Year</b>	<b>9,813,122</b>	<b>9,813,122</b>	<b>-</b>	<b>0.0%</b>	<b>11,773,220</b>	<b>(1,960,098)</b>	<b>(16.6%)</b>
<b>Net Position - Year-to-Date</b>	<b>11,426,301</b>	<b>10,569,492</b>	<b>856,809</b>	<b>8.1%</b>	<b>11,121,055</b>	<b>305,246</b>	<b>2.7%</b>
<b>Increase (Decrease) in Net Position Excluding Ret HC Trust Investment Income (Loss)</b>	<b>1,197,857</b>	<b>756,370</b>	<b>441,487</b>	<b>58.4%</b>	<b>(288,581)</b>	<b>1,486,438</b>	<b>(515.1%)</b>

State Bar of Michigan  
Administrative Fund  
FY 2023 Capital Expenditures vs Budget  
For the Five Months Ending February 28, 2023

	YTD Actual	YTD Budget	YTD Variance	Notes and Variance Explanations	FY 2023 Year-End Forecast	Total Approved FY 2023 Budget	Projected Year-end Variance
<b>FACILITIES, FURNITURE &amp; OFFICE EQUIPMENT</b>							
Replacement of floor copiers/scanners	-	-	-	Completed in FY 2022	\$ 8,000	\$ 27,000	\$ (19,000)
HVAC system controller upgrade	-	-	-		35,600	35,600	\$ -
Projector replacement for meeting rooms	-	-	-		20,000	20,000	\$ -
Wiring closet racks	12,098	10,000	2,098		12,098	10,000	\$ 2,098
New microfiche machine	-	-	-		8,000	8,000	\$ -
New security system camera and DVR replacement	-	-	-		-	10,000	\$ (10,000)
Print center color printer	-	-	-		46,700	46,700	\$ -
Upgrade of the virtual meeting room equipment for BOC meetings	-	-	-		20,000	20,000	\$ -
Sewer line replacement (added in January 2023)	-	-	-		120,000	120,000	\$ -
<b>Total Facilities, Furniture &amp; Office Equipment:</b>	<b>\$12,098</b>	<b>\$10,000</b>	<b>\$2,098</b>		<b>\$ 270,398</b>	<b>\$ 297,300</b>	<b>\$ (26,902)</b>
<b>INFORMATION TECHNOLOGY</b>							
<b><u>IT Infrastructure:</u></b>							
Replacement of ethernet switches for rooms 2, 3, 4 and garden level	5,308	-	-		\$ 52,000	\$ 52,000	\$ -
Wiring upgrade for the data center	-	-	-		10,000	10,000	\$ -
<b><u>Application Software Development:</u></b>							
Receivership /Interim Administrator Program data portal	29,000	29,000	-		40,600	40,600	\$ -
E-commerce Store	5,800	5,800	-		11,600	11,600	\$ -
E-commerce Events	23,200	23,200	-		29,000	29,000	\$ -
API Development for NetSuite or Sage Intacct	5,800	5,800	-		23,200	11,600	\$ 11,600
E-commerce License Fee Updates	-	-	-		34,800	34,800	\$ -
e-Services Application to Court e-Filing (mi-File)	-	-	-		11,600	11,600	\$ -
Firm Administration and Billing	-	-	-		11,600	23,200	\$ (11,600)
Website Functionality Enhancements	11,600	11,600	-		11,600	11,600	\$ -
Character & Fitness Application Module (for BLE)	11,600	11,600	-		11,600	11,600	\$ -
Volunteer Application (Accessibility updates)	-	-	-		5,800	5,800	\$ -
Consumer Portal (LRS)	-	-	-		17,400	17,400	\$ -
<b>Total Information Technology:</b>	<b>\$ 92,308</b>	<b>\$ 87,000</b>	<b>\$ -</b>		<b>\$ 270,800</b>	<b>\$ 270,800</b>	<b>\$ -</b>
<b>Total Capital Budget:</b>	<b>\$ 104,406</b>	<b>\$ 97,000</b>	<b>\$ 2,098</b>		<b>\$ 541,198</b>	<b>\$ 568,100</b>	<b>\$ (26,902)</b>

State Bar of Michigan Administrative Fund  
Revenues, Expenses and Net Assets  
FY 2023 - Year-End Forecast  
Updated March 28, 2023

	FY 2023 Year-End Forecast	FY 2023 Budget	Variance	Percentage	FY 2022 Actual
<b>Operating Revenue</b>					
- License Fees, Dues & Related	10,826,000	10,929,500	(103,500)	(0.95%)	7,675,680
- All Other Op Revenue	1,693,252	1,747,435	(54,183)	(3.10%)	1,517,858
<b>Total Operating Revenue</b>	<u>12,519,252</u>	<u>12,676,935</u>	<u>(157,683)</u>	<u>(1.24%)</u>	<u>9,193,538</u>
<b>Operating Expenses</b>					
- Labor-related Operating Expenses					
Salaries	5,894,701	5,894,701	-	0.00%	5,418,000
Benefits, PR Taxes, and Ret HC Exp	1,910,587	2,012,614	(102,027)	(5.07%)	1,540,619
<b>Total Labor-related Operating Expenses</b>	<u>7,805,288</u>	<u>7,907,315</u>	<u>(102,027)</u>	<u>(1.29%)</u>	<u>6,958,619</u>
- Non-labor Operating Expenses					
Legal	208,117	234,090	(25,973)	(2.42%)	163,360
Public and Bar Services	1,060,645	1,073,875	(13,230)	(5.65%)	778,839
Operations and Policy	2,463,831	2,541,980	(78,149)	(3.07%)	2,098,738
<b>Total Non-labor Operating Expenses</b>	<u>3,732,594</u>	<u>3,849,945</u>	<u>(117,351)</u>	<u>(3.05%)</u>	<u>3,040,937</u>
<b>Total Operating Expenses</b>	<u>11,537,882</u>	<u>11,757,260</u>	<u>(219,378)</u>	<u>(1.87%)</u>	<u>9,999,556</u>
<b>Operating Income (Loss)</b>	981,370	919,675	61,695	N/A	(806,018)
<b>Non-operating Revenue (Expenses)</b>					
Investment Income	488,691	194,000	294,691	151.90%	62,582
Investment Income - Ret HC Trust*	-	-	-	N/A	(1,216,661)
Loss on Disposal of Capital Assets	-	-	-	N/A	-
<b>Net Non-operating Revenue (Expenses)</b>	<u>488,691</u>	<u>194,000</u>	<u>294,691</u>	<u>151.90%</u>	<u>(1,154,079)</u>
<b>Increase (Decrease) in Net Position</b>	<u>1,470,062</u>	<u>1,113,675</u>	<u>356,387</u>	<u>32.00%</u>	<u>(1,960,097)</u>

**Operating Revenue Forecast:**

- License fees and related - Expected to be under budget for license fees and related revenues due to decrease in paying members.
- All other operating revenue - Expected to be lower than budget primarily due to lower credit card revenues for Administration (\$93k), offset by higher C&F (\$30k) and LRS revenues(\$15k).

**Labor Forecast:**

- Salaries - Expected to be at the budget.
- Benefits & PR Taxes - Expected to be lower than budget due to lower benefits expenses.

**Non-labor Forecast:**

**Legal**

- Expected to be under budget primarily due to savings in C&F(\$11k), IAP (\$11k), and UPL (\$5k).

**Public and Bar Services**

- Expected to be under budget primarily in LRS (\$5k), LJAP (\$4k), and Diversity (\$10k).

**Operations and Policy**

- Executive Offices & BOC - Expected to be under budget primarily in balloting and ABA Mid-Year meeting expenses (\$10k).
- Finance & Administration - Expected to be under budget primarily due to lower credit card processing fees (\$73k).
- Facilities - Expected to be over budget primarily due to higher HVAC and plumbing maintenance (\$10k)
- Expected to be under budget in RA primarily due to lower meeting and travel expenses (\$23k).

**Non-Operating Income forecast:**

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

**STATE BAR OF MICHIGAN  
CLIENT PROTECTION FUND**

**Unaudited and For Internal Use Only**

**FINANCIAL REPORTS  
February 28, 2023**

**FY 2023**

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 Five Months Ending February 28, 2023

	1/31/2023	2/28/2023	Increase (Decrease)	%	Beginning of FY 2023 10/1/22
<b>Assets</b>					
Cash-Checking	\$26,681	\$30,902	\$4,220	15.8%	\$27,190
Savings	218,799	219,250	451	0.2%	183,275
Investments	2,429,022	2,431,633	2,611	0.1%	2,081,625
Account Receivable	-	-	-	0.0%	1,625
Due From SBM	5,808	1,512	(4,297)	(74.0%)	4,068
<b>Total Assets</b>	<b>\$2,680,310</b>	<b>\$2,683,297</b>	<b>\$2,986</b>	<b>0.1%</b>	<b>\$2,297,783</b>
<b>Liabilities</b>					
Claims Payable	\$3,500	\$2,500	(\$1,000)	(28.6%)	\$56,531
Deferred Revenue	412,198	366,048	(46,150)	(11.2%)	119,460
<b>Total Liabilities</b>	<b>415,698</b>	<b>368,548</b>	<b>(47,150)</b>	<b>(11.3%)</b>	<b>175,991</b>
<b>Fund Balance</b>					
Fund Balance at Beginning of Year	2,121,791	2,121,791	-	0.0%	1,834,119
Net Income (Expense) Year to Date	142,822	192,958	50,136	35.1%	287,672
<b>Total Fund Balance</b>	<b>2,264,613</b>	<b>2,314,749</b>	<b>50,136</b>	<b>2.2%</b>	<b>2,121,791</b>
<b>Total Liabilities and Fund Balance</b>	<b>\$2,680,311</b>	<b>\$2,683,297</b>	<b>\$2,986</b>	<b>0.1%</b>	<b>\$2,297,782</b>

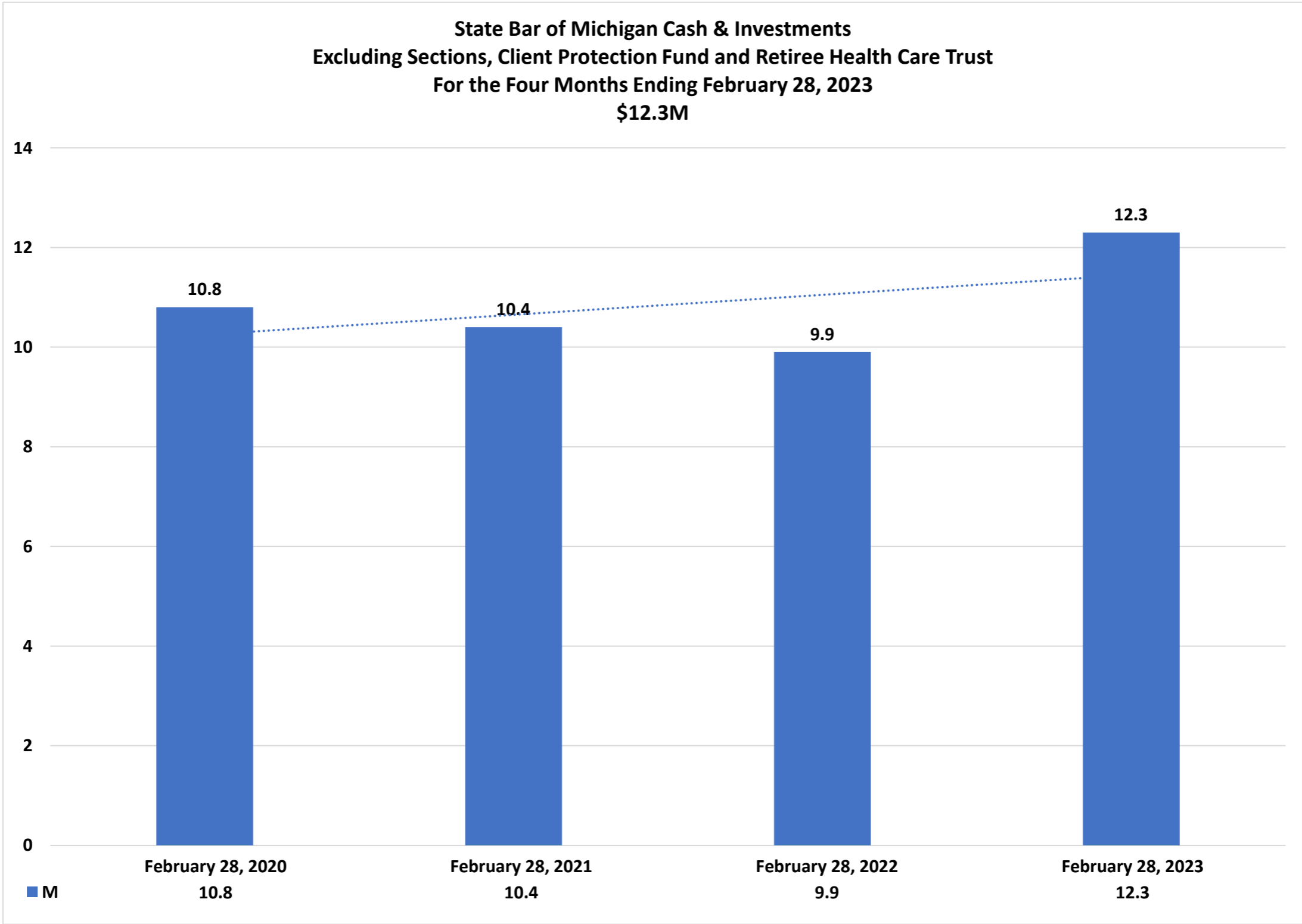
There were \$2,500 authorized but unpaid claims awaiting signatures of subrogation.

Client Protection Fund  
Statement of Revenue, Expenses, and Changes in Net Assets□  
For the Five Months Ending February 28, 2023

	2023 YTD	2022 YTD
Income:		
3-7-00-000-0005 Contributions Received	16,887	1,916
3-7-00-000-0050 License Fees Assessment	269,375	266,810
3-7-00-000-0051 Pro Hac Vice Fees	4,860	4,410
3-7-00-000-0890 Claims Recovery	10,406	8,768
Total Income	301,528	281,904
Expenses:		
3-9-00-000-0200 Claims Payment	69,238	176,690
3-9-00-000-0910 Administrative Fee	75,000	71,875
3-9-00-000-0994 Bank Service Charges	175	175
Total Expenses	144,413	248,740
3-7-00-000-0921 Gain or Loss on Investment	33,906	-
3-7-00-000-0920 Interest and Dividends	1,937	938
	35,843	938
<b>Increase/Decrease in Net Position</b>	<b>192,958</b>	<b>34,102</b>
3-5-00-000-1010 Fund Balance	2,121,791	1,834,119
Net Position, End of Period	2,314,749	1,868,221



**State Bar of Michigan Cash & Investments**  
**Excluding Sections, Client Protection Fund and Retiree Health Care Trust**  
**For the Four Months Ending February 28, 2023**  
**\$12.3M**



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

**Summary of Cash and Investment Balances by Financial Institution**

2/28/2023

Assets	Bank Rating	Financial Institution Summary	Interest Rates	Fund Summary
		SBM Chase Checking \$ 165,696.12		Client Protection Fund \$ 2,681,785
		SBM Chase Credit Card \$ 93,440.64		State Bar Admin Fund (including Sections) \$ 16,135,266
		SBM Chase E Checking \$ 10,860.00		Attorney Discipline System \$ 6,414,817
		SBM Chase Payroll \$ -		SBM Retiree Health Care Trust \$ 3,953,463
		SBM Chase Savings \$ 100,507.92	0.05%	ADB Retiree Health Care Trust \$ 1,276,805
		ADS Chase Checking \$ 36,456.94		AGC Retiree Health Care Trust \$ 3,978,585
		ADS Chase Petty Cash \$ 4,706.13		
		CPF Chase Checking \$ 30,901.74		<b>Total</b> <b>\$ 34,440,722</b>
\$3.4 Trillion	5 stars	CPF Chase Savings \$ 459.50	0.05%	
		<b>** Chase Total \$ 443,028.99</b>		
		SBM Horizon Bank Money Market \$ 9.06	0.50%	
\$7.6 Billion	5 stars	<b>Horizon Bank Total w/CD \$ 1,999,995.96</b>		
		SBM Fifth Third Commercial Now \$ 19,035.58	0.30%	
\$206 Billion	4 stars	<b>Fifth Third Total \$ 19,035.58</b>		
		Grand River Bank Money Market \$ 10,117.45	1.75%	
\$511 Million	5 stars	<b>Grand River Bank Total w/CD \$ 10,117.45</b>		
		MSUCU Savings \$ 56.09	0.00%	
		MSUCU Checking \$ 9,208.17	0.00%	
		<b>MSU Credit Union Total \$ 9,264.26</b>		
\$7 Billion	5 stars	<b>MSU Credit Union Total w/CD \$ 1,005,210.80</b>		
		LAFUCU Savings \$ 5.00		
\$973 Million	5 stars	<b>LAFUCU Total w/CD \$ 5.00</b>		
		CASE Cr Un \$ 6.38		
\$396 Million	5 stars	<b>CASE Cr Un Total w/CD \$ 6.38</b>		
		SBM Flagstar ICS Checking \$ 107,906.88	2.90%	
\$24 Billion	4.3 stars	ADS Flagstar ICS Checking Account \$ 202,605.86	2.90%	
		CPF Flagstar ICS Checking \$ 218,790.85	2.90%	
		<b>Flagstar Bank FDIC Insured \$ 529,303.59</b>		

State Bar Admin Fund Summary	
Cash and Investments	\$ 16,135,266
Less:	
Due (to)/from Sections	\$ (3,815,678)
Due (to)/from CPF	\$ (1,512)
Due to Sections and CPF	\$ (3,817,190)
Net Administrative Fund	\$ 12,318,077

<b>SBM Average Weighted Yield:</b>	<b>4.18%</b>
<b>ADS Average Weighted Yield:</b>	<b>4.25%</b>
<b>CPF Average Weighted Yield:</b>	<b>3.81%</b>

Notes:

- Average weighted yields exclude retiree health care trusts.
- All amounts are based on reconciled book balance and interest rates as of 02/28/2023.
- CDARS when used are invested in multiple banks up to the FDIC limit for each bank.
- Funds held in bank accounts are FDIC insured up to \$250,000 per bank.
- The SBM funds held with Charles Schwab in the Retiree Health Care Trusts are invested in 73% equity securities, 24% in bonds, and 3% in money market funds.
- As of 02/28/2023, the funds held by SBM attributable to ADS were \$94,035.97.
- Bank Star rating from Bauer Financial.
- Lockbox fees are offset by 0.40% p.a. on average monthly balance (\*\*)
- Actual unreconciled Chase balance per statements was \$415,369.96(\*\*).

Assets	Bank Rating	Financial Institution Summary	Interest Rates	Maturity
N/A	N/A			
		SBM US Treasuries		
		YB9 \$ 749,908.89	4.21%	3/2/23
		YL7 \$ 249,532.55	3.70%	3/16/23
		YM5 \$ 498,242.88	3.78%	3/30/23
		YN3 \$ 1,543,150.55	3.84%	4/6/23
		YU7 \$ 1,516,864.60	4.17%	4/13/23
		V48 \$ 248,406.60	4.49%	4/20/23
		YV5 \$ 545,949.54	4.51%	4/27/23
		YW3 \$ 2,578,611.44	4.50%	5/4/23
		W47 \$ 1,534,341.78	4.60%	5/18/23
		ZF9 \$ 989,056.25	4.65%	5/25/23
		Y37 \$ 979,458.19	4.67%	8/3/23
		US Gov MM Fund-SXX \$ 1,031,188.27	3.93%	-
		<b>SBM US Treasuries Total \$ 12,464,711.54</b>		
		CPF US Treasuries		
		U31 \$ 997,354.65	3.73%	03/23/23
		YM5 \$ 99,648.58	4.29%	03/30/23
		YN3 \$ 746,685.75	3.84%	04/06/23
		YW3 \$ 99,177.36	4.50%	05/04/23
		ZF9 \$ 98,905.63	4.65%	05/25/23
		Y37 \$ 146,918.73	4.67%	08/03/23
		YJ2 \$ 242,942.25	4.02%	10/05/23
		<b>CPF US Treasuries Total \$ 2,431,632.95</b>		
		ADS US Treasuries		
		UG Gov MM Fund \$ 547,358.06	3.77%	-
		YB9 \$ 449,945.33	4.15%	03/02/23
		YK9 \$ 499,501.25	4.12%	03/09/23
		YL7 \$ 249,532.55	4.07%	03/16/23
		V48 \$ 273,247.26	4.49%	04/20/23
		YV5 \$ 99,263.55	4.50%	04/27/23
		YW3 \$ 2,281,079.35	4.50%	05/04/23
		W47 \$ 1,138,382.61	4.60%	05/18/23
		Y37 \$ 538,702.00	4.67%	08/03/23
		<b>ADS US Treasuries Total \$ 6,077,011.96</b>		
		<b>US Treasuries Total \$ 20,973,356.45</b>		
		<b>SBM Flagstar Savings \$ 251,807.80</b>	3.38%	
\$24 Billion	5 stars	<b>\$ 251,807.80</b>		
\$3.8 Billion	4 stars	SBM-CD First National Bank of America \$ -		
		SBM-CD First National Bank of America \$ -		
		SBM-CD MSU Credit Union \$ 251,501.65	4.26%	05/21/23
		SBM-CD MSU Credit Union \$ 241,441.59	4.26%	05/21/23
		Horizon Bank \$ 244,613.68	4.26%	05/01/23
		Horizon Bank \$ 244,613.68	4.26%	05/01/23
		Horizon Bank \$ 252,871.36	4.11%	03/08/23
		Horizon Bank \$ 252,871.37	4.11%	03/08/23
\$7.6 Billion	5 stars	Horizon Bank \$ 252,871.36	4.11%	03/08/23
		Horizon Bank \$ 252,871.37	4.11%	03/08/23
		Horizon Bank \$ 249,637.04	4.11%	03/12/23
		Horizon Bank \$ 249,637.04	4.11%	03/12/23
		<b>Bank CD Totals \$ 2,995,933.44</b>		
		<b>Total Cash &amp; Investments (excluding Schwab) \$ 25,231,868.00</b>		
		SBM - Charles Schwab (Ret HC Trust) \$ 3,953,462.93	Mutual Funds	
		ADB - Charles Schwab (Ret HC Trust) \$ 1,276,805.49	Mutual Funds	
		AGC - Charles Schwab (Ret HC Trust) \$ 3,978,585.36	Mutual Funds	
		<b>Charles Schwab Totals \$ 9,208,853.78</b>		
		<b>Grand Total (including Schwab) \$ 34,440,715.40</b>		
		<b>Total amount of cash and investments not FDIC insured (excl. Schwab and JPM) \$ 2,698,235.75</b>	<b>63.36%</b>	

Assets & Ratings updated 1/10/2023

**Monthly SBM Attorney and Affiliate Report - February 28, 2023**

**FY 2023**

	September 30 2016	September 30 2017	September 30 2018	September 30 2019	September 30 2020	September 30 2021	September 30 2022	February 28 2023	FY Increase (Decrease)
<b>Attorneys and Affiliates In Good Standing</b>									
Active	41,921	42,100	42,342	42,506	42,401	42,393	42,395	41,693	(702)
Less than 50 yrs serv	40,725	40,833	40,973	41,036	40,559	40,504	40,680	39,801	(879)
50 yrs or greater	1,196	1,267	1,369	1,470	1,842	1,889	1,715	1,892	177
Voluntary Inactive	1,250	1,243	1,169	1,139	1,192	1,097	1,072	1,093	21
Less than 50 yrs serv	1,230	1,217	1,142	1,105	1,149	1,055	1,030	1,043	13
50 yrs or greater	20	26	27	34	43	42	42	50	8
Emeritus	1,841	1,973	2,204	2,447	2,727	3,033	3,306	3,655	349
<b>Total Attorneys in Good Standing</b>	<b>45,012</b>	<b>45,316</b>	<b>45,715</b>	<b>46,092</b>	<b>46,320</b>	<b>46,523</b>	<b>46,773</b>	<b>46,441</b>	<b>(332)</b>
<b>Fees paying Attorneys (Active &amp; Inactive less than 50 yrs of Serv)</b>	<b>41,955</b>	<b>42,050</b>	<b>42,115</b>	<b>42,141</b>	<b>41,708</b>	<b>41,559</b>	<b>41,710</b>	<b>40,844</b>	<b>(866)</b>
<b>Affiliates</b>									
Legal Administrators	13	13	10	10	8	5	2	2	-
Legal Assistants	405	400	401	393	317	219	214	236	22
<b>Total Affiliates in Good Standing</b>	<b>418</b>	<b>413</b>	<b>411</b>	<b>403</b>	<b>325</b>	<b>224</b>	<b>216</b>	<b>238</b>	<b>22</b>
<b>Total Attorneys and Former Attorneys in the Database</b>									
	September 30 2016	September 30 2017	September 30 2018	September 30 2019	September 30 2020	September 30 2021	September 30 2022	February 28 2023	FY Increase (Decrease)
<b>State Bar of Michigan Attorney and Affiliate Type</b>									
<b>Attorneys in Good Standing:</b>									
ATA (Active)	41,921	42,100	42,342	42,506	42,401	42,393	42,395	41,693	(702)
ATVI (Voluntary Inactive)	1,250	1,243	1,169	1,139	1,192	1,097	1,072	1,093	21
ATE (Emeritus)	1,841	1,973	2,204	2,447	2,727	3,033	3,306	3,655	349
<b>Total Attorneys in Good Standing</b>	<b>45,012</b>	<b>45,316</b>	<b>45,715</b>	<b>46,092</b>	<b>46,320</b>	<b>46,523</b>	<b>46,773</b>	<b>46,441</b>	<b>(332)</b>
<b>Attorneys Not in Good Standing:</b>									
ATN (Suspended for Non-Payment of Dues)	5,743	5,888	6,072	6,246	6,416	6,472	6,588	7,103	515
ATDS (Discipline Suspension - Active)	418	430	439	440	445	449	454	457	3
ATDI (Discipline Suspension - Inactive)	18	19	19	24	25	25	25	25	-
ATDC (Discipline Suspension - Non-Payment of Court Costs)	3	16	15	16	16	14	14	14	-
ATNS (Discipline Suspension - Non-Payment of Other Costs)	99	94	95	98	100	102	106	107	1
ATS (Attorney Suspension - Other)*	1	-	1	1	2	-	-	-	-
ATR (Revoked)	534	562	583	596	613	623	634	639	5
ATU (Status Unknown - Last known status was inactive)**	2,074	2,070	2,070	2,070	2,070	2,070	2,047	2,047	-
<b>Total Attorneys Not in Good Standing</b>	<b>8,890</b>	<b>9,079</b>	<b>9,294</b>	<b>9,491</b>	<b>9,687</b>	<b>9,755</b>	<b>9,868</b>	<b>10,392</b>	<b>524</b>
<b>Other:</b>									
ATSC (Former special certificate)	145	152	155	157	158	164	167	169	2
ATW (Resigned)	1,539	1,612	1,689	1,798	1,907	2,036	2,143	2,249	106
ATX (Deceased)	8,720	9,042	9,287	9,524	9,793	10,260	10,664	10,832	168
<b>Total Other</b>	<b>10,404</b>	<b>10,806</b>	<b>11,131</b>	<b>11,479</b>	<b>11,858</b>	<b>12,460</b>	<b>12,974</b>	<b>13,250</b>	<b>276</b>
<b>Total Attorneys in Database</b>	<b>64,306</b>	<b>65,201</b>	<b>66,140</b>	<b>67,062</b>	<b>67,865</b>	<b>68,738</b>	<b>69,615</b>	<b>70,083</b>	<b>468</b>

\* 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 February 28, 2023 a total of 469 new attorneys joined SBM.

**To:** Board of Commissioners, State Bar of Michigan  
Members, Attorney Discipline Board  
Commissioners, Attorney Grievance Commission

**From:** Trustees of the State Bar of Michigan Retirement Plan and 457(b) Plan

**Subject:** 2022 Annual Report - State Bar of Michigan Retirement Plan and 457(b) Plan

**Date:** March 31, 2023

**CC:** Peter Cunningham, SBM Executive Director  
Alerus Retirement Solutions/Alerus Financial N.A.

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Pursuant to Section 5.7 of the State Bar of Michigan Retirement Plan, an Annual Report of the Trustee is required:

*“(a) Within a reasonable period of time after the later of the Anniversary Date or receipt of the Employer contribution for each Plan Year, the Trustee, or its agent, shall furnish to the Employer and Administrator a written statement of account with respect to the Plan Year for which such contribution was made setting forth:*

- 1) the net income, or loss, of the Trust Fund;*
- 2) the gains, or losses, realized by the Trust Fund upon sales or other disposition of the assets;*
- 3) the increase, or decrease, in the value of the Trust Fund;*
- 4) all payments and distributions made from the Trust Fund; and*
- 5) such further information as the Trustee and/or Administrator deems appropriate.*

*“(b) The Employer, promptly upon its receipt of each such statement of account, shall acknowledge receipt thereof in writing and advise the Trustee and/or Administrator of its approval or disapproval thereof. Failure by the Employer to disapprove any such statement of account within thirty (30) days after its receipt thereof shall be deemed an approval thereof. The approval by the Employer of any statement of account shall be binding on the Employer and the Trustee as to all matters contained in the statement to the same extent as if the account of the Trustee had been settled by judgment or decree in an action for a judicial settlement of its account in a court of competent jurisdiction in which the Trustee, the Employer and all persons having or claiming an interest in the Plan were parties. However, nothing contained in this Section shall deprive the Trustee of its right to have its accounts judicially settled if the Trustee so desires.”*

The State Bar of Michigan Retirement Plan and 457(b) Plan are available to eligible employees of the State Bar of Michigan, Attorney Discipline Board, and Attorney Grievance Commission. The plans' assets (employer and employee contributions, and qualified rollovers) are invested in various mutual funds approved by the Trustee at the direction of each employee in the plans and held by the State Bar of Michigan Retirement Plan and 457(b) Plan for the benefit of the participants.

The SBM Retirement Plan is a 401(a) plan and is used for employer contributions. As of December 31, 2022, there were 143 participants with balances in the 401(a) plan. The 457(b) Plan is used for employee contributions. As of December 31, 2022, there were 141 participants with balances in the 457(b) Plan.

Alerus Financial N.A. was the record keeper, custodian, paying agent and third-party administrator for the retirement plans and Fidelity serves as the trading agent for the plans' assets. Alerus Financial, N.A. also served as an investment co-fiduciary for the purpose of providing investment recommendations and monitoring services in accordance with the terms of the investment policy statement.

A summary of the financial information for both plans for 2022, provided by Alerus, is attached.

The Co-Trustees of the State Bar of Michigan Retirement Plan and 457(b) Plan met nine times during 2022 to review investment performance, decide on the addition of investment funds offered, update the plan documents, review loan and withdrawal requests, and handle other administrative matters pertaining to the plans. Trustees conducted a request for proposal to select a new investment advisor and a new administrator and recordkeeper for the plan. Several proposals were evaluated and selected finalists were invited for presentations. CapTrust Financial Advisors was appointed as the new investment advisor on June 21, 2022, with services beginning August 1, 2022. Voya Retirement Insurance and Annuity Company was appointed as the new plan administrator and recordkeeper on October 3, 2022, with services beginning March 1, 2023. The minutes of the 2022 Trustee meetings are available upon request.

Please direct all inquiries to Mark Armitage, Chairperson of the Trustees of the State Bar of Michigan Retirement Plan and 457(b) Plan, at (313) 963-5553.

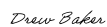
Sincerely,

The Co-Trustees of the State Bar of Michigan Retirement Plan and 457(b) Plan:

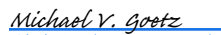


Mark A. Armitage (Apr 12, 2023 15:21 EDT)

Mark A. Armitage, Chairperson, Co-Trustee, and ADB Executive Director



Drew Baker, Co-Trustee and SBM General Counsel



Michael V. Goetz (Apr 12, 2023 15:38 EDT)

Michael V. Goetz, Co-Trustee and AGC Grievance Administrator



Tatiana Goodkin, Co-Trustee and SBM Chief Financial Officer



Jeanette L. Socia, Co-Trustee and SBM Human Resources Director

### State Bar of Michigan Retirement Plan - 2022

	Beginning Balance 01/01/22	Gains & Losses	Contributions	Withdrawals	Transfers	Ending Balance 12/31/22
Employee Deferrals 99I	\$ 1,490,196.31	\$ (227,059.41)	\$ -	\$ (140,785.55)	\$ 1,314.83	\$ 1,123,666.18
Employer Match 991	3,823,176.02	(532,832.17)	241,541.69	(305,677.50)	35,200.47	3,261,408.51
Employer Contribution 994	6,051,382.99	(848,285.99)	352,896.10	(473,909.95)	68,809.55	5,150,892.70
Employer Discretionary 99D	1,266,408.96	(184,270.59)	13,999.44	(52,202.15)	6,662.56	1,050,598.22
Rollovers 99R	862,522.41	(119,633.90)	138,380.18	(192.01)	7,693.56	888,770.24
Loans	\$ 206,964.81	\$ 12,788.74	\$ -	\$ 171,056.89	\$ (117,800.22)	\$ 273,010.22
<b>Total</b>	<b>\$ 13,700,651.50</b>	<b>\$ (1,899,293.32)</b>	<b>\$ 746,817.41</b>	<b>\$ (801,710.27)</b>	<b>\$ 1,880.75</b>	<b>\$ 11,748,346.07</b>

### State Bar of Michigan 457(b) Plan - 2022

	Beginning Balance 01/01/22	Gains & Losses	Contributions	Withdrawals	Transfers	Ending Balance 12/31/22
Employee Deferrals	\$ 11,266,037.24	\$ (1,535,495.76)	\$ 509,970.37	\$ (1,038,257.27)	\$ -	\$ 9,202,254.58
<b>Total</b>	<b>\$ 11,266,037.24</b>	<b>\$ (1,535,495.76)</b>	<b>\$ 509,970.37</b>	<b>\$ (1,038,257.27)</b>	<b>\$ -</b>	<b>\$ 9,202,254.58</b>

Notes:

- 1) There were a total of 22 loans outstanding involving 22 employees in the 401a Retirement Plan at the end of 2022.
- 2) There were a total of 139 participants with balances at the end of 2021 in the 401a Retirement plan, and 143 participants at the end of 2022.
- 3) There were a total of 134 participants with balances in the 457(b) plan at the end of 2021, and 141 participants at the end of 2022.
- 4) There were a total of 18 withdrawals - 6 separation, 3 in-services, 6 RMD's, 0 QDROs, 0 beneficiary, and 3 hardship withdrawals from the 401a Retirement Plan; and 12 withdrawals - 6 separation, 2 In-Service, 0 beneficiary, and 4 RMDs from the 457(b) Plan during 2022.
- 5) Gains and losses are shown net of realized and unrealized gains and losses
- 6) There were 4 forfeitures during 2022. A separate Forfeiture reconciliation has been provided. Forfeitures are used to offset Plan administration and Employer contributions owed. The total balance as of 12/31/2022 was \$793.45.
- 7) Ending balances and activity are based on an "effective date" of 12/31/22, which includes all activity that would have been effective during 2022, with the exception of the receivable amounts



## MEMORANDUM

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**TO:** Board of Commissioners  
Peter Cunningham, Executive Director

**FROM:** Trustees of the SBM Retiree Health Premium Trust

**DATE:** April 11, 2023

**RE:** **2022 Annual Report of the SBM Retiree Health Premium Trust**

Pursuant to Paragraph 10 of the Amended and Restated State Bar of Michigan Retiree Health Premium Trust Agreement (Trust), dated November 17, 2008, the trustees submit this report and supporting documentation for calendar year 2022.

### Overview

The State Bar of Michigan (SBM) established the Trust to fund post-retirement health benefits for certain employees and former employees who previously qualified for such post-retirement benefits through the State of Michigan's State Employees' Retirement System. Pursuant to the Investment Policy, the funds in the Trust are invested to provide for the future needs of the retiree health care obligations, while maintaining reasonable security of the funds. The primary investment objectives of the fund are: (1) return on investment; (2) diversification and safety; and (3) liquidity to meet operating requirements. To achieve these objectives, the funds are required to have an asset allocation of at least 60% equity and the remainder in fixed income funds.

### Financial Management

Brian Hamel, Schwab Private Client Advisor, serves as an investment advisor to the trust since March 2020.

### Financial Performance

In calendar year 2022, ending on December 31, 2022, Trust assets decreased from \$4,823,660 to \$3,801,652. The change in account value of \$1,022,008 (21.2%) was a result of decrease in the value of assets of \$1,156,583, dividends and interest of \$142,397, SBM contribution of \$9,555 and payment of investment advisor fees of \$17,377. The Trust did not sell or otherwise dispose of any assets, and the Trust did not make any distributions in 2022. In the same period, in lieu of actuarially determined contribution to the trust, SBM made direct payments for retiree insurance premiums in the amount of \$177,758.

The trust portfolio summary for the period ending December 31, 2022 and the 2022 annual performance report are included with this report. The latest portfolio review and restructuring was done in December 2022.



## Trust Management

In FY 2022, ending on September 30, 2022, Tatiana Goodkin, Kathryn Hennessey, Cliff Flood, Drew Baker, and Lisa Hamameh served as trustees of the Trust. In FY 2023, ending on September 30, 2023, Tatiana Goodkin, Drew Baker, and Erika Bryant served as trustees of the Trust.

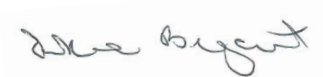
The Trustees met seven times in calendar year 2022 to review investment performance and handle other administrative matters.

Trustees recommended to SBM Board of Commissioners that in 2023 SBM retiree healthcare trust is merged with the retiree healthcare trusts of Attorney Grievance Commission and Attorney Discipline Board to reduce administrative expenses.

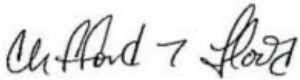
Please direct all inquiries to Tatiana Goodkin at (517) 346-6324 or [tgoodkin@michbar.org](mailto:tgoodkin@michbar.org).



Drew Baker, Trustee (FY 2022/FY 2023)



Erika Bryant, Trustee (FY 2023)



Cliff Flood, Trustee (FY 2022)



Tatiana Goodkin, Trustee (FY 2022/FY 2023)



Lisa J. Hamameh, Trustee (FY 2022)

### Attachments:

SBM Retiree Healthcare Trust Brokerage Statement December 31, 2022

2022 Schwab Performance Report

**TO:** Board of Commissioners

**FROM:** Professional Standards Committee

**DATE:** April 28, 2023, 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:

Consent Agenda:

	<u>Claim No.</u>	<u>Amt. Recommended</u>
1.	CPF 3710	\$3,000.00
2.	CPF 3780	\$2,500.00
3.	CPF 3792	\$3,500.00
4.	CPF 3808	\$50,119.86
5.	CPF 3830	\$1,500.00
6.	CPF 3841	\$5,000.00
7.	CPF 3858	\$4,000.00
8.	CPF 3862	\$4,000.00
9.	CPF 3863	\$4,000.00
10.	CPF 3886	\$4,285.00
11.	CPF 3890	\$4,000.00
12.	CPF 3891	\$500.00
13.	CPF 3899	\$3,000.00
14.	CPF 3901	\$1,000.00
15.	CPF 3908	\$1,500.00
16.	CPF 3909	\$43,108.05
17.	CPF 3911	\$4,000.00
18.	CPF 3922	\$1,500.00
	<b>TOTAL</b>	<b>\$136,516.91</b>

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

**1. CPF 3710 \$3,000.00**

Respondent was retained to modify a long-distance parenting plan established by a Florida state and paid \$3,000. The Florida court issued an order requiring a motion to be filed in Michigan within 90 days. Respondent received a copy of the order but did not complete any legal services before being suspended from the practice of law and later disbarred.

The Attorney Discipline Board (ADB), in revoking Respondent's license to practice law, found that Respondent neglected legal matters and failed to protect a client's interests upon termination of the representation, including a failure to refund the advance payment of an unearned 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), 9(D)(6), and 11(B).

**2. CPF 3780 \$2,500.00**

Respondent was retained to represent Claimant in a driver's license restoration matter and paid a fee of \$2,500. Respondent informed Claimant of information needed to complete the process. After receiving the documentation, Respondent abandoned the representation.

The ADB, in revoking Respondent's license to practice law, found that Respondent failed to refund the advance payment of an unearned fee after termination of the representation. Respondent's failure to return the unearned fee constitutes dishonest conduct and is a reimbursable loss as provided by CPF Rules 9(C)(1), 9(D)(6), and 11(B).

**3. CPF 3792 \$3,500.00**

Respondent was retained to represent Claimant in a family law matter for a flat fee of \$3,500. Respondent held an initial consultation, texted Claimant a few of times regarding adjournments, appeared at a hearing requesting a continuance to file a response, and filed an Appearance and Answer to a Motion. Respondent did not complete any further services, provide Claimant's legal file, or return the unearned portion of the retainer fee.

The ADB, in suspending, and later revoking, Respondent's license to practice law found that Respondent neglected legal matters, failed to keep clients reasonable informed and to protect clients' interests upon termination, including a failure to refund fees not earned.

Respondent did not complete the legal services before being suspended from the practice of law and later disbarred. A flat fee is not earned until the conclusion of the representation and must be held in trust until earned.<sup>1</sup> 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 and is a reimbursable loss under CPF Rule 9(C)(1) and Rule 9(D)(6).

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<sup>1</sup> RI-069

**4. CPF 3808** **\$50,119.86**

Respondent agreed to assist Claimant, pro bono, in a dispute regarding the disposition of Claimant's deceased ex-spouse's life insurance policy. A settlement was reached wherein \$50,119.86 was to be divided equally between Claimant's ex-spouse's two minor children. Respondent received the settlement check, deposited it into Respondent's trust account, and immediately converted the proceeds for Respondent's own use.

Respondent entered a plea of "No Contest" to embezzlement by agent or trustee \$50,000-\$100,000, which was accepted by the court. Respondent was ordered to pay \$50,119.86 in restitution to Claimant. Respondent's failure to set up a trust account for the children and deposit the settlement proceeds constitutes dishonest conduct and is a reimbursable loss as provided by CPF Rules 9(C) and 12(B).

**5. CPF 3830** **\$1,500.00**

Claimant retained Respondent to move for early release from probation in two criminal matters for \$1,500. Shortly after retention, Claimant learned that Respondent's license to practice law was suspended and immediately terminated the representation. Respondent completed no services before termination of the representation. 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(D)(6).

**6. CPF 3841** **\$5,000.00**

Respondent was retained to represent Claimant in a criminal matter. Claimant's mother executed a retainer agreement and issued a check payable to Respondent for \$5,000. The Agreement states that Respondent will "represent client ... through trial for a minimum fee of \$7000.00." 'Flat Fee' was handwritten next to "\$7000.00." Respondent met with Claimant at the jail twice. Respondent provided no further services, abandoning the matter. Respondent's failure to return the \$5,000 unearned fee constitutes dishonest conduct and is a reimbursable loss as provided by CPF Rules 9(C)(1) and 9(D)(6).

**7. CPF 3858** **\$4,000.00**

Respondent was retained to represent Claimant in potential criminal matter for a non-refundable \$10,000 flat fee. Claimant paid \$5,000. Respondent provided some legal services before his death. Respondent's Law Firm provided the Fund with a spreadsheet reflecting the retainer amount received from each client and the amount earned. Claimant's entry confirms the receipt of \$5,000 with \$1,000 being earned.

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. Nonrefundable retainers are ethically permissible if the fee agreement is unambiguous. Respondent's retainer letter fails to address the premature termination of the representation either by Claimant or Respondent before completion. Since Respondent did not provide the agreed upon services, the nonrefundable flat fee may be deemed unreasonable or excessive contrary to MPRC 1.5(a).

Unless an attorney has a written fee agreement that comports with *Cooper*,<sup>2</sup> 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.<sup>3</sup> 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 3862 \$4,000.00**

Claimant retained Respondent to represent Claimant's son in a criminal matter for a fee of \$5,000. Respondent held an initial meeting, filed an Appearance and Demands, and appeared at Claimant's arraignment. Per Respondent's Law Firm's spreadsheet, Claimant's entry confirms the receipt of \$5,000 and reflects that \$1,000 of the fee paid was earned.

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*,<sup>4</sup> 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.<sup>5</sup> 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).

**9. CPF 3863 \$4,000.00**

Respondent was retained to represent Claimant in a criminal matter for a non-refundable flat fee of \$5,000, which Claimant paid. Respondent spoke with Claimant once after the initial meeting and made two phone calls to other parties, but died before completing any further legal services. Respondent's Law Firm's spreadsheet, Claimant's entry confirms the receipt of \$5,000 and reflects that \$1,000 of the fee paid was earned.

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. Nonrefundable retainers are ethically permissible if the fee agreement is unambiguous. Respondent's retainer letter fails to address the premature termination of the representation either by Claimant or Respondent before completion. Since Respondent did not provide the agreed upon services, the nonrefundable flat fee may be deemed unreasonable or excessive contrary to MPRC 1.5(a).

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.<sup>6</sup> A respondent's failure to safeguard the funds

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<sup>2</sup> *Grievance Adm'r v Cooper*, 757 NW2d 867 (2008)

<sup>3</sup> RI-069

<sup>4</sup> *Grievance Adm'r v Cooper*, 757 NW2d 867 (2008)

<sup>5</sup> RI-069

<sup>6</sup> RI-069

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).

**10. CPF 3886 \$4,285.00**

Respondent was retained to represent Claimant in an ongoing criminal investigation against Claimant for a non-refundable flat fee of \$410.00. If Claimant's case did not involve travel it would be a flat fee of \$5,000; however, if travel is necessary then the total fee would be \$7,500. Claimant paid Respondent \$4,285.

Respondent consulted with Claimant three times, emailed Claimant several times, monitored the court website and consulted with the prosecutor's office before Claimant terminated the representation, earning the \$410 paid for the investigative case.

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. Nonrefundable retainers are ethically permissible if the fee agreement is unambiguous. Respondent's retainer letter fails to address the premature termination of the representation either by Claimant or Respondent before completion and the placement of the "non-refundable" terminology raises questions as to which of the three flat fees mention were designated to be "non-refundable. Since Respondent did not provide the agreed upon services, the \$3,875 paid toward the \$5,000 flat fee may be deemed unreasonable or excessive contrary to MPRC 1.5(a).

Unless an attorney has a written fee agreement that comports with *Cooper*,<sup>7</sup> 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.<sup>8</sup> 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).

**11. CPF 3890 \$4,000.00**

Respondent was retained to represent Claimant Business in two LARA complaints for an agreed upon retainer of \$7,500, with an hourly rate of \$250. The Respondent's Law Firm provided the Fund with a spreadsheet reflecting the retainer amount received from each client and the amount earned. Claimant's entry confirms the receipt of \$7,500 with \$3,500 being earned.

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 until earned. A respondent's failure to safeguard the funds in an attorney trust account until 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).

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<sup>7</sup> *Grievance Adm'r v Cooper*, 757 NW2d 867 (2008)

<sup>8</sup> RI-069

**12. CPF 3891** **\$500.00**

Respondent was retained to represent Claimant in an expungement matter for a non-refundable flat fee of \$3,500. Respondent met with Claimant; obtained Claimant's record of conviction and pending charges, FBI fingerprint response, and a SID's inquiry response; filed and served the Application to Set Aside (Conviction); paid the \$50 filing fee; and reviewed the AG's Office response to Claimant's application and criminal history report. Respondent died before the hearing. Respondent's Law Firm provided the Fund with a spreadsheet reflecting the retainer amount received from each client and the amount earned. Claimant's entry confirms the receipt of \$3,500 with \$3,000 of the fee being earned.

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. Nonrefundable retainers are ethically permissible if the fee agreement is unambiguous. Respondent's retainer letter fails to address the premature termination of the representation either by Claimant or Respondent before completion. Since Respondent did not provide the agreed upon services, the nonrefundable flat fee may be deemed unreasonable or excessive contrary to MPRC 1.5(a).

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.<sup>9</sup> 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).

**13. CPF 3899** **\$3,000.00**

Respondent was retained to represent Claimant in two expungement matters for a non-refundable flat fee of \$4,000. Respondent died before completing the legal services. Respondent's Law Firm provided the Fund with a spreadsheet reflecting the retainer amount received from each client and the amount earned. Claimant's entry confirms the receipt of \$4,000 with \$1,000 of the fee being earned.

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. Nonrefundable retainers are ethically permissible if the fee agreement is unambiguous. Respondent's retainer letter fails to address the premature termination of the representation either by Claimant or Respondent before completion. Since Respondent did not provide the agreed upon services, the nonrefundable flat fee may be deemed unreasonable or excessive contrary to MPRC 1.5(a).

Unless an attorney has a written fee agreement that comports with *Cooper*,<sup>10</sup> 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.<sup>11</sup> A respondent's failure to safeguard the funds

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<sup>9</sup> RI-069

<sup>10</sup> *Grievance Adm'r v Cooper*, 757 NW2d 867 (2008)

<sup>11</sup> RI-069

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).

**14. CPF 3901 \$1,000.00**

Respondent was retained to represent Claimant in a potential criminal matter for a flat fee of \$1,500. Claimant paid \$1,000 towards the agreed upon fee. Respondent did not provide any legal services or return the unearned fee before abandoning the matter. Respondent's failure to return the unearned fee constitutes dishonest conduct and is a reimbursable loss as provided by CPF Rules 9(C)(1), 9(D)(6), and 11(B).

**15. CPF 3908 \$1,500.00**

Respondent was retained to file three petitions to set aside convictions on Claimant's behalf for a non-refundable flat fee of \$3,500. Respondent filed an Application to Set Aside Conviction and Brief in Support in 43<sup>rd</sup>, 47<sup>th</sup>, and 52-1 district court, serving all the appropriate agencies. Respondent died before the hearings scheduled in each of the three matters.

Respondent's Law Firm provided the Fund with a spreadsheet reflecting the retainer amount received from each client and the amount earned. Claimant's entry confirms the receipt of \$3,500 with \$2,000 being earned.

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. Nonrefundable retainers are ethically permissible if the fee agreement is unambiguous. Respondent's retainer letter fails to address the premature termination of the representation either by Claimant or Respondent before completion. Since Respondent did not provide the agreed upon services, the nonrefundable flat fee may be deemed unreasonable or excessive contrary to MPRC 1.5(a).

Unless an attorney has a written fee agreement that comports with *Cooper*,<sup>12</sup> 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.<sup>13</sup> 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).

**16. CPF 3909 \$43,108.05**

Respondent was retained to oversee the sale of real property from Claimant to Claimant's mother. Claimant and his mother each agreed to pay Respondent a flat fee of \$2,000 to handle the transaction. Respondent did not complete the closing or transfer the property to Claimant's mother.

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<sup>12</sup> *Grievance Adm'r v Cooper*, 757 NW2d 867 (2008)

<sup>13</sup> RI-069



Respondent received the sale proceeds of \$149,121.82 to be held in trust. Respondent remitted \$55,761.77 to Claimant. The remaining \$93,360.05 was to be used for fees and related costs, with the remaining balance to be applied to the mortgage. Respondent improperly retained the funds. Months later, Respondent issued a check to Claimant for \$50,000, which was applied to the outstanding mortgage, leaving a balance due Claimant of \$43,360.05. Respondent misappropriated the remaining funds requiring Claimant to pay the closing costs and other fees and continue making the mortgage payments.

Respondent entered a plea of “No Contest” to larceny by conversion more than \$20,000, which was accepted by the court. Respondent was ordered to pay \$41,688.19 in restitution to Claimant. Claimant has received \$252.00 in restitution from the trial court, leaving a criminal restitution balance due of \$41,436.19. The restitution amount ordered gives Respondent credit for the portion of the mortgage payments made by Claimant applied to the principal after Respondent received the sales proceeds. Respondent did not make these payments and they were not paid out of the sales proceeds held by Respondent; therefore, no credit for those payments is afforded Respondent.

Rule 9(C)(1) defines dishonest conduct as wrongful acts committed by a lawyer like theft or embezzlement of money or the wrongful taking or conversion of money. Respondent converted \$43,360.05 in funds belonging to Claimant Mayer. Respondent has paid \$252.00 in restitution, leaving a balance due Claimant of \$43,108.05. Respondent’s failure to pay the closing costs and other related fees and apply the balance to the outstanding mortgage on the real estate constitutes dishonest conduct and is a reimbursable loss as provided by CPF Rules 9(C) and 11(B).

**17. CPF 3911 \$4,000.00**

Respondent was retained to represent Claimant in a potential criminal matter for a non-refundable flat fee of \$5,000. Respondent’s Law Firm provided the Fund with a spreadsheet reflecting the retainer amount received from each client and the amount earned. Claimant’s entry confirms the receipt of \$5,000 with \$1,000 of the fee being earned before Respondent’s passing.

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. Nonrefundable retainers are ethically permissible if the fee agreement is unambiguous. Respondent’s retainer letter fails to address the premature termination of the representation either by Claimant or Respondent before completion. Since Respondent did not provide the agreed upon services, the nonrefundable flat fee may be deemed unreasonable or excessive contrary to MPRC 1.5(a).

Unless an attorney has a written fee agreement that comports with *Cooper*,<sup>14</sup> 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.<sup>15</sup> 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).

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<sup>14</sup> *Grievance Adm’r v Cooper*, 757 NW2d 867 (2008)

<sup>15</sup> RI-069

**18. CPF 3922 \$1,500.00**

Respondent was retained to defend Claimant in an ongoing second degree criminal sexual conduct matter and paid Respondent \$3,000 for the representation. Respondent appeared in court with Claimant but was subsequently suspended from the practice of law. Claimant was scheduled to return to court for sentencing 45 days later. Respondent failed to notify his client and the court he would not be appearing at the sentencing hearing. After failing to appear at the re-scheduled sentencing hearing, the court appointed Claimant a public defender.

Claimant filed a Request for Investigation with the Attorney Grievance Commission. Respondent signed a Stipulation for Consent Order of Discipline which contained Respondent's admissions to the factual statements and allegations of professional misconduct. The Stipulation further contained the agreement that Respondent be suspended from the practice of law in Michigan for one year and he pay \$1,500 in restitution to Claimant.

In September 2022, unable to locate Claimant, who had been released from prison, Respondent, in conjunction with the AGC, contacted Client Protection Fund staff requesting that the \$1,500 in restitution be held by Fund while CPF staff continued to locate Claimant.

Upon request, Respondent provided Claimant's full name, birth date, last known address, and a check payable to the State Bar of Michigan's Client Protection Fund for \$1,500.

By October 26, 2022, the check had been deposited into Fund, Claimant contacted, and a completed claim application received. The Fund is holding \$1,500 in restitution due to Claimant that must be remitted to him.

**Total payments recommended: \$136,156.91**



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

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The Committee on Model Criminal Jury Instructions solicits comment on the following proposal by September 1, 2023. Comments may be sent in writing to Andrea Crumbach, 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](mailto:MCrimJI@courts.mi.gov) .

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**PROPOSED**

The Committee proposes amending the Reasonable Doubt instructions found in M Crim JI 1.9(3) and 3.2(3) to add the sentence, “Proof beyond a reasonable doubt is proof that leaves you firmly convinced of the defendant’s guilt.” The amendment was prompted by research showing that the clear-and-convincing standard was considered by the general public to be higher than the beyond-a-reasonable-doubt standard. The Model Jury Instruction Committee proposes the additional sentence to impress upon the jurors the level of certainty required for a criminal conviction. A number of Committee members preferred not to make any change to the instruction, but agreed to publication of the proposal for public consideration. Comments suggesting other wording for the reasonable-doubt instructions are welcome, but the Committee is only considering whether to adopt the change proposed, or wording substantially similar to the proposal. The added language is underlined. There is an extended comment period for this proposal.

**[AMENDED]            M Crim JI 1.9(3) and 3.2(3)            Reasonable Doubt**

(3) Proof beyond a reasonable doubt is proof that leaves you firmly convinced of the defendant’s guilt. A reasonable doubt is a fair, honest doubt growing out of the evidence or lack of evidence. It is not merely an imaginary or possible doubt, but a doubt based on reason and common sense. A reasonable doubt is just that: a doubt that is reasonable after a careful and considered examination of the facts and circumstances of this case.

**Public Policy Position**  
**Model Criminal Jury Instructions 1.9(3) and 3.2(3)**

**Oppose**

**Explanation:**

The committee voted unanimously (19) to oppose the Model Criminal Jury Instructions as drafted.

**Position Vote:**

Voted For position: 19

Voted against position: 0

Abstained from vote: 0

Did not vote (absent): 7

**Contact Persons:**

Nimish R. Ganatra [ganatran@washtenaw.org](mailto:ganatran@washtenaw.org)

Sofia V. Nelson [snelson@sado.org](mailto:snelson@sado.org)



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

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The Committee on Model Criminal Jury Instructions solicits comment on the following proposal by June 1, 2023. Comments may be sent in writing to Andrea Crumback, 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](mailto:MCrimJI@courts.mi.gov).

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**PROPOSED**

The Committee proposes amending jury instruction M Crim JI 4.11a, the “Other Acts” jury instruction, to add acts of sexual assault per the language of MCL 768.27b, which includes acts of sexual assault with acts of domestic assault as other acts that a jury can consider. Additionally, a few linguistic changes were made to improve readability and understandability of the instruction. The instruction’s Use Note was also amended. Deletions are in strike-through, and new language is underlined.

**[AMENDED] M Crim JI 4.11a Evidence of Other Acts of Domestic  
Violence or Sexual Assault**

(1) ~~The prosecutor has introduced evidence of claimed acts of domestic violence\* by the defendant for which [he / she] is not on trial.~~ You have heard evidence that the defendant [describe the alleged conduct by the defendant]. [He / she] is not on trial for [that / those] [act / acts].

(2) Before you may consider ~~such alleged acts as~~ this evidence ~~against the defendant,~~ you must first find that the defendant actually committed ~~such~~ the [act / acts].

(3) If you find that the defendant did commit ~~those~~ the [act / acts], you may consider [it / them] in deciding if whether the defendant committed the [offense / offenses] for which [he / she] is now on trial.

(4) You must not convict the defendant ~~here~~ in this case solely because you think [he / she] is guilty of other bad conduct. The evidence must convince

you beyond a reasonable doubt that the defendant committed the ~~alleged crime~~ offense for which [he / she] is now on trial, or you must find [him / her] not guilty.

*Use Note*

- \* “Domestic violence” for purposes of this instruction is defined in MCL 768.27b(~~5~~ 6) (a) and (b). “Sexual assault” crimes are those offenses under the Sex Offenders Registration Act found at MCL 28.722(r), (t), and (v).

**Public Policy Position**  
**Model Criminal Jury Instructions 4.11a**

**Support**

**Explanation:**

The Committee voted unanimously, with one abstention, to support the proposed amendments to Model Criminal Jury Instruction 4.11a as drafted. The Committee agreed that updating the instruction is necessary to reflect the update in statute.

**Position Vote:**

Voted For position: 16  
Voted against position: 0  
Abstained from vote: 1  
Did not vote (absent): 9

**Contact Persons:**

Nimish R. Ganatra [ganatran@washtenaw.org](mailto:ganatran@washtenaw.org)  
Sofia V. Nelson [snelson@sado.org](mailto:snelson@sado.org)

**Public Policy Position  
M Crim JI 4.11a**

**Support**

**Position Vote:**

Voted for position: 13

Voted against position: 0

Abstained from vote: 0

Did not vote: 1

**Contact Person:** Takura N. Nyamfukudza

**Email:** [takura@cndefenders.com](mailto:takura@cndefenders.com)





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

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The Committee on Model Criminal Jury Instructions solicits comment on the following proposal by June 1, 2023. Comments may be sent in writing to Andrea Crumback, 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](mailto:MCrimJI@courts.mi.gov).

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**PROPOSED**

The Committee proposes a jury instruction, M Crim JI 7.26, for the defense to parental kidnapping (M Crim JI 19.6) found in MCL 750.350a(7) – protecting the child from an immediate and actual threat of physical or mental harm. The instruction is entirely new.

**[NEW]            M Crim JI 7.26            Parental Kidnapping – Defense of  
Protecting Child; Burden of Proof**

(1) The defendant says that [he / she] is not guilty of parental kidnapping because [he / she] was acting to protect [*name child*] from an immediate and actual threat of physical or mental harm, abuse, or neglect. A person is not guilty of parental kidnapping when [he / she] proves this defense.

(2) Before considering the defense of protecting the child, you must be convinced beyond a reasonable doubt that the defendant committed the crime of parental kidnapping. If you are not, your verdict should simply be not guilty of that offense. If you are convinced that the defendant committed the offense, you should consider the defendant’s claim that [he / she] was protecting the child from an immediate and actual threat of physical or mental harm, abuse, or neglect.

(3) To establish that [he / she] was acting to protect the child, the defendant must prove three elements by a preponderance of the evidence. A preponderance of the evidence means that [he / she] must prove that it is more likely than not that each of the following elements is true.

(4) First, the defendant must prove that [*name child*] was in actual danger of physical or mental harm, abuse or neglect.<sup>1</sup>

(5) Second, the defendant must prove that the danger of physical or mental harm, abuse, or neglect to [*name child*] was immediate. That is, if the defendant failed to act, [*name child*] would have been physically or mentally harmed or would have suffered abuse or neglect very soon.

(6) Third, the defendant must prove that [his / her] actions were reasonably intended to prevent the danger of physical or mental harm, abuse, or neglect to [*name child*].

(7) You should consider these elements separately. If you find that the defendant has proved all three of these elements by a preponderance of the evidence, you must find [him / her] not guilty of parental kidnapping. If the defendant has failed to prove any of these elements, the defense fails.

*Use Note*

1. The terms “physical harm,” “mental harm,” “abuse,” and “neglect” are not defined in MCL 750.350a. The Committee on Model Criminal Jury Instructions does not recommend importing definitions from other statutory provisions if the jury questions the meaning of the terms, but suggests the use of dictionary meanings.

**Public Policy Position**  
**Model Criminal Jury Instructions 7.26**

**Support**

**Explanation:**

The Committee voted unanimously to support proposed Model Criminal Jury Instruction 7.26, for the defense to parental kidnapping found in MCL 750.350a(7) – protecting the child from an immediate and actual threat of physical or mental harm – as drafted.

**Position Vote:**

Voted For position: 16

Voted against position: 0

Abstained from vote: 0

Did not vote (absent): 10

**Contact Persons:**

Nimish R. Ganatra [ganatran@washtenaw.org](mailto:ganatran@washtenaw.org)

Sofia V. Nelson [snelson@sado.org](mailto:snelson@sado.org)

**Public Policy Position  
M Crim JI 7.26**

**Support**

**Explanation:**

They are all entirely new and we all agreed that these are useful, necessary instructions.

**Position Vote:**

Voted for position: 14

Voted against position: 0

Abstained from vote: 0

Did not vote: 0

**Contact Person:** Takura N. Nyamfukudza

**Email:** [takura@cndefenders.com](mailto:takura@cndefenders.com)



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

The Committee on Model Criminal Jury Instructions solicits comment on the following proposal by June 1, 2023. Comments may be sent in writing to Andrea Crumback, 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](mailto:MCrimJI@courts.mi.gov).

**PROPOSED**

The Committee proposes a jury instruction, M Crim JI 13.19b, for the offense of using a 9-1-1 service for a prohibited purpose, contrary to MCL 484.1605. The instruction is entirely new.

**[NEW]            M Crim JI 13.19b            Prohibited Use of Emergency 9-1-1 Service**

- (1) The defendant is charged with the crime of prohibited use of emergency 9-1-1 service. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:
- (2) First, that the defendant [used / attempted to use] an emergency 9-1-1 service.
- (3) Second, that the defendant [used / attempted to use] the emergency 9-1-1 service [for a reason other than to call for an emergency response service<sup>1</sup> / more than one time to report a crime or seek nonemergency assistance and was told on the first call to call a different number].
- (4) Third, that when the defendant [used / attempted to use] the emergency 9-1-1 service [for a reason other than to call for an emergency response service / more than one time to report a crime or seek nonemergency assistance and was told on the first call to call a different number], [he / she] knew that [he / she] was using the service for a reason other than to call for an emergency response service.

*Use Note*

1. An *emergency response service* is defined by MCL 484.1102(m) and means a public or private agency that responds to events or situations that are

dangerous or that are considered by a member of the public to threaten the public safety. An emergency response service includes a police or fire department, an ambulance service, or any other public or private entity trained and able to alleviate a dangerous or threatening situation.

**Public Policy Position**  
**Model Criminal Jury Instructions 13.19b**

**Support**

**Explanation:**

The Committee voted unanimously to support proposed Model Criminal Jury Instruction 13.19b, for the offense of using a 9-1-1 service for a prohibited purpose, contrary to MCL 484.1605, as drafted.

**Position Vote:**

Voted For position: 16

Voted against position: 0

Abstained from vote: 0

Did not vote (absent): 10

**Contact Persons:**

Nimish R. Ganatra [ganatran@washtenaw.org](mailto:ganatran@washtenaw.org)

Sofia V. Nelson [snelson@sado.org](mailto:snelson@sado.org)

**Public Policy Position  
M Crim JI 13.19b**

**Support**

**Explanation:**

They are all entirely new and we all agreed that these are useful, necessary instructions.

**Position Vote:**

Voted for position: 14

Voted against position: 0

Abstained from vote: 0

Did not vote: 0

**Contact Person:** Takura N. Nyamfukudza

**Email:** [takura@cndefenders.com](mailto:takura@cndefenders.com)





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

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The Committee on Model Criminal Jury Instructions solicits comment on the following proposal by June 1, 2023. Comments may be sent in writing to Andrea Crumback, 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](mailto:MCrimJI@courts.mi.gov).

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**PROPOSED**

The Committee proposes a jury instruction, M Crim JI 33.2, for the offense of cruel and inhumane treatment of an animal, contrary to MCL 750.50. The instruction is entirely new.

**[NEW] M Crim JI 33.2 Cruel and Inhumane Treatment of an Animal**

- (1) The defendant is charged with the crime of cruel and inhumane treatment of an animal. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:
- (2) First, that the defendant [owned, possessed, or had custody of (a / an) (*identify vertebrate*) / was (an animal breeder / a pet shop operator)<sup>1</sup> with (a / an) (*identify vertebrate*) under (his / her) care].
- (3) Second, that the defendant

*[Select from the following according to the charges and evidence:]*

(a) failed to provide the [*identify vertebrate(s)*] with adequate care. “Adequate care” means providing enough water, food, and exercise and providing sufficient shelter, sanitary conditions, and veterinary care to keep an animal in a state of good health.<sup>2</sup>

(b) drove, worked, or beat [*identify vertebrate(s)*] cruelly, or caused [*identify vertebrate(s)*] to be driven, worked or beaten.<sup>3</sup>

(c) carried [*identify vertebrate(s)*] in a vehicle or caused the [animal / animals] to be carried in a vehicle with [its / their] feet tied together.

(d) carried [*identify vertebrate(s)*] in or on a vehicle or caused the [animal / animals] to be carried in or on a vehicle without a secure space or cage for the [(*identify livestock vertebrate[s]*)<sup>4</sup> to stand / *identify vertebrate(s)* to stand, turnaround, and lie down].

(e) abandoned the [*identify vertebrate(s)*] or caused the [animal / animals] to be abandoned without making provision for adequate care of the [animal / animals].<sup>5</sup>

“Adequate care” means providing enough water, food, and exercise and providing sufficient shelter, sanitary conditions, and veterinary care to keep an animal in a state of good health.<sup>2</sup>

(f) was negligent in allowing [*identify vertebrate(s)*], including aged, diseased, maimed, or disabled animals, to suffer unnecessary neglect, torture, or pain.

“Neglect” means failing to sufficiently and properly care for an animal to a degree that the animal’s health is jeopardized.<sup>6</sup>

(g) tethered the dog with a rope, chain, or similar device that was less than three times the length of the dog from nose to the base of its tail.<sup>7</sup>

(4) Third,<sup>8</sup>

[*Select from the following aggravating factors according to the charges and evidence:*]

(a) [the offense involved two or three animals / (an / the) animal died as a result of the offense].

(b) the offense involved four to nine animals.

(c) the offense involved ten to twenty-four animals.

(d) the offense involved twenty-five or more animals.

#### *Use Note*

1. *Breeder* is defined at MCL 750.50(1)(e), referencing MCL 287.331. *Pet shop* is defined at MCL 750.50(1)(j), also referencing MCL 287.331.

2. *Adequate care* is defined in MCL 750.50(1)(a). “Shelter” is further defined in MCL 750.50(1)(l), and “water” is defined in MCL 750.50(1)(o).
3. *Cruelly* is not defined in MCL 750.50. The Committee on Model Criminal Jury Instructions does not recommend importing definitions from other statutory provisions but notes that the child abuse statute, MCL 750.136b(1)(b), defines “cruel” as “. . . brutal, inhumane, sadistic, or that which torments.”
4. In MCL 750.50(1)(g), the definition of “livestock” references MCL 287.703.
5. There are exceptions to the abandonment provision found at MCL 750.50(2)(e) involving premises abandoned to protect human life or prevent human injury or lost animals. It appears that the defendant would have to offer evidence to interpose such defenses.
6. *Neglect* is defined in MCL 750.50(1)(h).
7. *Tethering* is defined in MCL 750.50(1)(n).
8. Provide this instruction only when the prosecution seeks sentence enhancement based on these factors.

**Public Policy Position**  
**Model Criminal Jury Instructions 33.2**

**Support**

**Explanation:**

The Committee voted unanimously to support proposed Model Criminal Jury Instruction 33.2, for the offense of cruel and inhumane treatment of an animal, contrary to MCL 750.50, as drafted.

**Position Vote:**

Voted For position: 16

Voted against position: 0

Abstained from vote: 0

Did not vote (absent): 10

**Contact Persons:**

Nimish R. Ganatra [ganatran@washtenaw.org](mailto:ganatran@washtenaw.org)

Sofia V. Nelson [snelson@sado.org](mailto:snelson@sado.org)

**Public Policy Position  
M Crim JI 33.2**

**Support**

**Explanation:**

They are all entirely new and we all agreed that these are useful, necessary instructions.

**Position Vote:**

Voted for position: 14

Voted against position: 0

Abstained from vote: 0

Did not vote: 0

**Contact Person:** Takura N. Nyamfukudza

**Email:** [takura@cndefenders.com](mailto:takura@cndefenders.com)



- (3) Second, that the [*identify vertebrate*] that the defendant [killed / tortured / mutilated, maimed, or disfigured / poisoned or caused to be exposed to a poisonous substance] was a companion animal.

A “companion animal” is a vertebrate commonly considered to be a pet or considered by [*identify complainant*] to be a pet.<sup>1</sup>

- (4) Third, that the defendant intended to cause [*identify complainant*] mental anguish or distress or intended to exert control over [*identify complainant*]<sup>2</sup>

[*Select the appropriate option according to the evidence:*]

(a) by [(killing / torturing / mutilating, maiming, or disfiguring) the animal / poisoning the animal or causing the animal to be exposed to a poisonous substance].

[or]

(b) by threatening to [(kill / torture / mutilate, maim, or disfigure) the animal / poison the animal or cause the animal to be exposed to a poisonous substance].

[*Read the following bracketed material only where the charge involves a threat:*]

[A threat does not have to be stated in any particular terms but must express a warning of danger or harm. Further, it must have been meant as a true threat and not, for example, idle talk, a statement made in jest, or a solely political comment. It must have been made under circumstances where a reasonable person would think that others may take the threat seriously as expressing an intent to inflict harm or damage. It does not matter whether the defendant actually intended to carry out the threat or could carry out the threat.]

*Use Note*

1. *Companion animal* is defined in MCL 750.50b(1)(b).
2. This is a specific intent crime.

**[NEW] M Crim JI 33.4a Second-Degree Killing or Torturing an Animal**

(1) [The defendant is charged with the crime / You may also consider the lesser offense] of second-degree killing or torturing an animal. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant

[Choose any supported by the charges and the evidence:]

(a) intentionally [killed / tortured / mutilated, maimed, or disfigured] [a / an] [*identify vertebrate*].

[or]

(b) intentionally poisoned [a / an] [*identify vertebrate*] or caused the animal to be exposed to a poisonous substance intending that the substance be taken or swallowed.

[or]

(c) intended to cause [*identify complainant*] mental anguish or distress or intended to exert control over [*identify complainant*]<sup>1</sup>

[Select the appropriate option according to the evidence:]

(i) by [(killing / torturing / mutilating, maiming, or disfiguring) the animal / poisoning the animal or causing the animal to be exposed to a poisonous substance].

[or]

(ii) by threatening to [(kill / torture / mutilate, maim, or disfigure) the animal / poison the animal or cause the animal to be exposed to a poisonous substance].

[Read the following bracketed material only where the charge involves a threat:]

[A threat does not have to be stated in any particular terms but must express a warning of danger or harm. Further, it must have been meant as a true threat and not, for example, idle talk, a statement made in jest, or a solely political comment. It must have been made under circumstances where a reasonable person would think that others may take the threat seriously as expressing an intent to inflict harm or



damage. It does not matter whether the defendant actually intended to carry out the threat or could carry out the threat.]

[I have just described the (two / three) alternatives that the prosecutor may use to prove this element. To find that this element has been proven, you must all agree that the same alternative or alternatives has or have been proved beyond a reasonable doubt.]<sup>2</sup>

- (3) Second, that the [*identify vertebrate*] that the defendant [killed / tortured / mutilated, maimed, or disfigured / poisoned or caused to be exposed to a poisonous substance] was a companion animal.

A “companion animal” is a vertebrate commonly considered to be a pet or considered by [*identify complainant*] to be a pet.<sup>3</sup>

*Use Note*

1. This is a specific intent crime.
2. Read this paragraph only where two or three alternatives for this element were read to the jury.
3. *Companion animal* is defined in MCL 750.50b(1)(b).

**[NEW] M Crim JI 33.4b Third-Degree Killing or Torturing an Animal**

(1) [The defendant is charged with the crime / You may also consider the lesser offense] of third-degree killing or torturing an animal. To prove this charge, the prosecutor must prove the following element beyond a reasonable doubt:

(2) That the defendant

*[Choose any supported by the charges and the evidence:]*

(a) intentionally [killed / tortured / mutilated, maimed, or disfigured] [a / an] *[identify vertebrate]*.

[or]

(b) intentionally poisoned [a / an] *[identify vertebrate]* or caused the animal to be exposed to a poisonous substance intending that the substance be taken or swallowed.

[or]

(c) committed a reckless act<sup>1</sup> that the defendant knew or had reason to know would cause [an animal / (a / an) *(identify vertebrate)*] to be [killed / tortured / mutilated, maimed, or disfigured].

[or]

(d) intended to cause *[identify complainant]* mental anguish or distress or intended to exert control over *[identify complainant]*<sup>2</sup>

*[Select the appropriate option according to the evidence:]*

(i) by [(killing / torturing / mutilating, maiming, or disfiguring) the animal / poisoning the animal or causing the animal to be exposed to a poisonous substance].

[or]

(ii) by threatening to [(kill / torture / mutilate, maim, or disfigure) the animal / poison the animal or cause the animal to be exposed to a poisonous substance].

*[Read the following bracketed material only where the charge involves a threat:]*

[A threat does not have to be stated in any particular terms but must express a warning of danger or harm. Further, it must have been meant as a true threat and not, for example, idle talk, a statement made in jest,

or a solely political comment. It must have been made under circumstances where a reasonable person would think that others may take the threat seriously as expressing an intent to inflict harm or damage. It does not matter whether the defendant actually intended to carry out the threat or could carry out the threat.]

[I have just described the (two / three / four) alternatives that the prosecutor may use to prove this element. To find that this element has been proven, you must all agree that the same alternative or alternatives has or have been proved beyond a reasonable doubt.]<sup>3</sup>

*Use Note*

1. *Reckless act* is not defined in MCL 750.50b. In the context of driving offenses, it is defined as willful and wanton disregard for the safety of persons or property or knowingly disregarding the possible risks to the safety of people or property.
  2. This is a specific intent crime
3. Read this paragraph only where two, three, or four alternatives for this element were read to the jury.

**[NEW] M Crim JI 33.4c Just Cause as a Defense to Killing  
or Torturing an Animal**

- (1) The defendant claims that [he / she] had just cause to commit the acts alleged by the prosecutor. Where a person has just cause for killing or harming an animal, [he / she] is not guilty of the crime of killing or torturing an animal.
- (2) You should consider all of the evidence and the following rules when deciding whether there was just cause for the defendant's actions.
- (3) The defendant must have honestly and reasonably believed that [his / her] conduct was necessary or just, considering the circumstances as they appeared to the defendant at that time.
- (4) It is for you to decide whether those circumstances called for the defendant's conduct and whether [his / her] conduct was necessary to address those circumstances.
- (5) The defendant does not need to prove that [he / she] had just cause to kill or harm the animal. Instead, the prosecutor must prove beyond a reasonable doubt that the defendant did not have just cause to kill or harm the animal.

*Use Note*

This instruction should only be read where evidence of just cause has been introduced.

**Public Policy Position**  
**Model Criminal Jury Instructions 33.4, 33.4a, 33.4b, 33.4c**

**Support**

**Explanation:**

The Committee voted unanimously to support the proposed Model Criminal Jury Instructions 33.4, 33.4a, and 33.4b for the offenses involving killing or torturing animals, contrary to MCL 750.50b(2) to (7), and proposed Model Criminal Jury Instruction 33.4c for a “just cause” defense to such charges, as drafted.

**Position Vote:**

Voted For position: 16

Voted against position: 0

Abstained from vote: 0

Did not vote (absent): 10

**Contact Persons:**

Nimish R. Ganatra [ganatran@washtenaw.org](mailto:ganatran@washtenaw.org)

Sofia V. Nelson [snelson@sado.org](mailto:snelson@sado.org)

**Public Policy Position**  
**M Crim JI 33.4, 33.4a, 33.4b, and 33.4c**

**Support**

**Explanation:**

They are all entirely new and we all agreed that these are useful, necessary instructions.

**Position Vote:**

Voted for position: 14

Voted against position: 0

Abstained from vote: 0

Did not vote: 0

**Contact Person:** Takura N. Nyamfukudza

**Email:** [takura@cndefenders.com](mailto:takura@cndefenders.com)



## MEMORANDUM

To: SBM Communications and Member Services (CAMS) Committee  
From: Darin Day, Director of Outreach  
Date: April 11, 2023  
Re: Proposed Section Bylaws Amendments: American Indian Law Section and  
LGBTQA Law Section

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The American Indian Law Section and the LGBTQA Law Section propose to revise their respective section bylaws. Under the Supreme Court Rules Concerning the State Bar of Michigan (Rule 12, Section 2), amendments to SBM section bylaws “shall become effective when approved by the Board of Commissioners...” Rule 12 also requires section bylaws that are “not inconsistent with these Rules or the bylaws of the State Bar of Michigan.” In the BOC-approval process, the first step is CAMS review. This memo outlines the sections’ proposed bylaws revisions and provides staff analysis.

Please see next page for excerpts of the American Indian Law Section’s current bylaws, redlined to highlight the changes proposed by the section.

See also, attached, a redlined copy of the LGBTQA Law Section’s current bylaws and a “clean” copy of the proposed revised LGBTQA Law bylaws with all proposed changes accepted. Please note the LGBTQA Law Section requests a name change to the LGBTQ+ Law Section.

Upon review, staff confirms that the sections have followed all steps necessary to propose bylaws amendments in accordance with the amendment procedures set forth in each section’s current bylaws; they have met all requirements concerning notice, quorum, voting, and all related items. Staff also confirms that no amendment proposed by either section is inconsistent with Supreme Court Rules or SBM bylaws. Accordingly, staff recommends that CAMS can proceed with (1) approving the sections’ proposed bylaws revisions, and (2) recommending BOC approval by submitting this memo and both attachments to the BOC’s April 28, 2023 consent agenda.

Excerpts from the  
BYLAWS OF THE  
AMERICAN INDIAN LAW SECTION  
OF THE STATE BAR OF MICHIGAN

ARTICLE VII  
COMMITTEES

SECTION 7. COMMITTEES. The committees ~~may shall~~ consist of an Advocacy Committee, Communication and Membership Engagement Committee, and an Education Committee.

ARTICLE VIII  
LAW STUDENT ADVISOR

SECTION 1. RESPONSIBILITIES. The law students appointed by the Council shall be provided the opportunity to advise the AILS Council on law student perspectives relevant for meeting discussion and are encouraged to have the following responsibilities: student and law school engage with students, administration, and facultyment at their respective law schools by promoting and disseminating available Section resources or learning opportunities; promoting Section membership; participate in researching and/or writing of research and writing for Section Amicus Curie briefs; and planning in and/or assisting with Section meeting or events.; and advising AILS Council on law student perspectives relevant for meeting discussions.



PROPOSED REVISED  
BYLAWS OF THE LGBTQA (LGBTQ+) LAW SECTION  
OF THE STATE BAR OF MICHIGAN  
**Draft: April 10, 2023 — Redline Version**

ARTICLE I - NAME & PURPOSES

1. Name. This Section ~~shall be known as is~~ the LGBTQ+ Law Section of the State Bar of Michigan (“SBM”). ~~The~~ This acronym ~~indicates is not meant to be excluding or exclusive of any identities that are not otherwise enumerated and includes without limitation~~ Lesbian, Gay, Bisexual, Transgender, Queer, Non-binary, Intersex, Two Spirit, Aromantic, Agender, Asexualities, Pansexual, and Questioning and Allies.
  
2. Purposes. The purposes of the Section ~~shall beare~~ to review those ~~law~~laws, cases, regulations—, policies, and other legal matters that affect ~~lesbian, gay, bi-sexual, transgender, questioning and allies residents of the~~ LGBTQ+ community in this State and to promote the fair and just administration of those laws. ~~The, regulations, and policies. To accomplish these purposes, the~~ Section ~~shall will,~~ in accordance with SBM bylaws, policies, procedures, and other guidance:
  - A. endeavor to ~~accomplish these purposes by examining~~examine proposed legislation, case law, regulations, public policy, and other matters concerning ~~lesbian, gay, bi-sexual, transgender and questioning residents; promoting and of concern to~~ LGBTQ+ individuals and the LGBTQ+ community;
  - B. promote the education of Bar members ~~of the Bar~~ and the general public ~~in those areas pertaining to lesbian, gay, bi-sexual, transgender and questioning residents and by sponsoring;~~
  - C. encourage and advocate effective and thorough legal education, and the continuing education of practicing lawyers and judges;
  - D. sponsor institutes and conferences ~~and the publication of;~~
  - E. publish legal writing ~~devoted to those issues; to,~~ including amicus briefs, position papers, letters, and more;
  - F. coordinate its activities with those of other sections of the State Bar of Michigan whose activities and practice areas are ~~complimentary~~complementary to those of this Section; ~~to encourage~~ ~~assist LGBTQ+ individuals and advocate effective and thorough legal those that represent them;~~
  - G. support research, education; ~~to encourage the continued education, and collaboration by section members on legal issues impacting LGBTQ+ law of the practicing lawyer; sexual orientation and to gender identification ;~~
  - H. promote the study of LGBTQ+ law and report on changing law, regulations, and policies as they affect LGBTQ+ people and communities;

- I. afford a means of social intercourse among the lawyers of the State Bar of Michigan. To accomplish its goals, the LGBTQ+ Law Section of the State Bar of Michigan may sponsor meetings and conferences of educational value and support the publication of articles that relate to the purposes of this Section.; and
- J. promote equality under the law and access to justice for LGBTQ+ individuals.

## ARTICLE II - MEMBERSHIP AND DUES

1. Dues. Any active, inactive, emeritus or affiliate member of the State Bar of Michigan, upon Upon request to the State Bar of Michigan and upon payment of dues for the current year, ~~shall any active, inactive, emeritus, or affiliate member of the State Bar of Michigan will~~ be enrolled as a member of the Section. Dues ~~shall beare~~ payable in advance, of each fiscal year in the amount of \$45.00 ~~on or before October 1 of each year. The and as directed by the State Bar of Michigan. Council may change the~~ amount of dues ~~may be changed~~ upon a 2/3'two-thirds vote of the ~~membership of the Council. entire Council, with notice of any changes to section dues provided to SBM no later than April 1. The Council can, on a limited basis, grant financial hardship waivers to members. Any Section member whose Annual dues isare more than three (3) months past due shall will automatically cease to be a member of the Section. unless Council has approved a hardship waiver.~~
2. Newly Admitted Members. As provided in Article VII, Section 5 of the Bylaws of the State Bar of Michigan, any newly admitted member of the State Bar of Michigan ~~shall become a member~~ may select one Section of their choice in addition to the Young Lawyers Section without ~~payment of dues~~ charge for the first ~~year of his, her or~~ two years following their original admission to practice. If any newly-admitted member chooses this Section as their choice under Article VII, Section 5 of the Bylaws of the State Bar of Michigan, upon submission of a written request (or any other Article or Section of those Bylaws), then they are not required to pay dues for their first two years after admission to the State Bar of practice in Michigan.
3. Law Student Affiliates. As provided in Article VII, Section 6 of the Bylaws of the State Bar of Michigan, any law student affiliate member may become a member of the Section upon written request to the State Bar. Law student affiliates are not required to pay dues.

4. Limitations. No ~~Member of the individual~~ Section shall speak on behalf of or otherwise represent himself, herself or their self to have the authority to ~~member will~~ speak on behalf of the Section without first getting endorsement from the Council and complying in all respects with the Supreme Court Rules Concerning rules concerning the State Bar of Michigan and with the Bylaws of the State Bar of Michigan.

### ARTICLE III - SECTION MEETINGS

1. Annual Meeting. The Annual Meeting of the Section shall will be held ~~ordinarily during at~~ the annual meeting of the State Bar of Michigan in the same city or place as the annual meeting of the State Bar of Michigan, or at such other time and place as the Council may determine but determines, subject to the State Bar ~~Bylaw Article VII, Bylaws.~~ At the Annual Meeting, the Section ~~7. The Annual Meeting shall be for the election of~~ will elect Council members and ~~the transaction of such~~ transact any other business as that may come before Section members of the Section.
2. Special Meetings. The Chairperson may call a Special Meeting of the Section upon Council's approval of the Council. ~~A. The Chairperson will call a~~ Special Meeting shall be called by if the Chairperson ~~upon their Secretary receives a~~ written request to the Chairperson or Secretary/Treasurer of the Section off from at least ten (10) Active Members. ~~The Chairperson may hold~~ Special Meetings shall be held at such times and places as the Chairperson they may determine. Section members shall will receive at least ten (10) days advance ~~written~~ notice of any Special Meeting. ~~The notice shall state stating~~ the time and place of the Special Meeting and the business to be transacted, and shall will be delivered by ~~e-mail~~ email, US First Class Mail, facsimile/fax, or other means reasonably likely to provide ~~personal written~~ notice of the Special Meeting's time and place of the meeting.
3. Waiver of Notice. Notice of any ~~Special~~ Section Meeting of the Section may be waived in writing before or after the meeting. Attendance at any ~~meeting~~ Section Meeting constitutes waiver of notice of the meeting unless attendance is for the express purpose of objecting to ~~the transaction of~~ transacting any business because the meeting was not properly called or convened.
4. Quorum. ~~The~~ A majority of ~~Members~~ present in person or virtually at any Section meeting shall constitute constitutes a quorum for the transaction of business.

5. Section Action. When a quorum is present at any Section meeting, the majority vote of Active Members present in person or virtually at the meeting ~~shall~~will decide any matter brought before Section members at the meeting, except as otherwise specifically ~~provided~~ in these Bylaws.

6. Virtual Participation. ~~A Section member may participate in a Section meeting by telephone or virtual conference or other means of communication by which all persons participating in the meeting may communicate with each other if all participants are advised of the communications equipment and the names of the participants in the conference are divulged to all participants. Participation in a meeting under this section constitutes presence in person at the meeting.~~

#### ARTICLE IV – COUNCIL

1. Qualifications. ~~Each~~Except for the Law Student Affiliate Member of the Council, each member of the Council must be ~~an a~~ member in good standing of the State Bar of Michigan ~~and~~. All Council Members must be a member in good standing of the Section.

2. Number and Term. The council ~~shall~~will have ~~nine (9)~~thirteen elected members. ~~Following, including one Law Student Affiliate Member. Except for the initial terms as provided in Article IV of these Bylaws, members~~Law Student Affiliate Member of the Council ~~shall~~, Council Members will serve for three ~~(3)~~ years with terms commencing at the close of the Annual Meeting at which they were elected and ending at the close of the third succeeding Annual Meeting. ~~The Law Student Affiliate Member of the Council will serve for a one year term commencing at the close of the Annual Meeting at which they were elected and ending at the close of the succeeding Annual Meeting. of the Section.~~

3. General. At each Annual Meeting, ~~three (3)~~any vacant positions on the Council ~~shall~~will be filled. The ~~Nominations~~Nominating Committee ~~shall~~will propose nominations for membership on the Council, ~~pursuant to consistent with~~ procedures ~~noted below. Other nominations may be made by members in these Bylaws. Members~~ present at the Annual Meeting. ~~Election of the~~ may make other nominations. Council ~~shall~~members will be elected by voice vote of the ~~members of the~~ Section Members present at the Annual Meeting, unless ~~voting by written ballot is requested and approved by a majority vote of the members~~ Members present at the Annual Meeting ~~or the outcome of the election by approves a request for voting by written ballot. If the result of any~~ voice vote is indeterminable, ~~in which case voting by a written ballot is required, must be used.~~

4. Term Limits. ~~No person shall be eligible for election to the~~ Council if at the time of being so nominated, he or she has served without interruption ~~Member is not eligible to serve more than two full and consecutive 3-three-year terms immediately preceding the term for which the election is held, provided that if~~ unless the Nominating Committee ~~of the Section shall nominate a person who would otherwise be ineligible for election to the~~ nominate that Council ~~under this Section to the office of Member for Chair-Elect or, Secretary, or Treasurer, then such person shall be eligible for nomination and election to; in that event the Council for an additional term of~~ Member may be elected to and serve another three-year term.
5. Past Chairperson. The immediate past Chairperson ~~who has completed his or her term as Chairperson but~~ whose term as a ~~council~~ Council Member has not expired may continue to serve on the ~~council~~ Council until ~~his or her~~ their term expires, ~~with all voting rights thereto.~~ Past Chairpersons ~~of the Section no longer serving as a member of the Council shall automatically remain as ex-officio members of the Council so long as~~ Members if they maintain Section membership ~~in the Section.~~ Past Chairpersons whose Council terms have expired ~~shall~~ will not be included in determining whether a quorum is present ~~at any meeting~~, and they ~~shall~~ will have no right to vote on matters brought before the Council.
6. Attending Meetings/Vacancy. If any member of the Council fails to attend three ~~(3)~~ successive meetings of the Council during the fiscal year, the Council may declare the position vacant. If a position of the Council becomes vacant for any reason ~~during the term of a member~~, including upon resignation or the inability to perform the duties of the position, the remaining members of the Council ~~shall~~ will select a replacement, who ~~shall~~ will fill the seat until the next election, at which point the seat ~~shall~~ will be filled for the remaining portion of the term.
7. Nominating Committee/Nominations ~~form~~ from Floor. ~~Prior to the Annual meeting, the~~ The Nominating Committee, ~~consisting consists~~ of ~~all three Council officers and two the~~ Chairperson, Chair-Elect, Secretary, Treasurer, and either one or three additional Council members the Chairperson ~~has appointed, shall propose appoints.~~ Before the Annual Meeting, the ~~nominations~~ Nominating Committee will propose nominees for ~~the positions of members of the~~ Council Members for election at the Annual ~~meeting~~ Meeting. At least 72 hours ~~in advance of before the Annual meeting, the Nominating Committee will provide the Annual meeting, its nominations shall be provided~~ nominees' names to Section members by e-mail, ~~US Mail, fax~~ or other means reasonably likely to provide personal ~~written~~ notice to members ~~of its recommendations. Other nominations may be made from the floor by.~~ Section members present at the Annual meeting. ~~may make other nominations from the floor.~~
8. Voting/ Quorum. ~~Election~~ A majority of the Council shall be by voice vote of the members of the ~~Section~~ Members present at the Annual meeting, unless voting by written ballot is requested and approved by a majority vote of the members present at the Annual meeting or the outcome of the election by voice vote is indeterminable, in which case voting by written ballot shall be required. ~~The members of the Section, present at the Annual meeting of the Section,~~ each

Council Meeting constitutes a quorum for ~~the transaction of~~transacting business, and ~~the action of the a~~ majority of ~~the quorum~~ those Council Members present constitutes Council action of the Section.

## ARTICLE V - ELECTION OF OFFICERS

1. Officers. The Council ~~shall elected~~ will elect the following Officers at its Organizational Meeting ~~following the Annual Meeting. The term of each office shall commence at the close of the Organizational Meeting at which the officer was elected and close of the succeeding after the Section~~ Annual Meeting ~~of the Section.~~:
  - a. Chairperson,
  - b. Chairperson-Elect,
  - c. ~~Secretary/Treasurer~~ Secretary, and
  - d. Treasurer.
2. Term. ~~The Officers of the Section shall be elected to one (1) year terms by the Council at its Organizational Meeting~~ Officers' terms start immediately upon election and conclude at the close of the next Annual Meeting.
3. Voting. ~~Election of~~ Officers ~~shall~~ will be elected by voice vote of the ~~members of the~~ Council Members present at the ~~annual~~ Organizational Meeting, unless a majority of the Council Members present at the Organizational Meeting approves a request for voting by written ballot ~~is requested and approved by a majority vote of the members present at the annual Organizational Meeting or the outcome of.~~ If the election by result of any voice vote is indeterminable ~~in which case voting by a written ballot must be used. is required.~~
4. Vacancy. ~~If any office becomes vacant during the period between Annual meetings, the Council may select a replacement, who shall succeed to the full~~ replace the Officer and the successor will fulfill that office's duties and responsibilities ~~of the office. If the office of Chairperson becomes vacant and is filled by the Chair-Elect, . If the Chair-Elect will then also complete his or her own term of office. fills the vacated Chairperson's office, the office of ChairElect will not be filled.~~
5. Succession of Chair-Elect. ~~Subject to the approval of the Council at its Organizational meeting, it is anticipated that the Chairperson-Elect shall~~ The Chair-Elect is expected to succeed to the office of Chairperson ~~, subject to Council approval at its Organizational Meeting.~~

## ARTICLE VI - DUTIES OF OFFICERS

1. Chairperson. The Chairperson ~~shall-~~will:
  - a. Preside at all meetings of the Council;
  - b. Prepare and present at each Annual ~~meeting~~Meeting of the Section a report of the activities of the Section for the preceding year;
  - c. Appoint the chairpersons and members of any committees of the Section; and;
  - d. Perform such other duties as are customarily associated with the office of Chairperson, or as assigned by the Council.
  
2. Chairperson-Elect. The ~~Chair~~Chairperson-Elect ~~shall-~~will:
  - a. Succeed to the office of Chairperson if for any reason the office becomes vacant before the next Organizational Meeting;
  - b. Preside at all meetings of the Council in the absence of the Chairperson;
  - c. ~~Assume and perform the duties of the Chairperson during the disability of or after the death or resignation of the Chairperson;~~
  - d. Be responsible for the development and presentation of an educational program at the Annual ~~meeting~~Meeting; and
  - e. Perform such other duties as are customarily associated with the office of ~~Chairp-~~Chairperson-Elect or as assigned by the Council.
  
3. Secretary~~/~~. The Secretary will:
  - a. Be the custodian of all books, papers, documents, and other property of the Section, except for money and financial records;
  - b. Keep minutes and any other true record of all Section and Council meetings and proceedings and provide them to the State Bar for posting or post them on the Section's SBM site;
  - c. Preside at meetings of the Council in the absence of both the Chairperson and Chairperson-Elect;
  - d. Prepare correspondence on behalf of the Section at the Chairperson's or Council's direction; and
  - e. Perform such other duties as are customarily associated with the office of Secretary, or as assigned by the Council.
  
4. Treasurer. The ~~secretary/treasurer shall-~~Treasurer will:
  - a. Be the custodian of the books and records of the Section, including financial documents;

- b. ~~Keep a record of the Annual meeting of the Section, and the meetings of the Council;~~
- c. Preside at ~~the Annual~~ meetings of the Council in the absence of the Chairperson ~~and~~ Chairperson- Elect~~-, and Secretary;~~
- d. Keep a record of the money received and disbursed, and present a report at ~~each~~ meeting of the Council~~- and whenever the Council or the Chairperson requests;~~
- e. present a financial report to the members at the Annual meeting;
- f. ~~Prepare~~ If necessary, prepare and present a proposed budget for ~~the Council's~~ consideration ~~of the Council;~~ and
- g. Perform such other duties as are customarily associated with the office of ~~Secretary/~~Treasurer, or as assigned by the Council.

## ARTICLE VII - DUTIES AND POWERS OF THE COUNCIL

1. General. The Council ~~shall have~~has general supervision and control of ~~the Section~~ affairs ~~of the Section,~~ subject to the Supreme Court ~~Rules Concerning~~rules concerning the State Bar of Michigan and the Bylaws of the State Bar of Michigan and the Bylaws of the Section. ~~The Only~~ Council ~~shall~~may authorize ~~all~~ commitments or contracts ~~which entail the~~involving payment of ~~money~~Section funds and ~~shall~~will authorize ~~the expenditure of all monies appropriated by the Council~~expenditures for ~~the use or~~ on behalf of the Section. ~~benefit of the Section.~~
2. Committees/Chairpersons. The Council may establish ~~such~~any standing committees ~~(and subcommittees),~~ and *ad hoc* committees ~~(and subcommittees),~~ as the Council may determine from time to time are needed to further the interests and goals of the Section, ~~and no.~~ No committee, or subcommittee ~~or directorship~~ ~~shall~~will be authorized to take any action on behalf of the Council or the Section without the express approval of the Council. Upon the Executive Committee's recommendation and Council approval, the Chairperson will appoint Section Members as chairpersons to lead each committee or subcommittee and to exercise any powers the Council may give. If Council directs, the Chairperson will remove any committee or subcommittee chairperson or member.



3. Executive Committee. ~~There shall be an Executive Committee that will consist of the~~The Chairperson, Chairperson-Elect, Secretary, Treasurer, Law Student Affiliate Member, and two council members appointed by the Chairperson. ~~The~~ will comprise the Executive Committee, and the Chairperson ~~shall serve as chairperson of~~will chair the Executive Committee. The Executive Committee ~~shall have~~has the authority to conduct ~~any~~whatever business ~~as delegated from time to time by resolution of~~ the Council. ~~Additionally, the Executive Committee shall have the authority~~ delegates to it, and to conduct ~~any~~ business ~~that would normally come before the Council, provided that such action is of a nature that~~ordinarily presented to the Council if that business requires resolution ~~prior to~~before the next Council meeting. The ~~Section~~ Chairperson, ~~on behalf of the Executive Committee, shall~~ will report ~~any and all action taken by the~~ Executive Committee ~~between meetings of the Council~~actions at the next ~~succeeding~~Council meeting ~~of the Council.~~

~~Committee Chairpersons.~~ The Council, upon recommendation of the Executive Committee, shall direct the Chairperson to appoint committee chairpersons and other agents from ~~Members to perform such duties and exercise such powers as the Council may direct. The~~ Chairperson on direction from the Council shall remove any committee chairperson or other agent from any such committee.

4. Vacancies. ~~The Council, during the interim between annual meetings of the Section, may fill vacancies in the offices of the Secretary/Treasurer or Vice Chairperson, or, in the event of a vacancy in both the office of Chairperson and Vice Chairperson, then in the office of Chairperson. The Executive Committee may appoint acting officers to fill such vacancies during the interim between the occurrence of the vacancy and the next regularly scheduled or special Council meeting.~~ Advisory Board. The Council will create an Advisory Board that will meet with the Council members and any Section members who wish to be present on matters relevant to the Section's mission and will perform any task or fulfill any purpose specified in any charter Council adopts for the Advisory Board.

5. Law Student Advisory Board. The Council will create a Law Student Advisory Board comprised of students who are already State Bar of Michigan LGBTQ+ Section Members. The Law Student Advisory Board will have one member from each law school in the State of Michigan and will meet with the Council members and any Section members who wish to be present on matters relevant to the Section's mission and will perform any task or fulfill any purpose specified in any charter Council adopts for the Law Student Advisory Board.

Quorum. ~~Five (5) members of the Council present at a meeting shall constitute a quorum for the transaction of business.~~

6. Voting. ~~Members of the Council~~ members are considered present when personally present at a meeting of the they attend a Council ~~shall vote~~ Meeting in person, ~~but when or virtually.~~ If a Council Member must be absent from a Council Meeting, they may communicate to the Secretary their vote; in writing, ~~upon on~~ any proposition, to matter before the Secretary Council and ~~have it~~ their vote will be counted, ~~with the same effect~~ as if ~~cast personally they were present~~ at ~~such meetings~~ the Council Meeting. Each Council ~~member shall be~~ Member is entitled to one vote on all matters brought to ~~the Council for a~~ vote- before Council.

7. Telephonic Virtual Participation. A Council member may participate in a Council meeting by telephone or virtual conference or other means of communication by which all persons participating in the meeting may communicate with each other if all participants are advised of the communications equipment and the names of the participants in the conference are divulged to all participants. Participation in a meeting ~~pursuant to under~~ this section constitutes presence in person at the meeting.

4.8. Proposals. The Chairperson of the Section at any time may, and upon the request of any member of the Council ~~shall will~~, submit or cause to be submitted to the Council at the next occurring Council meeting; any proposal upon which the Council may be authorized to act, and the members of the Council may vote upon ~~such proposal or proposals so submitted. A majority of the votes cast on any proposal at a meeting of the Council at which a quorum is present shall constitute the binding action of the Council~~ that proposal or those proposals.

9. Meetings. The Section Chairperson ~~shall will~~ designate the time and place of the regular Council meetings. Special ~~meetings~~ Meetings may be called by the Chairperson or upon written request to the Secretary of any ~~five seven~~ members of the Council. Not less than five ~~(5)~~ days' notice of regular and ~~special meetings shall~~ Special Meetings will be given. All ~~such~~ notices ~~shall will~~ specify the date, time, and place (and in the case of a ~~special meeting~~ Special Meeting, the purpose) of ~~such special~~ each meeting). The required notice ~~shall will~~ be delivered ~~by mail by email, US Mail, facsimile/fax, or other means reasonably likely to provide personal written notice of the time and place of~~ the each meeting.

10. Action By Unanimous Written Consent. Any action that may be taken at any regular or ~~special meeting~~ Special Meeting may be taken by unanimous written consent provided a record of the consent of each Council member is registered.

## ARTICLE VIII - MISCELLANEOUS

1. Fiscal Year. The fiscal year of the Section ~~shall~~will be the same as the State Bar of Michigan.  
~~All bills incurred by the Section, before~~
2. Billings. Before being forwarded to the Treasurer or the Executive Secretary of the State Bar of Michigan for payment, ~~shall be approved by the Chairperson or by the Secretary/Treasurer, or, if the Council shall direct, by~~directs both of them. ~~No salary or compensation shall be paid for serving as a, will approve all bills the~~ Section Officer, ~~member of the Council, or member of any committee~~incurs.
3. Salary. ~~No Officer, Council Member, Committee Chairperson, or committee member will receive any salary or compensation for serving in their role. They may, however, submit a request for reimbursement of bills and expenses paid on behalf of the Section, subject to Council approval.~~

## ARTICLE IX - AMENDMENTS

1. These Bylaws may be amended at any ~~annual meeting of the Section~~Annual Meeting or at any Special Meeting by a majority vote of the members of the Section present and voting, provided ~~such~~any proposed amendment ~~shall~~will first have been approved by a majority of the Council; and provided, further, that no amendment ~~so adopted shall~~will become effective until approved by the Commissioners of the State Bar of Michigan.  
~~4.~~
2. Any proposed amendment ~~shall~~must be submitted in writing to the Council ~~in the form~~by way of a petition signed by at least five ~~(5) members of the~~ Section ~~in time~~members for it to be considered by the Council at a ~~regular~~regularly scheduled meeting before ~~the annual meeting of the Section~~any Annual Meeting or Special Meeting at which ~~it is to~~any amendment will be ~~voted upon~~considered. The Council ~~shall~~will prepare recommendations, together with a complete and accurate text of proposed amendments, ~~which shall be~~ ~~shall be provided and will provide them~~ to all Section members by e-mail, ~~US Mail, fax~~ or other means reasonably ~~means~~ likely to provide personal ~~written~~ notice of ~~the~~any proposed amendment ~~-(s)~~.  
~~2.~~

First adopted: 2016

Revised: April 28, 2023

PROPOSED REVISED  
BYLAWS OF THE LGBTQA (LGBTQ+) LAW SECTION  
OF THE STATE BAR OF MICHIGAN  
**Draft: April 10, 2023 — Clean Version**

ARTICLE I - NAME & PURPOSES

1. Name. This Section is the LGBTQ+ Law Section of the State Bar of Michigan (“SBM”). This acronym is not meant to be excluding or exclusive of any identities that are not otherwise enumerated and includes without limitation Lesbian, Gay, Bisexual, Transgender, Queer, Non-binary, Intersex, Two Spirit, Aromantic, Agender, Asexualities, Pansexual, and Questioning.
2. Purposes. The purposes of the Section are to review those laws, cases, regulations, policies, and other legal matters that affect the LGBTQ+ community in this State and to promote the fair and just administration of those laws, regulations, and policies. To accomplish these purposes, the Section will, in accordance with SBM bylaws, policies, procedures, and other guidance:
  - A. endeavor to examine proposed legislation, case law, regulations, public policy, and other matters concerning and of concern to LGBTQ+ individuals and the LGBTQ+ community;
  - B. promote the education of Bar members and the general public;
  - C. encourage and advocate effective and thorough legal education, and the continuing education of practicing lawyers and judges;
  - D. sponsor institutes and conferences;
  - E. publish legal writing, including amicus briefs, position papers, letters, and more;
  - F. coordinate activities with those of other sections of the State Bar of Michigan whose activities and practice areas are complementary to those of this Section;
  - G. support research, education, and collaboration by section members on legal issues impacting LGBTQ+ law;
  - H. promote the study of LGBTQ+ law and report on changing law, regulations, and policies as they affect LGBTQ+ people and communities;
  - I. afford a means of social intercourse among lawyers of the State Bar of Michigan; and
  - J. promote equality under the law and access to justice for LGBTQ+ individuals.

ARTICLE II - MEMBERSHIP AND DUES

1. Dues. Upon request to the State Bar of Michigan and upon payment of dues for the current year, any active, inactive, emeritus, or affiliate member of the State Bar of Michigan will be enrolled as a member of the Section. Dues are payable in advance of each fiscal year in the amount of \$45.00 and as directed by the State Bar of Michigan. Council may change the amount of dues upon a two-thirds vote of the entire Council, with notice of any changes to section dues provided to SBM no later than April 1. The Council can, on a limited basis, grant financial hardship waivers to members.

2. Newly Admitted Members. As provided in Article VII, Section 5 of the Bylaws of the State Bar of Michigan, any newly admitted member of the State Bar of Michigan may select one Section of their choice in addition to the Young Lawyers Section without charge for the first two years following their original admission to practice. If any newly-admitted member chooses this Section as their choice under Article VII, Section 5 of the Bylaws of the State Bar of Michigan (or any other Article or Section of those Bylaws), then they are not required to pay dues for their first two years after admission to practice in Michigan.
3. Law Student Affiliates. As provided in Article VII, Section 6 of the Bylaws of the State Bar of Michigan, any law student affiliate member may become a member of the Section upon written request to the State Bar. Law student affiliates are not required to pay dues.
4. Limitations. No individual Section member will speak on behalf of the Section without first getting endorsement from the Council and complying in all respects with the Supreme Court rules concerning the State Bar of Michigan and with the Bylaws of the State Bar of Michigan.

### ARTICLE III - SECTION MEETINGS

1. Annual Meeting. The Annual Meeting of the Section will be held at the time and place the Council determines, subject to the State Bar Bylaws. At the Annual Meeting, the Section will elect Council members and transact any other business that may come before Section members.
2. Special Meetings. The Chairperson may call a Special Meeting of the Section upon Council's approval. The Chairperson will call a Special Meeting if the Chairperson or Secretary receives a written request from at least ten Active Members. The Chairperson may hold Special Meetings at times and places as they may determine. Section members will receive at least ten days advance notice of any Special Meeting stating the time and place of the Special Meeting and the business to be transacted, and will be delivered by email, US First Class Mail, facsimile/fax, or other means reasonably likely to provide notice of Special Meeting's time and place.
3. Waiver of Notice. Notice of any Section Meeting may be waived in writing before or after the meeting. Attendance at any Section Meeting constitutes waiver of notice of the meeting unless attendance is for the express purpose of objecting to transacting any business because the meeting was not properly called or convened.
4. Quorum. A majority of Members present in person or virtually at any Section meeting constitutes a quorum.
5. Section Action. When a quorum is present at any Section meeting, the majority vote of Active Members present in person or virtually at the meeting will decide any matter brought before Section members at the meeting, except as otherwise specifically provided in these Bylaws.

6. Virtual Participation. A Section member may participate in a Section meeting by telephone or virtual conference or other means of communication by which all persons participating in the meeting may communicate with each other if all participants are advised of the communications equipment and the names of the participants in the conference are divulged to all participants. Participation in a meeting under this section constitutes presence in person at the meeting.

#### ARTICLE IV – COUNCIL

1. Qualifications. Except for the Law Student Affiliate Member of the Council, each member of the Council must be a member in good standing of the State Bar of Michigan. All Council Members must be a member in good standing of the Section.
2. Number and Term. The council will have thirteen elected members, including one Law Student Affiliate Member. Except for the Law Student Affiliate Member of the Council, Council Members will serve for three years with terms commencing at the close of the Annual Meeting at which they were elected and ending at the close of the third succeeding Annual Meeting. The Law Student Affiliate Member of the Council will serve for a oneyear term commencing at the close of the Annual Meeting at which they were elected and ending at the close of the succeeding Annual Meeting.
3. General. At each Annual Meeting, any vacant positions on the Council will be filled. The Nominating Committee will propose nominations for membership on the Council, consistent with procedures in these Bylaws. Members present at the Annual Meeting may make other nominations. Council members will be elected by voice vote of the Section Members present at the Annual Meeting, unless a majority of the Members present at the Annual Meeting approves a request for voting by written ballot. If the result of any voice vote is indeterminable, a written ballot must be used.
4. Term Limits. A Council Member is not eligible to serve more than two full and consecutive three-year terms unless the Nominating Committee nominates that Council Member for Chair-Elect, Secretary, or Treasurer; in that event the Council Member may be elected to and serve another three-year term.
5. Past Chairperson. The immediate past Chairperson whose term as a Council Member has not expired may continue to serve on the Council until their term expires. Past Chairpersons automatically remain as ex-officio Council Members if they maintain Section membership. Past Chairpersons whose Council terms have expired will not be included in determining whether a quorum is present, and they will have no right to vote on matters brought before the Council.
6. Attending Meetings/Vacancy. If any member of the Council fails to attend three meetings of the Council during the fiscal year, the Council may declare the position vacant. If a position of the Council becomes vacant for any reason, including upon resignation or the inability to perform the duties of the position, the remaining members of the Council will select a replacement who will fill the seat until the next election, at which point the seat will be filled for the remaining portion of the term.

7. Nominating Committee/Nominations from Floor. The Nominating Committee consists of the Chairperson, Chair-Elect, Secretary, Treasurer, and either one or three additional Council members the Chairperson appoints. Before the Annual Meeting, the Nominating Committee will propose nominees for Council Members for election at the Annual Meeting. At least 72 hours before the Annual meeting, the Nominating Committee will provide the nominees' names to Section members by e-mail or other means reasonably likely to provide personal notice to members. Section members present at the Annual meeting may make other nominations from the floor.
8. Quorum. A majority of Council Members present at each Council Meeting constitutes a quorum for transacting business, and a majority of those Council Members present constitutes Council action.

## ARTICLE V - ELECTION OF OFFICERS

1. Officers. The Council will elect the following Officers at its Organizational Meeting after the Section Annual Meeting:
  - a. Chairperson,
  - b. Chairperson-Elect,
  - c. Secretary, and
  - d. Treasurer.
2. Term. Officers' terms start immediately upon election and conclude at the close of the next Annual Meeting.
3. Voting. Officers will be elected by voice vote of the Council Members present at the Organizational Meeting, unless a majority of the Council Members present at the Organizational Meeting approves a request for voting by written ballot. If the result of any voice vote is indeterminable, a written ballot must be used.
4. Vacancy. If any office becomes vacant during the period between Annual meetings, Council may replace the Officer and the successor will fulfill that office's duties and responsibilities. If the Chair-Elect fills the vacated Chairperson's office, the office of Chair-Elect will not be filled.
5. Succession of Chair-Elect. The Chair-Elect is expected to succeed to the office of Chairperson, subject to Council approval at its Organizational Meeting.

## ARTICLE VI - DUTIES OF OFFICERS

1. Chairperson. The Chairperson will:
  - a. Preside at all meetings of the Council;
  - b. Prepare and present at each Annual Meeting of the Section a report of the activities of the Section for the preceding year;
  - c. Appoint the chairpersons and members of any committees of the Section; and
  - d. Perform such other duties as are customarily associated with the office of Chairperson, or as assigned by the Council.
  
2. Chairperson-Elect. The Chairperson-Elect will:
  - a. Succeed to the office of Chairperson if for any reason the office becomes vacant before the next Organizational Meeting;
  - b. Preside at all meetings of the Council in the absence of the Chairperson;
  - c. Be responsible for the development and presentation of an educational program at the Annual Meeting; and
  - d. Perform such other duties as are customarily associated with the office of Chairperson-Elect or as assigned by the Council.
  
3. Secretary. The Secretary will:
  - a. Be the custodian of all books, papers, documents, and other property of the Section, except for money and financial records;
  - b. Keep minutes and any other true record of all Section and Council meetings and proceedings and provide them to the State Bar for posting or post them on the Section's SBM site;
  - c. Preside at meetings of the Council in the absence of both the Chairperson and Chairperson-Elect;
  - d. Prepare correspondence on behalf of the Section at the Chairperson's or Council's direction; and
  - e. Perform such other duties as are customarily associated with the office of Secretary, or as assigned by the Council.
  
4. Treasurer. The Treasurer will:
  - a. Be the custodian of the books and records of the Section, including financial documents;
  - b. Preside at meetings of the Council in the absence of the Chairperson, Chairperson-Elect, and Secretary;
  - c. Keep a record of the money received and disbursed, and present a report at each meeting of the Council and whenever the Council or the Chairperson requests;
  - d. Present a financial report to the members at the Annual meeting;
  - e. If necessary, prepare and present a proposed budget for Council's consideration; and
  - f. Perform such other duties as are customarily associated with the office of Treasurer, or as assigned by the Council.



## ARTICLE VII - DUTIES AND POWERS OF THE COUNCIL

1. General. The Council has general supervision and control of Section affairs, 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. Only Council may authorize commitments or contracts involving payment of Section funds and will authorize all expenditures for or on behalf of the Section.
2. Committees/Chairpersons. The Council may establish any standing committees and subcommittees, and *ad hoc* committees and subcommittees, as the Council may determine from time to time are needed to further the interests and goals of the Section. No committee or subcommittee will be authorized to take any action on behalf of the Council or the Section without the express approval of the Council. Upon the Executive Committee's recommendation and Council approval, the Chairperson will appoint Section Members as chairpersons to lead each committee or subcommittee and to exercise any powers the Council may give. If Council directs, the Chairperson will remove any committee or subcommittee chairperson or member.
3. Executive Committee. The Chairperson, Chairperson-Elect, Secretary, Treasurer, Law Student Affiliate Member, and two council members appointed by the Chairperson will comprise the Executive Committee, and the Chairperson will chair the Executive Committee. The Executive Committee has the authority to conduct whatever business the Council delegates to it, and to conduct business ordinarily presented to the Council if that business requires resolution before the next Council meeting. The Chairperson will report all Executive Committee actions at the next Council meeting
4. Advisory Board. The Council will create an Advisory Board that will meet with the Council members and any Section members who wish to be present on matters relevant to the Section's mission and will perform any task or fulfill any purpose specified in any charter Council adopts for the Advisory Board.
5. Law Student Advisory Board. The Council will create a Law Student Advisory Board comprised of students who are already State Bar of Michigan LGBTQ+ Section Members. The Law Student Advisory Board will have one member from each law school in the State of Michigan and will meet with the Council members and any Section members who wish to be present on matters relevant to the Section's mission and will perform any task or fulfill any purpose specified in any charter Council adopts for the Law Student Advisory Board.
6. Voting. Council members are considered present when they attend a Council Meeting in person or virtually. If a Council Member must be absent from a Council Meeting, they may communicate to the Secretary their vote in writing on any matter before the Council and their vote will be counted as if they were present at the Council Meeting. Each Council Member is entitled to one vote on all matters brought to a vote before Council.

7. Virtual Participation. A Council member may participate in a Council meeting by telephone or virtual conference or other means of communication by which all persons participating in the meeting may communicate with each other if all participants are advised of the communications equipment and the names of the participants in the conference are divulged to all participants. Participation in a meeting under this section constitutes presence in person at the meeting.
8. Proposals. The Chairperson of the Section at any time may, and upon the request of any member of the Council will, submit or cause to be submitted to the Council at the next occurring Council meeting any proposal upon which the Council may be authorized to act, and the members of the Council may vote upon that proposal or those proposals.
9. Meetings. The Section Chairperson will designate the time and place of the regular Council meetings. Special Meetings may be called by the Chairperson or upon written request to the Secretary of any seven members of the Council. Not less than five days' notice of regular and Special Meetings will be given. All notices will specify the date, time, and place (and in the case of a Special Meeting, the purpose) of each meeting. The required notice will be delivered by email, US Mail, facsimile/fax, or other means reasonably likely to provide personal notice of the time and place of each meeting.
10. Action By Unanimous Written Consent. Any action that may be taken at any regular or Special Meeting may be taken by unanimous written consent provided a record of the consent of each Council member is registered.

#### ARTICLE VIII - MISCELLANEOUS

1. Fiscal Year. The fiscal year of the Section will be the same as the State Bar of Michigan.
2. Billings. Before being forwarded to the Treasurer or the Executive Secretary of the State Bar of Michigan for payment, the Chairperson or the Treasurer, or if the Council directs both, will approve all bills the Section incurs.
3. Salary. No Officer, Council Member, Committee Chairperson, or committee member will receive any salary or compensation for serving in their role. They may, however, submit a request for reimbursement of bills and expenses paid on behalf of the Section, subject to Council approval.

#### ARTICLE IX – AMENDMENTS

1. These Bylaws may be amended at any Annual Meeting or at any Special Meeting by a majority vote of the members of the Section present and voting, provided any proposed amendment will first have been approved by a majority of the Council; and provided, further, that no amendment will become effective until approved by the Commissioners of the State Bar of Michigan.

2. Any proposed amendment must be submitted in writing to the Council by way of a petition signed by at least five Section members for it to be considered by the Council at a regularly scheduled meeting before any Annual Meeting or Special Meeting at which any amendment will be considered. The Council will prepare recommendations, together with a complete and accurate text of proposed amendments and will provide them to all Section members by e-mail or other means reasonably likely to provide personal notice of any proposed amendment(s).

First adopted: 2016

Revised: April 28, 2023

State Bar of Michigan Board of Commissioners  
2023 Timeline for Officer Elections

April 28, 2023	Distribution of materials regarding Timeline, Procedure, and Matrix
June 6, 2023	Letters of Intent and completed Matrix due to State Bar President and Executive Director
July 14, 2023	Board book sent to Commissioners that will include the Letters of Intent and Matrices of SBM Officer Candidates
July 21, 2023	Candidate Forum (5 minutes to address Board and (BOC Meeting) 15 minutes total Q & A  Election of Officers

# Memo

To: Board of Commissioners  
From: Officer Election Committee (Bruce Courtade, Chair; Kim Cahill; Francine Cullari; Michael Hohausser; Tony Jenkins; Craig Lubben; Angelique Strong Marks; Debra Walling)  
cc: President Tom Cranmer, Janet Welch  
Date: June 2006  
Re: **RECOMMENDED ELECTION PROCEDURES FOR 2006 AND BEYOND**

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The Officer Election Committee (“the Committee”) was initially asked to consider whether, in light of a proposal from the President’s Advisory Council (“the Council”), the rules concerning the election of State Bar officers should be amended. After studying the “Supreme Court Rules Concerning the State Bar of Michigan” (“the Rules”), the Bylaws of the State Bar of Michigan (“the Bylaws”)<sup>1</sup>, and discussing their own personal views of and frustrations with the existing process, the Committee recommended that the rules governing elections not be changed, but that the Board of Commissioners (“the Board”) should consider certain procedural and educational changes to add some transparency to the process by which new generations of SBM Officers are selected, and specifically rejected the idea of extending the term limits of the Board or of the “grandfathering” of Officers beyond the level set forth in the existing Rules.

The Committee’s Report was submitted on April 4, 2006, and unanimously adopted by the Board of Commissioners at its April 7 meeting. Thereafter, the Committee was charged with developing recommendations to the Board of specific procedural and educational changes to the election process that would address those concerns raised in the Committee’s April 4, 2006 Report.

## **Summary of Recommendations**

The Committee believes that the Board should adopt three changes to the current system of nominating and electing State Bar officers. Because the Committee does not believe that there is adequate time to implement all of the proposed changes before this year’s elections. Therefore, we propose a “phase-in” as set forth more fully below.

1. All non-incumbent officers who are seeking election to “the Chairs” must submit a letter of interest to the Executive Director and President of the State Bar by a set date each year. After 2006, this deadline will be 45 days before the July Board meeting. However, for this year, letters of interest must be submitted by June 28, 2006 (30 days before the elections at the July 28 Board meeting). Requirements for the letter of interest are set forth more fully below. These letters of interest, along with any attachments thereto and the matrices described in the third recommendation, below, must be submitted to the Board along with the Agenda and meeting materials that are sent to the Board before the meeting in which the elections are held each year.

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<sup>1</sup> A copy of relevant sections of the Rules and Bylaws is attached as Exhibit #1.

2. A “candidates’ forum” should take place at the Board meeting in which elections are held each year. The Committee recommends that each candidate be given up to 5 minutes to present his or her qualifications for election. After each of the candidates has spoken, the Committee recommends that a “question and answer” session of at least 15 minutes’ duration be held, with each candidate allowed not more than one minute to answer each question presented by those in attendance at the meeting. This should be implemented beginning in July 2006.
3. For elections beginning in 2007, the Committee, with Staff input, intends to develop a matrix that all non-incumbent candidates for office must fill out and submit along with their letters of interest. The matrix will focus on issues such as: length of service on the Board; prior Board experience (i.e., leadership roles or projects undertaken for the Bar); attendance at Board and committee meetings; etc. The matrices for all candidates shall be submitted to the Board at or before the meeting in which the officer elections take place.

The Committee believes that these procedural rules may be adopted by the Board without need for amending the Bylaws.

### Discussion

The Committee met via teleconference after the last Board meeting. A number of suggestions for how to make the election process more transparent and meaningful were discussed. One suggestion that had been raised in the initial Committee Report (the use of a nominating committee) was discussed at length. After considering the benefits and disadvantages of that option, the Committee decided not to recommend the adoption of a nominating committee at this time. Rather, the Committee believes that the proposals set forth below all would have a more positive impact than use of a nominating committee process, and are less fraught with potential risks experienced by many groups that use a nominating committee.

Therefore, the Committee decided to recommend the adoption of three specific changes to the manner in which officer elections are handled, and to wait to see whether those proposals sufficiently address the issues raised in the Committee’s prior Report. If necessary, the issue of using a nominating committee can be re-evaluated if it is determined that the proposals set forth below have failed to adequately address Board concerns about the election process.

#### **1. Recommendation #1: Letters of Interest.**

One of the issues raised by the Board and in the Committee meetings was the impression that the current election process gives the impression that the officer elections are a *fait accompli* after *sub rosa* discussions eliminate candidates who might be interested, leaving a single candidate about whose qualifications many voting Board members may know little or nothing.<sup>2</sup> The Committee believes that this issue can be easily remedied by requiring all persons interesting in seeking office to submit a simple letter of interest identifying the office to which they seek election and highlighting their abilities, background and experience that they feel qualify them for that role within the organization.

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<sup>2</sup> This Report’s drafter apologizes to the Plain English Committee for a wordy sentence involving two italicized foreign terms.

**a. Letters of Interest for Election as Treasurer.**

Therefore, the Committee recommends adoption of a rule or policy that all non-incumbent officers who are seeking election to office of State Bar Treasurer (and therefore entry into “the Chairs”) must submit a letter of interest to the Executive Director and President of the State Bar by a set date each year. After 2006, this deadline will be 45 days before the July Board meeting. However, for this year, letters of interest must be submitted by June 28, 2006 (30 days before the elections at the July 28 Board meeting). Requirements for the letter of interest are set forth more fully below. These letters of interest, along with any attachments thereto and the matrices described in the third recommendation, below, must be submitted to the Board along with the Agenda and meeting materials that are sent to the Board before the meeting in which the elections are held each year.

**b. Letters of Interest by Incumbent Officers for Positions Other than Treasurer.**

The Committee is aware that, over time, an informal but widely-acknowledged pattern has led to a *de facto* practice that a Commissioner who is elected Treasurer generally embarks on a six-year procession through “the Chairs” culminating with his or her year as president.<sup>3</sup> Therefore, under most circumstances, incumbent officers seeking to ascend to the next level of “the chairs” will not need to submit a letter of interest for that position: absent an expression of interest to the contrary, officers will be presumed to seek elevation to the next level of “the Chairs.”

However, under the Rules, the only officers who automatically ascend “the Chairs” without standing for election to the next level each year are the vice-president and president-elect. Therefore, it is possible that a sitting secretary or treasurer might either decide not to seek elevation in the chairs during a given year, or face a challenge from a Board member who is not an officer. Theoretically, a sitting treasurer could also opt to bypass his or her year as secretary and run for the office of vice-president.

Thus, the Committee recommends that if any candidate, in compliance with the 45-day deadline set forth above,<sup>4</sup> submits a letter of interest seeking election to a position in “the Chairs” other than as Treasurer and/or outside of the normal six-year progression, the President shall notify the incumbent officer who would normally be seeking elevation to the now-contested seat in writing of the possibility of a disputed election. That incumbent officer must then prepare and submit to the SBM’s Executive Director and President his or her own letter of interest<sup>5</sup> by not later than 30 days before the SBM meeting at which the election is to be held. (For 2006, the deadline for submitting an incumbent officer’s letter of interest will be July 15).

**c. Minimal Requirements for Letters of Interest.**

Each potential candidate is responsible for including in his or her information that he or she believes is sufficient to convince other Board members that the candidate is qualified to serve in whatever office he or she seeks. However, *at a minimum*, the letters of interest should include the following information:

- The office sought;
- A summary of the candidate’s history on the Board of Commissioners;

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<sup>3</sup> Year One: Stand for election as Treasurer  
Year Two: Serve as Treasurer; seek election as Secretary  
Year Three: Serve as Secretary; seek election as Vice President  
Year Four: Serve as Vice President  
Year Five: At conclusion of Vice President, ascend to President-Elect  
Year Six: Serve as SBM President

<sup>4</sup> June 28, 2006 for the 2006 elections.

<sup>5</sup> And, for elections occurring after 2006, a Qualifications Matrix as discussed below.

- A discussion of the candidate's attendance at and participation in Board and Committee meetings;
- A summary of the candidate's service to the State Bar and (if applicable) local bar associations;
- An overview of the candidate's non-Bar-related experience of community service; and
- A statement, not exceeding 250 words, of why the candidate wants to attain the position for which he or she is seeking election, and what unique ideas or thoughts the candidate has for ways in which to improve the SBM.

All candidates must also include a copy of their résumé or curriculum vitae with their letter of interest.

**d. Presentation of Letters of Interest to the Board.**

The candidates' letters of interest, along with any attachments thereto and the matrices described below, must be submitted to the Board along with the Agenda and meeting materials that are sent to the Board before the meeting in which the elections are held each year.

**2. Recommendation #2: Candidates' Forum.**

In addition to general comments regarding the lack of knowledge of which Board members might be interested in running for office, the Committee heard and received comments from several people suggesting frustration with the lack of opportunity to talk to the candidates about the strengths that they would bring to office if elected. We believe that this concern could be easily ameliorated by having all candidates for contested elections participate in a "Candidates' Forum" held as part of the Board meeting at which elections are held (including meetings at which elections are held to fill vacancies in SBM offices that occur outside the normal election cycle).

The Committee recommends that each candidate for each contested election be given up to 5 minutes to present his or her qualifications for election. After each of the candidates has spoken, the Committee recommends that a "question and answer" session of at least 15 minutes' duration be held, with each candidate allowed not more than one minute to answer each question presented by those in attendance at the meeting. This should be implemented beginning in July 2006.

**3. Recommendation #3: Qualifications Matrix.**

Another method of assuring that the Board has adequate and useful information concerning the candidates' qualifications and abilities would be the use of a matrix to provide an objective overview of data regarding their past experience. The Committee discussed at length what kinds of information should be included in any such matrix. Among the suggestions were:

- Law School and date of graduation;
- Year of admission to Michigan Bar;
- Primary areas of practice;
- Past Bar service (state and local);
- Board of Commissioners' experience:
  - Year first elected or appointed;
  - Number of terms on the Board; and
  - Board Committees.
- Attendance at Board meetings during last three years;
- Non-Board, non-Bar volunteer experience.

Once completed by each candidate, the matrix must be submitted to the SBM President and Executive Director along with the letter of interest discussed above. The Executive Director shall then



delegate to appropriate staff the duty to verify that the information regarding Board attendance and experience is correct.

The Committee did not have time to develop a matrix before the 2006 SBM Officer elections. However, for elections beginning in 2007, the Committee, with Staff input, intends to develop a matrix that all non-incumbent candidates for office must fill out and submit along with their letters of interest. The matrix will focus on issues such as: length of service on the Board; prior Board experience (i.e., leadership roles or projects undertaken for the Bar); attendance at Board and committee meetings; etc. The matrices for all candidates shall be submitted to the Board at or before the meeting in which the officer elections take place.

**4. The Committee's Proposals Do Not Appear To Require Changes To The Supreme Court Rules Or To The State Bar's Bylaws.**

Other than the previously-discussed prohibition on a Secretary or Treasurer serving more than three consecutive terms found in §8 and §11's term limits, the SBM Bylaws are silent regarding the procedure for electing officers. Similarly, the Supreme Court Rules Governing the State Bar of Michigan offer no guidance as to the mechanics of how to elect officers.<sup>6</sup>

In the absence of any Supreme Court Rule on point, the Committee believes that the Board is given the authority, pursuant to Rule 5, to adopt the proposals suggested herein. That Rule provides, in pertinent part:

Section 1 – Powers, Functions, and Duties.

(a) The Board of Commissioners shall

\* \* \*

(6) receive and review committee and section reports and recommendations proposing action by the board and take interim or final action that the board finds feasible, in the public interest, and germane to the functions and purposes of the State Bar; ...

The Committee proposals are in the public interest and germane to the functions of the State Bar. The public interest is promoted by assuring that State Bar officers, who bear more responsibility for the day-to-day and long-term operations of the Bar than any other members of the Board, are chosen in a manner that reflects openness and learned decision-making. Assuring that members of the Board who are asked to select the officers are well-informed as to their character and abilities likewise has a direct and substantial influence on the functions and purposes of the Bar.

**CONCLUSION**

The Committee's proposals offer simple but effective tools to address the concerns that Board members do not know enough about the election process or the individuals who seek election to "the Chairs." The Committee therefore requests that the Board adopt and implement the Proposals in accordance with the timelines set forth above.

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<sup>6</sup> Rule 7 provides, in part, that the Board shall elect certain officers, states when they must be elected, and explains that officer vacancies shall be filled by an election of the Board. However, the Rule provides no specific requirement regarding how the elections are to be carried out.

## STATE BAR OF MICHIGAN OFFICER CANDIDATE FORM

(TO BE COMPLETED BY CANDIDATE – PLEASE ATTACH EXTRA SHEETS IF NECESSARY TO COMPLETE YOUR RESPONSES)

<b>NAME</b>			
<b>OFFICE SOUGHT</b>			
<b>EMPLOYER</b>			
<b>TITLE &amp; PRIMARY PRACTICE AREA</b>			
<b>SECTION 1: Educational Background</b>			
1. Undergraduate school(s)			
2. Years of attendance or graduation			
3. Degree(s)			
4. Law School			
5. Year of Graduation			
<b>SECTION 2: Bar Admission</b>			
1. State(s) admitted to practice; year of admission for each			
<b>SECTION 3: State Bar of Michigan Activities</b>			
<b>Board of Commissioners</b>			
1. Year First Elected/Appointed			
2. Years served (i.e., 2000 – 2003)			
3. Leadership activities (year) <u>Example:</u> Treasurer (2006-2007)			
4. Date current term expires			
5. Eligible for Re-Election?			
<b>Representative Assembly</b>			
1. Year First Elected/Appointed			
2. Years served (i.e., 2000 – 2003)			
3. Leadership activities (year) <u>Example:</u> Clerk (2006-2007)			
<b>Sections/Committees</b>			
1. What Sections or Committees of the State Bar of Michigan do you belong to?			
2. Please describe briefly any leadership roles you have filled on these Sections or committees			

Name: \_\_\_\_\_

Candidate for: \_\_\_\_\_

SECTION 4: Other Bar Activities	
1. To which national, local or affinity bar associations do you belong? (For each, please state the date on which you became a member).	
2. What leadership roles have you performed for each?	
SECTION 5: Non-Bar Activities	
1. On what other for-profit or non-profit Boards, groups or organizations have you served? (For each, please state the date on which you became a member).	
2. Please describe briefly any leadership roles you have filled on these Boards.	
SECTION 6: Other Achievements of Note	
SECTION 7: Publications	
1. Have you written any articles, commentaries, or books that have been published? If so,	
2. Provide titles, publishers and dates of publication for each such published piece.	

**ACKNOWLEDGEMENT AND CERTIFICATION**

I hereby acknowledge and certify that the foregoing information is true to the best of my knowledge and belief.

\_\_\_\_\_  
Candidate Signature

Date: \_\_\_\_\_

+++++  
Verification of Candidate's Attendance at State Bar Board of Commissioners' Meetings (To be Completed by State Bar Staff)

In the past three (3) years, how many meetings of the State Bar Board of Commissioners has the candidate been eligible to attend?	
Of the meetings identified above, how many meetings of the State Bar Board of Commissioners has the candidate actually attended?	
Percentage of attendance at Board of Commissioners meetings (past three years)	

**ACKNOWLEDGEMENT AND CERTIFICATION**

I hereby acknowledge and certify that the foregoing information is true to the best of my knowledge and belief.

\_\_\_\_\_  
State Bar of Michigan Staff Signature

Date: \_\_\_\_\_

**CALENDAR**  
**STATE BAR OF MICHIGAN REPRESENTATIVE ASSEMBLY**  
**SATURDAY, APRIL 29, 2023**

\*Denotes Action Items

**9:30 A.M. MEETING BEGINS**

- 9:30 a.m. 1. Introductory Matters
- A. Call to order by Vice-Chair Yolanda M. Bennett with Parliamentarian Hon. John M. Chmura
- Ms. Yolanda M. Bennett, Vice-Chair, Representative Assembly  
[Lansing Board of Water and Light, 1110 S Pennsylvania Ave., Lansing, MI 48912-1635  
phone: (517) 702-7056; email: Yolanda.bennett@lbwl.com]
- Hon. John M. Chmura, Parliamentarian  
[37th District Court, 8300 Common Rd., # 104, Warren, MI 48093  
phone: (586) 574-4925; email: jchmura@37thdistrictcourt.org]
- B. Certification that a quorum is present by Assembly Clerk, John W. Reiser, III  
[Ann Arbor City Attorney's Office, 301 E Huron St., Fl. 3, Ann Arbor, MI 48104-1908  
phone: (734) 794-6184; email: jreiser@a2gov.org]
- C. Adoption of proposed calendar by Rules & Calendar Member, Deborah Blair  
[Wayne County Prosecutor's Office, 1441 Saint Antoine St., Fl. 11, Detroit, MI 48226-2362  
phone: (313) 224-8861; email: dlblair@waynecounty.com]
- D. Approval of the September 17, 2022 Summary of Proceedings
- 9:35 a.m. 2. \*Filling Vacancies  
Phillip Louis Strom, Chair, Assembly Nominating & Awards Committee  
[City of Grand Rapids, 300 Monroe Ave. NW Unit 1, Grand Rapids, MI 49503-2206  
phone: (616) 456-4000; email: pstrom@grand-rapids.mi.us]
- 9:40 a.m. 3. \*Approval of 2023 Award Recipients  
Phillip Louis Strom, Chair, Assembly Nominating & Awards Committee  
[City of Grand Rapids, 300 Monroe Ave. NW Unit 1, Grand Rapids, MI 49503-2206  
phone: (616) 456-4000; email: pstrom@grand-rapids.mi.us]
- 9:45 a.m. 4. Chair's Report  
Gerrow D. Mason, Chair, Representative Assembly  
[Gerry Mason Law Office, PLLC, 1700 Busha Hwy., Marysville, MI 48040-1801  
phone: (810) 989-0057; email: gdblues@yahoo.com]
- 9:50 a.m. 5. Access to Justice Campaign – Supporting Civil Legal Aid Throughout Michigan  
Presenter:  
Jennifer S. Bentley, Executive Director  
[Michigan State Bar Foundation, 306 Townsend St., Lansing, MI 48933-2012  
phone: (517) 346-6401; email: jennifer@msbf.org]

- 10:05 a.m. 6. Face of Justice Program  
Presenter:  
Gregory P. Conyers, Diversity Development Program Director  
[State Bar of Michigan, 306 Townsend St., Lansing, MI 48933-2012  
phone: (517) 346-6358; email: gconyers@michbar.org]
- 10:25 a.m. 7. Proposal to Amend Permanent Rules of Procedure 2.7  
Proponents:  
Mark W. Jane, Member, Nominating & Awards Committee  
[Butzel Long, PC, 301 E. Liberty St., Ste. 500, Ann Arbor, MI 48104-2283  
phone: (734) 995-3110; email: jane@butzel.com]  
  
John W. Reiser, III, Clerk, Representative Assembly  
[Ann Arbor City Attorney's Office, 301 E. Huron St., Fl. 3, Ann Arbor, MI 48104-1908  
phone: (734) 794-6184; email: jreiser@a2gov.org]
- 10:40 a.m. 8. A Continuing Discussion of Challenges and Opportunities for the Representative Assembly  
Presenters:  
Nicholas M. Ohanesian, Member, Board of Commissioners  
[Social Security Administration, Office of Hearings Operations, 1925 Breton Rd., SE, Ste. 200, Grand Rapids, MI 49506-4810  
phone: (616) 920-3589; email: nickohanesian@yahoo.com]  
  
Mark W. Jane, Member, Nominating & Awards Committee  
[Butzel Long, PC, 301 E. Liberty St., Ste. 500, Ann Arbor, MI 48104-2283  
phone: (734) 995-3110; email: jane@butzel.com]  
  
John W. Reiser, III, Clerk, Representative Assembly  
[Ann Arbor City Attorney's Office, 301 E. Huron St., Fl. 3, Ann Arbor, MI 48104-1908  
phone: (734) 794-6184; email: jreiser@a2gov.org]
- 11:10 a.m. 9. Adjournment

**TO:** Board of Commissioners  
**FROM:** Strategic Planning Committee  
**DATE:** April 20, 2023  
**RE:** **Recommended updates to the Strategic Plan**

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The Strategic Planning Committee reviewed the current 2017-2023 Strategic Plan and submits the following recommendations for consideration.

**UPDATE AND EXTEND:** The Committee recommends updating the Strategic Plan with revisions to better reflect current activities and known priorities of the Board of Commissioners and extending it for four years, through 2027. This is similar to the Board of Commissioners previous action in 2020 to extend the first draft of the Strategic Plan with some updates through 2023.

The Committee also recommends ongoing periodic review and revision of the Strategic Plan as necessary throughout its extension.

**PROPOSED MODIFICATIONS:** Below are the Strategic Plan's current Goals and Strategies with proposed updates noted in redline. Also attached is a clean version of the Strategic Planning Committee's recommended 2017-2027 Strategic Plan update.

Strategic Plan Goals and Strategies

**GOAL 1:** The State Bar of Michigan provides resources to help all of its members achieve professional excellence and success in the practice of law and in service to the public.

GOAL 1 STRATEGY 1: ~~Helping new~~Supporting all lawyers ~~in being to be~~ practice ready, particularly new lawyers

GOAL 1 STRATEGY 2: Supporting each active member's professional competence and continuing professional development

GOAL 1 STRATEGY 3: Engaging members in learning about and implementing innovative delivery methods

GOAL 1 STRATEGY 4: Promoting greater member engagement to connect members with the bar, its resources, and each other

GOAL 1 STRATEGY 5 [Previously Goal 4 Strategy 4. Moved for greater emphasis.]: Targeting the State Bar of Michigan's communications to build awareness of bar programs and initiatives among members and the recipient community

GOAL 1 STRATEGY 6 [New]: Working to support a professional culture that prioritizes wellness and understands that lawyer well-being is a function of competence

**GOAL 2:** The State Bar of Michigan champions access to justice and builds public trust and confidence in the justice system in Michigan.

GOAL 2 STRATEGY 1: Creating and maintaining an accessible, coordinated online foundation of legal resources for the public

GOAL 2 STRATEGY 2: Creating and maintaining greater public awareness and competence around legal issues that affect them

GOAL 2 STRATEGY 3: Expanding opportunities for SBM members to participate in access to justice initiatives through traditional and innovative means including pro bono, modest means, limited-scope representation, and by partnering with public-legal service organizations, local and affinity bars

GOAL 2 STRATEGY 4: Encouraging improved diversity, equity, and inclusion of the profession as a fundamental component of the public's respect for the rule of law and confidence and trust in the justice system

GOAL 2 STRATEGY 5: Expanding collaboration with professional organizations and communities inside and outside of the legal community

GOAL 2 STRATEGY 6: Providing timely, targeted messages to the general public and the legal community in order to promote understanding of the rule of law and role of judiciary and the legal profession

**GOAL 3:** The State Bar of Michigan maintains-promotes the highest conduct among its members, and initiates and advocates for improvements that facilitate accessible, timely justice for the public.

GOAL 3 STRATEGY 1: Working with our partners to effectively regulate the legal profession in Michigan

GOAL 3 STRATEGY 2: Educating members on ethical rules and regulations

GOAL 3 STRATEGY 3: Reviewing ethical rules and regulations, and adapting them to eliminate barriers to innovation

GOAL 3 STRATEGY 4: Conducting research and development that promotes innovation and forecasts change, including its impact on the legal profession

GOAL 3 STRATEGY 5: Pursuing permissible and achievable public policy goals, while minimizing divisiveness and encouraging member input and diverse points of view on public policy issues

GOAL 3 STRATEGY 6: Promoting respect for diversity, equity, and inclusion as ~~an~~ important elements of professionalism

GOAL 3 STRATEGY 7: Maintaining core programs that promote public confidence in the legal profession and justice system

**GOAL 4:** The State Bar of Michigan structures itself to achieve its strategic goals in a responsive and cost-efficient manner.

GOAL 4 STRATEGY 1: Developing governance, member and administrative structures that provide for broad-based decision making and timely action

GOAL 4 STRATEGY 2: Employing practices that strengthen the State Bar of Michigan's fiscal position and responsible use of resources

GOAL 4 STRATEGY 3: Ensuring the technology infrastructure follows best business practices and is poised to meet the future needs of members and the State Bar of Michigan

~~GOAL 4 STRATEGY 4: Targeting the State Bar of Michigan's communications to build awareness of bar programs and initiatives among members and the recipient community~~[Moved to Goal 1 Strategy 5]



**SBM** STATE BAR OF MICHIGAN

# STRATEGIC PLAN

**2017-2027**

ADOPTED BY THE BOARD OF COMMISSIONERS **JANUARY 20, 2017**

ADOPTED BY THE REPRESENTATIVE ASSEMBLY **APRIL 17, 2017**

RENEWED BY THE BOARD OF COMMISSIONERS **JULY 24, 2020**

PROPOSED RENEWAL BY THE BOARD OF COMMISSIONERS **APRIL 28, 2023**

# STATEMENT OF PURPOSE

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A statement of purpose, or mission, is designed to define an organization's fundamental reason for being, and for whom. It also establishes the scope of its major activity areas, providing the framework for selecting the goals and strategies required to move the organization forward. The Supreme Court Rules Concerning the State Bar of Michigan provide:

"...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."

This statement provides the foundation upon which the State Bar of Michigan Strategic Plan is built and positions the State Bar of Michigan to:

- Promote the professionalism of lawyers
- Advocate for an open, fair and accessible justice system
- Provide services to members that enable them to best serve their clients

# STATEMENT OF CORE VALUES

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These core values direct fundamentally how the State Bar of Michigan will conduct itself as it works to achieve its goals and fulfill its mission.

## JUSTICE

In fulfilling our mission to promote improvements in the administration of justice and advancements in jurisprudence, the State Bar of Michigan finds it essential to our mission to advocate for an open, fair and accessible justice system for all.

## SERVICE

The State Bar of Michigan, as an organization, its staff, and volunteers, who carry out the work of the bar, shall undertake service to its members and the larger legal community, being especially attentive to the needs of the public, who is served by the justice system.

## PROFESSIONALISM

We respect the rule of law, and will promote ethical conduct, personal integrity, and civility in all our deliberations, decisions, and interactions within the organization and with all others participating within the justice system.

## DIVERSITY & INCLUSION

The State Bar of Michigan recognizes that as an association we are more effective when we bring different perspectives, experiences, backgrounds, talents and interests to decision-making about how we carry out our mission. In addition to promoting greater diversity in the profession, the State Bar of Michigan embraces a culture within its leadership and governance processes that is open to and respects differing views and perspectives.

## INNOVATION

We will continually strive to explore and advance new ways to provide excellent service to our members and to the public, and to promote ethical use of technology and high standards of performance in the practice of law.

### GOAL ONE

The State Bar of Michigan provides resources to help all of its members achieve professional excellence and success in the practice of law and in service to the public.

- STRATEGY 1: Supporting all lawyers in being practice ready, particularly new lawyers
- STRATEGY 2: Supporting each active member's professional competence and continuing professional development
- STRATEGY 3: Engaging members in learning about and implementing innovative delivery methods
- STRATEGY 4: Promoting greater member engagement to connect members with the bar, its resources, and each other
- STRATEGY 5: Targeting the State Bar of Michigan's communications to build awareness of bar programs and initiatives among members and the recipient community
- STRATEGY 6: Working to support a professional culture that prioritizes wellness and understands that lawyer well-being is a function of competence

### GOAL TWO

The State Bar of Michigan champions access to justice and builds public trust and confidence in the justice system in Michigan.

- STRATEGY 1: Creating and maintaining an accessible, coordinated online foundation of legal resources for the public
- STRATEGY 2: Creating and maintaining greater public awareness and competence around legal issues that affect them
- STRATEGY 3: Expanding opportunities for SBM members to participate in access to justice initiatives through traditional and innovative means including pro bono, modest means, limited-scope representation, and by partnering with legal service organizations, local and affinity bars
- STRATEGY 4: Encouraging improved diversity, equity, and inclusion of the profession as a fundamental component of the public's respect for the rule of law and confidence and trust in the justice system
- STRATEGY 5: Expanding collaboration with professional organizations and communities inside and outside of the legal community
- STRATEGY 6: Providing timely, targeted messages to the general public and the legal community in order to promote understanding of the rule of law and role of judiciary and the legal profession

### GOAL THREE

The State Bar of Michigan promotes the highest conduct among its members, and initiates and advocates for improvements that facilitate accessible, timely justice for the public.

- STRATEGY 1: Working with our partners to effectively regulate the legal profession in Michigan
- STRATEGY 2: Educating members on ethical rules and regulations
- STRATEGY 3: Reviewing ethical rules and regulations, and adapting them to eliminate barriers to innovation
- STRATEGY 4: Conducting research that promotes innovation and forecasts change, including its impact on the legal profession
- STRATEGY 5: Pursuing permissible and achievable public policy goals, while minimizing divisiveness and encouraging member input and diverse points of view on public policy issues
- STRATEGY 6: Promoting respect for diversity, equity, and inclusion as important elements of professionalism
- STRATEGY 7: Maintaining core programs that promote public confidence in the legal profession and justice system

### GOAL FOUR

The State Bar of Michigan structures itself to achieve its strategic goals in a responsive and cost-efficient manner.

- STRATEGY 1: Developing governance, member and administrative structures that provide for broad-based decision making and timely action
- STRATEGY 2: Employing practices that strengthen the State Bar of Michigan's fiscal position and responsible use of resources
- STRATEGY 3: Ensuring the technology infrastructure follows best business practices and is poised to meet the future needs of members and the State Bar of Michigan

*p* 517-346-6300

*p* 800-968-1442

*f* 517-482-6248

[www.michbar.org](http://www.michbar.org)

To: Board of Commissioners  
From: Daniel Quick, Awards Committee Chair  
Date: March 30, 2023  
Subject: 2023 State Bar Award Nominations

The State Bar of Michigan Awards Committee met on Tuesday, March 28, 2023, and recommends the following people receive 2023 State Bar of Michigan Awards:

### **Roberts P. Hudson Award**

The committee recommends three individuals: **Nancy Diehl, Joseph Kimble, John M. Sier.**

### **Frank J. Kelley Distinguished Public Service Award**

The committee recommends one individual: **Hon. Timothy Kenny.**

### **Champion of Justice Award**

The committee recommends one individual: **Veronica Thronson**

### **Kimberly M. Cahill Bar Leadership Award**

The committee recommends that no award be presented this year.

### **John W. Reed Michigan Lawyer Legacy Award**

The committee recommends one individual: **Professor Vivak Sankaran.**

The committee will recommend a Liberty Bell Award winner to the Board at the Board's June meeting.

306 Townsend Street  
Michael Franck Building  
Lansing, MI  
48933-2012

# Memorandum

**To:** State Bar of Michigan  
Communications and Member Services Commissioner Committee (CAMS)

**From:** Ashley Lowe, Justice Initiatives Committee Chair  
Robert G. Mathis Jr., Justice Initiatives Committee Staff Liaison

**Date:** April 5, 2023

**Re:** 2023 John W. Cummiskey Award Recipient Nominee — James R. Rinck

The Justice Initiatives (JI) Committee requests that CAMS support its recommendation that James R. Rinck receive the 2023 John W. Cummiskey Award. Mr. Rinck's longstanding commitment to pro bono service made him a standout for this year's award. A summary of the nominees for the 2023 Cummiskey Award is attached, as well as the nomination materials submitted on Mr. Rinck's behalf.

Mr. Rinck has been accepting pro bono case referrals from Legal Aid of West Michigan (LAWM) for 35 years. He is LAWM's leading expert and go-to person for clients who need assistance with Social Security law and other legal issues. In addition to his exemplary contributions as a volunteer for LAWM's Pro Bono Program, he has served several terms on the SBM Social Security Law Section as treasurer, secretary, and three consecutive years as chair.

Upon being admitted to the Michigan bar in 1982, Mr. Rinck began his career as a prosecuting attorney, but quickly realized his path was to serve/defend people, so he assumed the appellate defense contract in Kent County in 1986 and continued his work in the criminal appeal field. He was a criminal defense attorney, serving on the State Bar's Defender System and Service Committee. During that time, his practice area branched out to personal injury and Social Security law. Mr. Rinck is well known as a Social Security advocate. He takes complex, time-consuming cases that other attorneys will not accept (i.e., Child's SSI, Child Disability Benefits, and Overpayment cases).

His sincere desire and commitment to providing legal services to those unable to afford representation (190 cases and over 1,550 hours donated through the Pro Bono Program) won him LAWM's "Michael S. Barnes Award" in 2004.

There were six impressive nominees for the 2023 John W. Cummiskey Award. Therefore, the JI Committee formed a subcommittee to thoroughly review the nomination materials and recommend a recipient for the award to the entire membership of the JI Committee. By e-vote, the JI Committee members unanimously voted to adopt the subcommittee's recommendation that James R. Rinck receive this year's award.

Therefore, we ask that CAMS support and approve the JI Committee's recommendation that James R. Rinck receive the 2023 John W. Cummiskey Award, followed by a recommendation and motion to the Board of Commissioners for approval.

**State Bar of Michigan  
Justice Initiatives Committee  
2023 John W. Cummiskey Award  
Summary of Nominations &  
Workgroup Recommendation**

**Award Criteria**

The purpose of this award is to foster awareness of the need for the involvement of the private bar in delivering legal services to the poor, by giving public recognition each year to a Michigan lawyer who has made a significant pro bono contribution to this effort. The award is established in the name of John W. Cummiskey, a leading advocate and activist in the cause of making legal services available to all, without regard to economic status.

	<b>Nominee</b>	<b>Nominator</b>
1	Angela Cole*	Kelly J. Smith
2	Kari L. Melkonian	Jeffrey Raphelson
3	Wendy Richards	Megan Norris
4	James Rinck	Lacy Cook
5	Lawrence Schneider	Sarah Munro
6	John M. Sier	Heather M. Herbert

\*2022 nomination carried over. (Cummiskey Award nominations are eligible for consideration for two years.)

**2023 Cummiskey Award Workgroup**

There were six nominees for the 2023 Cummiskey Award. The deadline for nominations was Friday, March 3, 2023. The 2023 Cummiskey Award Workgroup was formed by the Justice Initiatives Committee and consists of:

- Caroline Bermudez-Jomaa (*Chair*),
- Monica Nuckolls,
- Allyson Putt, &
- Jean-Paul Rudell.
  
- Robert G. Mathis Jr., *State Bar of Michigan, Liaison.*

**Workgroup Recommendation:** The workgroup met on March 22, 2023. After a careful review of the nomination materials and discussion, the workgroup selected James R. Rinck as its recommendation for the recipient of the 2023 Cummiskey Award.





# LEGAL AID OF WESTERN MICHIGAN

Pamela Hoekwater, Executive Director

25 Division Avenue S.  
Suite 300  
Grand Rapids, MI 49503  
Telephone: (616) 774-0672  
Fax: (616) 774-2412  
www.lawestmi.org

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Van Buren

Dear Nomination Committee,

With this letter, I am wholeheartedly supporting James Rinck’s candidacy for the John W. Cummiskey Award. Mr. Rinck has been accepting pro bono case referrals from Legal Aid of West Michigan for 35 years. He is our leading expert and go-to person for clients who need assistance with Social Security law, as well as other areas. In addition to his exemplary contributions as a volunteer for the Pro Bono Program, he has served several terms on the Social Security Law Section of the State Bar and as the Treasurer, Secretary, and three consecutive years as the Section Chair. It is my understanding that he continues to serve on that committee, and during his tenure has made strides in improving advocacy and access for people who need legal services.

Upon being admitted in 1982, Mr. Rinck began his career as a prosecuting attorney, but quickly realized his path was to serve/defend people, so he assumed the appellate defense contract in Kent County in 1986 and continued his work in the criminal appeal field. He was a criminal defense attorney, serving on the State Bar’s Defender System and Service Committee. During that time, his practice area branched out to personal injury law, and what I am more acquainted with, Social Security law. He is well known as a Social Security advocate and takes difficult, time-consuming cases that other attorneys will not (i.e. Child’s SSI, Child Disability Benefits, and Overpayment cases).

His sincere desire and commitment to provide legal services to those who cannot afford representation (190 cases and over 1,550 hours of time donated through the Pro Bono Program) won him Legal Aid of Western Michigan’s “Michael S. Barnes Award” in 2004. Simply put, Jim is a rockstar volunteer and has been for decades.

The State Bar Journal published an article by Mr. Rinck in the January 2021 issue which highlighted Workers’ Compensation issues. His article involved an analysis of Social Security law and how it affected Workers’ Compensation cases. Additionally, he wrote another article for the State Bar Social Security law issue which is being released this year.

Please consider James Rinck for this year’s John W. Cummiskey Award.

Very truly yours,

Lacy Cook  
Pro Bono Coordinator





**To: Communications and Member Services Committee**

**From: Kari Thrush**

**Date: April 2023**

**Re: SoFi—Student Loan Refinancing Program**

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Many of our new members are graduating with a mountain of debt. SoFi consolidates and refinances student loan debt from both federal and private sources at rates markedly lower than those paid today, without charging the fees typically associated with loans—including application, origination, or prepayment penalties—to its applicants and borrowers. The company’s goal is to reduce the burden of student loan debt for as many graduates as possible. On average, members can typically save \$10,000–\$15,000 over the life of their loans.

### **History**

SoFi was started after its co-founders realized that the banking system’s high financing rates and poor service have been driven by the lack of direct relationships between their institutions and the customer. This situation is even worse in the student lending space where the government controls 93 percent of the market and charges the same rates for all borrowers regardless of the school, course of study, or profession of the borrower. SoFi raised capital from alumni investors invested in funds used to refinance the outstanding student debt of fellow alumni. The success of this program led many alumni investors, themselves successful doctors, entrepreneurs, lawyers, and businessmen, to ask whether SoFi could help their organizations improve the financial wellness of their members. As a result, SoFi has worked with numerous organizations to help educate more people about the opportunities of consolidating and refinancing their loans.

### **Program Features**

- Refinance both federal and private student loans
- No application or origination fees
- Fully pre-payable without penalty
- Variable and fixed rates are available and determined based on the borrower’s credit score, length of the loan and income.

### **Additional Highlights and Benefits**

- SoFi has an in-house recruiter team to help borrowers if they are laid off and need to find a new job.
- SoFi holds regular online events and educational webinars for its members.
- SoFi is working with the State Bar of Texas, Chicago Bar, Florida Bar, Ohio Bar, Utah State Bar, Indiana State Bar Association, New York State Bar Association, New Jersey State Bar Association, Washington State Dental Association, American College of Radiology, Michigan State Medical Society and soon the State Bar of California, and many more.

### **Direct Benefits to Members**

Besides the direct savings of thousands of dollars over the life of their loans, SoFi will offer State Bar of Michigan members who meet SoFi's underwriting criteria:

- Borrowers will receive a 0.25% rate discount on student loan refinancing and 0.50% discount on personal loans, plus an additional 0.25% with auto pay.
- SoFi will refinance members' student loans regardless of their source (i.e., private, or public) and the number of loans. By refinancing multiple loans (the average borrower has 6–8 loans), borrowers no longer face difficulties managing their loans.
- Each State Bar of Michigan borrower will be given the personal contact information for his loan origination associate. This includes his name, direct phone number and email address. This SoFi associate will remain their point of contact throughout the life of the loan.

### **Direct Benefit to SBM**

The State Bar would receive \$100 for each member who refinances or takes out a personal loan with SoFi to support marketing promotion and program maintenance.

### **Action:**

Communications and Member Services Committee to motion to the Board of Commissioners to approve this partnership program upon general counsel review and approval of contract.

**SBM**

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STATE BAR OF MICHIGAN

MICHAEL FRANCK BUILDING  
306 TOWNSEND STREET  
LANSING, MI 48933-2012

[www.michbar.org](http://www.michbar.org)