STANDING POLICIES OF THE BOARD OF GOVERNORS

ALASKA BAR ASSOCIATION

<u>INDEX</u>

I.	Finances	
II.	Meetings, Minutes, Agenda, Records, Annual Report	
III.	Board Operating Procedures; New Lawyer Liaison	
IV.	Board Travel & Expenses	
V.	Staff Travel & Expenses; Evaluations	
VI.	Membership	
VII.	Alaska Law Review	20
VIII.	Public Relations and Education	22
IX.	Adjunct Judicial Organizations	
X.	Ethics Opinions	28
XI.	Committees and Sections	30
XII.	Admissions, Examinations and Appeals	36
XIII.	Discipline; Mediation Guidelines	45
XIV.	Legislative Liaison	49
XV.	Investment Portfolio Policy	51
XVI.	E-Mail & Membership Mailings Policy	55
XVII.	Individuals Permitted to Practice Under AS08.08.210(d)	61

I. FINANCES

- A. Fiscal Year
- B. Budget
- C. Annual Audit
- **D.** Monthly Financial Reports
- **E.** Withdrawals
- **F.** Voluntary Contributions on Dues Notices
- **G.** Financial Contributions Judge Swearing-in or Retirement

I. FINANCES

- **A.** <u>Fiscal Year</u>. The Alaska Bar Association shall be on a calendar year for accounting purposes.
- **B.** <u>Budget</u>. The annual budget, which is to be a line item budget broken out by department or function, shall be prepared by the Controller under the direction of the Executive Director; presented to the Board for its approval at the October meeting; and available for review at least 30 days prior to the start of each fiscal year. It shall be published in an official publication of the Alaska Bar Association.
- C. <u>Annual Audit</u>. The Bar's annual audit of its financial records shall be published in an official publication of the Association one month prior to the Annual Business Meeting.
- **D.** Monthly Financial Reports. A monthly report setting forth, in detail, the Association's income, expenses, and investments shall be prepared by the Controller under the direction of the Executive Director and presented to the Board on a form approved by it.
- **E.** <u>Withdrawals</u>. On an office account which provides for non-Board member signatures, any check in excess of \$10,000.00 shall require two signatures, one of which must be that of a member of the Board of Governors.
- **F.** Voluntary Contributions on Dues Notices. The dues notices sent to Bar members may only list the following organizations for voluntary contributions: the Alaska Bar Foundation and Alaska Legal Services Corporation.
- **G.** Financial Contributions Judge Swearing-in or Retirement. The Bar may make financial contributions for events such as the swearing-in or retirement of judges, if such judges are from the Alaska Supreme Court, the Court of Appeals or the U.S. District Court for the District of Alaska. Local Bar Associations are encouraged to support such events for local trial judges in their community or district.

II. MEETINGS, MINUTES, RECORDS, ANNUAL REPORT

- A. Annual Business Meeting
- **B**. Meetings of the Board
- C. Member and Applicant Files
- **D.** Annual Convention
- E. Annual Report

II. MEETINGS, MINUTES, RECORDS, ANNUAL REPORT

A. Annual Business Meeting.

- 1. <u>Content.</u> The Annual Business Meeting shall be conducted pursuant to an agenda approved by the President, which shall include reports from committee chairpersons.
- 2. **Resolutions.** All resolutions presented for action by the membership during the meeting shall be reviewed by the Board and reported to the floor with the Board's recommendations.
- 3. <u>Sites.</u> The Board shall recommend to the membership at the annual meeting the site and date for the next annual meeting.

B. Meetings of the Board.

1. **Agenda.**

- (a) The agenda for a regularly scheduled Board meeting shall be prepared by the Executive Director at the direction of the President and shall be posted in the law libraries and sent to Board Members and to local Bar presidents at least ten days prior to any meeting.
- (b) Not later than two weeks prior to any meeting, any member of the Association may request the President to place an item on the agenda.
- (c) Each Board member shall advise the Executive Director of any suggested items for the agenda.
- (d) Each item on the agenda should be assigned to either a member of the Board, the Executive or Assistant Director, or Bar Counsel, each of whom shall be prepared to report on the matter to which he or she has been assigned.
- 2. <u>Materials</u>. All materials to be considered by the Board at any meeting should be delivered to each member at least five days prior to any meeting or conference call.
- 3. <u>Documentation</u>. All meetings of the Board of Governors, except those portions thereof held in executive session, shall be electronically recorded.

4. **Minutes.**

- (a) Minutes of each Board meeting are to be prepared and circulated to the Board in advance of its next meeting.
- (b) After they have been approved, the minutes shall be posted in law libraries throughout the State.
- (c) Discipline and admission matters shall be referred to in minutes only by case number.

- 5. **Records.** The records of the Association shall be retained as follows:
 - (a) All disciplinary and admissions records are to be retained in accordance with the provisions of the Alaska Bar Rules.
 - (b) The financial records are to be retained for six years.
 - (c) Board Minutes and Annual Business Meeting Minutes are to be retained in perpetuity.
 - (d) Fee arbitration files are to be held for two years from final conclusion of the matter.
 - (e) A permanent file on each member is to be held in perpetuity, except that hearsay information relating to a character investigation is to be removed and destroyed by the Executive Director one year after admission of that member to the Bar.
 - (f) Litigation files in which the Bar Association is a party shall be retained for five years.
 - (g) General correspondence and all other files and records shall be retained for two years, or longer, at the discretion of the Executive Director. No person or entity shall have access to the Bar Association's confidential records unless such access is specifically agreed to by the Board.
 - (h) The electronic recordings of the Board of Governors' meetings shall be retained for two years.
 - (i) A personnel file is to be established for each permanent employee and maintained from the date of commencement of employment through two years of the date of termination.
- C. Member and Applicant Files. The information contained in a member or bar applicant file will be privileged and will not be accessible to the member or applicant or outside parties. Work address and phone number, and schools attended, are not privileged. An exception to this policy is if an applicant or member's character and fitness is an issue before the Board of Governors or the Alaska Judicial Council. The applicant or member may then review the allegations against him or her in order to respond to these allegations, or provide a waiver for the Alaska Judicial Council to review the file.
- **D.** Annual Convention. An Annual Convention of the Association shall be held at a time and place decided by the Board. The Board recognizes that an annual Convention that coincides with the Annual Business Meeting and the State's Annual Judicial Conference provides an excellent opportunity for members to attend Continuing Legal Education programs, participate in the Annual Business Meeting, meet other members and judges, and allow members the opportunity to work with and meet the Board and Bar staff. The Board will attempt to rotate the site of the Annual Convention annually among the State's Judicial Districts and work with local Bar Associations to attempt to make the Annual Convention as cost effective as possible.

Е.	Annual Report. The Executive Director will complete the Annual Report of the Bar Association required by AS 08.08.085 for the preceding year by April 15 th of each year.

III. BOARD OPERATING PROCEDURES

- **A.** New Members
- **B.** Nomination of Officers
- C. Destruction of Ballots
- **D.** Local Bar Associations
- **E.** Supreme Court
- F. Meeting Locations
- **G.** Executive Sessions
- H. Bar Rules
- I. Bar Leader
- J. New Lawyer Liaison
- **K.** Nominating Committee

III. BOARD OPERATING PROCEDURES; NEW LAWYER LIAISON

- A. <u>New Members</u>. The Board shall invite and pay the travel and per diem for the attendance of newly elected Board members at the Board meeting held immediately preceding the Annual Business Meeting.
- **B.** Nomination of Officers. The Board shall recommend to the Annual Business Meeting a slate of Association officers for the forthcoming year.
- C. <u>Destruction of Ballots</u>. Immediately following the Annual Business Meeting, the ballots from the most recently held Board of Governors' election shall be destroyed.
- **D.** Local Bar Associations. There shall be a standing invitation issued each year to each local bar president to attend the meetings of the Board of Governors. In order to encourage participation and communication, the Association shall invite the local bar presidents to a special meeting during the Annual Bar Convention, the Bar to reimburse those local bar presidents or their representatives for the expense of their hotel room during the Convention.
- **E.** Supreme Court. Regular meetings should be scheduled by the President with the Chief Justice of the Supreme Court. Reports to the Board concerning those conferences shall be made at the next meeting of the Board.
- **F.** <u>Meeting Locations</u>. No event of the Alaska Bar Association shall be held at facilities which discriminate in their membership on the basis of race, religion, sex, or national origin.
- G. <u>Executive Sessions</u>. All disciplinary and admissions matters shall be considered in executive session. Other matters including -- but not limited to -- personnel, financial, and litigation matters, may be held in executive session at the discretion of the Board, but that discretion shall be sparingly exercised. Matters discussed in such sessions shall not be revealed to anyone except insofar as there is a formal decision recorded in the minutes of that meeting.
- **H.** Bar Rules. The Board has no authority to waive any provision of the Alaska Bar Rules.
- I. <u>Bar Leader</u>. Upon receipt, the Executive Director shall transmit to each Board member a copy of <u>Bar Leader</u>, which is published for bar association officials by the American Bar Association.
- **J.** New Lawyer Liaison. There will be a non-voting New Lawyer Liaison to the Board of Governors, appointed by the Nominating Committee, as set out in these policies, to serve a two year term. To be eligible for the Liaison position, the lawyer must be a member of the Alaska Bar Association and have graduated from law school not more than five years prior to the date the term begins.

K. <u>Nominating Committee</u>. The Nominating Committee will consist of the following Board members: President, President-elect, past presidents, and outgoing Board members.

IV. BOARD TRAVEL & EXPENSES

- A. Travel
- **B.** Meeting Expenses
- **C.** Other Expenses
- **D.** Outgoing Board Members
- E. Convention

IV. BOARD TRAVEL & EXPENSES

- A. <u>Travel.</u> The President and President Elect are authorized to attend the annual and mid-winter meetings of the American Bar Association; the President and President Elect are authorized to attend the Western States Bar Conference; and the President Elect is authorized to attend the Bar Leadership Institute. The President may designate a Board member to attend these conferences if the President or President Elect is unable to attend. The President is also encouraged to make one visit to each local bar association during his or her term in office.
- **B.** <u>Meeting Expenses</u>. Board members, including the New Lawyer Liaison, who are on authorized Board business, will be reimbursed for actual reasonable expenses on the presentation of appropriate receipts. Mileage will be reimbursed at the IRS standard mileage rate.
 - A Board member may elect instead to be reimbursed for his or her hotel room and be paid per diem at the rate of \$42 per day.
- C. <u>Other Expenses</u>. Other expenses incurred on official Association business shall be subject to approval by the Board.
- **D.** Outgoing Board Members. Each member, upon the completion of his or her term, shall be presented at the Annual Business Meeting with a momento indicating his or her service and expressing the appreciation of the Association. In addition, a gift for the outgoing President shall be purchased and presented to him or her during the Annual Bar Convention.
- **E.** Convention. The convention registration fee, convention events and hotel room during the Annual Convention will be paid by the Association for all Board members including the New Lawyer Liaison.

V. STAFF TRAVEL & EXPENSES; SALARY RANGES; EVALUATIONS

- **A.** Executive Director's Expense Account
- **B.** Staff Travel
- **C.** Meeting Expenses
- **D**. Other Expenses
- E. Procedure and Timeline for Evaluation of Executive Director and Bar Counsel
- F. Payment of Staff/Bar Member Dues

V. STAFF TRAVEL & EXPENSES; SALARY RANGES; EVALUATIONS

- A. Executive Director's Expense Account. In addition to his or her salary, the Executive Director may, if budgeted, have an annual expense account of \$3,000.00. Up to that amount is reimbursable to the Director if the request for reimbursement is accompanied by vouchers stating the purpose for which the money was expended, the date, the person who was the subject of the incurrence, and the amount expended. None of the account is to be used for the reimbursement of any expense related to a member of the Director's family or the family of any other staff member.
- B. <u>Staff Travel</u>. The Executive Director is authorized to attend the annual and midwinter meetings of the American Bar Association (including the National Association of Bar Executive Meetings), the Western States Bar Conference, and the Bar Leadership Institute. The Assistant Director is authorized to attend the annual and midwinter meetings of the American Bar Association (ABA), including the meetings of the Association of Continuing Legal Education Administrators (ACLEA). The Bar Counsel are authorized to attend the National Organization of Bar Counsels (NOBC) meetings, which are held in conjunction with the ABA annual and midwinter meetings.
- C. <u>Business Expenses</u>. When a member of the Bar's staff is out of town, overnight, on official Association business or attending authorized meetings, he or she will be reimbursed for all actual expenses incurred upon the presentation of appropriate vouchers.
- **D.** Other Expenses. Other staff expenses incurred on official Association business shall be subject to authorization by the Executive Director in consultation with the President.
- A subcommittee of the Board will conduct the annual evaluation of the Executive Director and the Bar Counsel. The subcommittee will consist of the President-elect, a public member and the most immediate past-president on the Board (or if none, another Board member appointed by the President.) Following the March or May Board of Governors meeting, the subcommittee will distribute the evaluation forms to all Board members, and such other Bar members or staff as deemed appropriate, to be completed and returned to the subcommittee. All forms must be signed. The subcommittee should collect, tabulate and summarize the results and comments, and conduct the evaluation of the Executive Director and Bar Counsel before the August Board of Governors meeting. The subcommittee should report the results of the evaluation by or at the August Board of Governors meeting.

F Payment of Staff/Bar Member Dues

The Bar Association will pay the Bar dues for all Bar employees who are required to be Bar members.

VI. MEMBERSHIP

- A. Classifications
- **B.** Membership Status Changes
- C. Membership Fees (Bar Dues)

VI. MEMBERSHIP

A. Classifications.

- 1. **Law Clerks.** Law clerks of court, who work in Alaska, if admitted, are active members of the Alaska Bar Association.
- 2. **<u>Hearing Officers.</u>** Hearing officers, who work in Alaska, if admitted, are active members of the Alaska Bar Association.
- 3. <u>Magistrates and Administrative Judges</u>. Magistrates and administrative judges, who work in Alaska, are active members of the Alaska Bar Association.

B. <u>Membership Status Changes</u>.

1. Transfer from Active to Inactive Membership.

Written requests from members to transfer from active to inactive status may be granted if submitted to the Executive Director no later than January 1 of the applicable year.

(a) Method of Transfer to Inactive. The member requesting transfer to inactive status must complete the affidavit provided by the Bar Association (see Appendix) and pay inactive membership dues of \$150.00. Active member dues are not reduced or prorated when an active member requests transfer to inactive status after January 1.

2. <u>Method of Transfer to Active if Member has been Inactive or Retired Less than One Year</u>. The member must submit the following:

- (a) A letter requesting a return to active status;
- (b) An affidavit which lists:
 - (1) The name(s) and address(es) of any employer or business with which the member has been associated while on inactive status;
 - (2) Whether the member has been the subject of any disciplinary proceedings in any jurisdiction.
- (c) The member should have the jurisdiction in which (s)he has been practicing since leaving Alaska certify directly to the Alaska Bar that (s)he is a member in good standing of that jurisdiction.
- (d) Full annual active membership fees (less any inactive fees already paid for that year.)

3. Method of Transfer to Active if Member has been Inactive or Retired More than One Year. The member must submit the following:

- (a) A letter requesting a return to active status;
- (b) An affidavit which lists:

- (1) The name(s) and address(es) of any employer or business with which the member has been associated while on inactive status;
- (2) Whether the member has been the subject of any disciplinary proceedings in any jurisdiction.
- (3) At least three professional references who have knowledge of the member's work as an attorney.
- (c) The member should have the jurisdiction in which (s)he has been practicing since leaving Alaska certify directly to the Alaska Bar that (s)he is a member in good standing of that jurisdiction.
- (d) Full annual active membership fees (less any inactive fees already paid for that year).
- (e) In addition, unless the member has already done so, he or she must submit an affidavit that he or she has read and is familiar with the Alaska Rules of Professional Conduct (ARPC).
- C. <u>Member Waiver Requests</u>. Consideration of member requests for status changes, waiver of late fees (e.g., the penalty for late payment of bar dues), any type of user fee, or deadline (e.g., the January 1st deadline to request to transfer to inactive status) is delegated to the Executive Director or her designee.

VII. ALASKA LAW REVIEW

- A. Publication
- **B.** Finances
- C. Liaison
- **D.** Contract

VII. ALASKA LAW REVIEW

- **A.** Publication. The Board of Governors supports the publication of the Alaska Law Review, copies of which will be provided twice yearly at no charge to each active member of the Association.
- **B.** <u>Finances</u>. The Association shall contribute to Duke University School of Law, the publisher of the <u>Alaska Law Review</u>, the amount of money as set forth in the contract between the Association and Duke University School of Law.
- **C.** <u>Liaison</u>. Three members of the Board shall be designated by the President to serve as the Board's liaison to the Editorial Board of the Alaska Law Review.
- **D**. <u>Contract</u>. Both the Association's financial obligations and commitment to the publication of the <u>Alaska Law Review</u> must be fully outlined in its contractual agreement with Duke Law School.

VIII. PUBLIC RELATIONS AND EDUCATION

- A. Program
- **B**. Lawyer Referral
- C. Press Releases

VIII. PUBLIC RELATIONS AND EDUCATION

- A. <u>Program.</u> The Board supports a public relations program which may include educational programs in schools and on television; a speakers bureau; preparation and dissemination of analyses of legislation of interest to the community; brochures, to explain commonly used documents such as wills and deeds of trust; free legal services for non profit corporations; and law related education for adults.
- **B.** <u>Lawyer Referral Service</u>. As a public service, a Statewide Lawyer Referral Service shall be maintained by the Alaska Bar Association.

1. **Public Referrals.**

Members of the public, upon written or oral request, shall be given the names and addresses of up to three attorney subscribers to the Service who practice the subject matter law in the geographical area where the referral request is made. Written confirmation of the attorney referrals may be mailed to the requestor.

2. <u>Subscribers.</u>

An active member of the Alaska Bar Association may register with the Lawyer Referral Service upon payment of \$25.00 per referral category selected, and submission of registration cards which designate the subjects in which the attorney will accept referrals. The attorney subscriber shall also submit a written agreement, on a form provided by the Association, which shall include an agreement to keep current at least \$50,000 in errors and omissions insurance coverage and an agreement to charge no more than \$50.00 for the first half-hour consultation with the client referred.

3. **Referral Categories.**

The categories of subject matter available for registration and referral are: Admiralty; Administrative Law (government agencies, licences, permits, etc.); Alaska Native Law; Arts (legal problems related to the arts); Bankruptcy; Commercial Law (real estate transactions and all forms of business organizations); Construction; Consumer (credit/collections); Criminal/Misdeamor (DWI's, shoplifting); Criminal/Felony (theft, assault, murder, rape); Discrimination; Eminent Domain; Environmental; Family Law (divorce, child custody, adoption, name changes); Foreign Language (matches attorneys who are fluent in a particular foreign language with clients who are in need of such expertise); Immigration; Insurance; Labor Relations; Landlord/Tenant; Malpractice; Military Law (wrongful discharge, court marshalls); Mining; Negligence (P.I., P.D., products liability, libel/slander); Patent-Copyright/Computer; Public Interest; Real Estate; Social Security Cases; Tax; Traffic; Trusts/Estates/Wills; and Worker's Compensation.

4. **Advertising.**

It is desirable that the availability of the Referral Service be advertised throughout the State of Alaska. Local bar associations shall be encouraged to contribute to the cost of advertising in the geographical area of their membership.

C. <u>Press Releases</u>. Important decisions of the Association, as well as election results, may be transmitted to the media statewide in the form of press releases. The media may also be provided with advance notification of Association events, meetings, seminars, and speakers.

IX. ADJUNCT ORGANIZATIONS

- A. General Policy
- **B.** Judicial Council
- C. Commission of Judicial Conduct
- D. Ninth Circuit Judicial Conference
- E. House of Delegates of the American Bar Association
- F. Alaska Association of Legal Assistants
- G. Alaska Bar Foundation
- H. Alaska Code Revision Commission
- I. Alaska Law Review
- J. Alaska Legal Services Corporation (ALSC)
- K. Rocky Mountain Mineral Law Foundation

IX. ADJUNCT ORGANIZATIONS

- **A. Policy.** The Board supports ongoing dialogue between the membership of the Bar and the judiciary in the interest of improved Bar-Bench relations.
- B. <u>Alaska Judicial Council</u>. The three attorney members appointed to the Council hold geographically designated seats and are appointed to six year terms by the Board of Governors. The Board conducts an advisory poll only in the judicial district (First, Third or combined Second and Fourth) in which the vacancy occurs prior to making its appointments.
 - Except in extraordinary circumstances, the Board appoints the candidate with the most votes in the advisory poll.
- C. <u>Alaska Commission on Judicial Conduct</u>. Three attorney members who have practiced law in the State for at least ten years hold geographically designated seats and are appointed by the Governor to the Commission from a list of recommendations submitted by the Board of Governors. The Commission members are appointed for four year terms. An advisory poll is conducted by the Board only in the judicial district (First, Third or combined Second and Fourth) in which the vacancy occurs prior to making its recommendations to the Governor.
- D. Ninth Circuit Judicial Conference. Representatives of the Alaska Bar Association are appointed to the Conference by the Chief Judge of the U. S. District Court for Alaska after accepting a recommendation(s) from the Board of Governors. The Bar representatives to the Conference serve three year terms. The Board conducts a statewide advisory poll of the active Bar membership prior to fowarding its recommendation(s) to the Chief Judge.
- E. <u>House of Delegates of the American Bar Association</u>. One delegate is elected to a two year term by the active members of the Association in a statewide election.
- **F.** Alaska Association of Legal Assistants. A liaison between the Alaska Bar Association and the Alaska Association of Legal Assistants is appointed by the Bar President, subject to confirmation by the Board.
- **G.** Alaska Bar Foundation. Foundation trustees are elected by the Board of Governors of the Alaska Bar Association.
- H. <u>Alaska Code Revision Commission</u>. One member of the Alaska Bar is appointed by the Board of Governors to the Commission for a six year term. The Board conducts an advisory poll of all active members of the Association prior to making its appointment.
- I. <u>Alaska Law Review</u>. The Board of Governors appoints three of its own members to sit on the <u>Alaska Law Review's</u> Editorial Board.
- **J.** Alaska Legal Services Corporation (ALSC). The attorney members on the Board of Directors for the Corporation as well as their alternates, are appointed by the Association's Board of Governors after interested persons are solicited and an advisory poll is conducted of the membership residing in the judicial district in which a vacancy on the ALSC Board occurs. Appointments are made by judicial district for three year terms. A representative of the Board of Governors itself is appointed by the Bar President with the concurrence of the Board.

he Association to ac	Locky Mountain Mineral Law Foundation . The Board appoints a member of the Association to act as liaison to the Foundation.				

X. ETHICS OPINIONS

- A. Policy
- **B**. Ex Officio Member
- C. Persons Eligible to Request Opinions
- **D**. Request Procedures
- E. Approval
- F. Distribution
- **G**. Opinions Not Adopted
- **H.** Removal for Unexcused Absences
- I. Informal Ethics Guidance

X. ETHICS OPINIONS

- A. <u>Policy</u>. The issuance of ethics opinions, based upon actual circumstances that are not the subject of a pending disciplinary proceeding, shall be an ongoing program of the Alaska Bar Association. The Association's Ethics Committee is charged with the responsibility of drafting ethics opinions.
- **B.** Ex Officio Member. The Bar Counsel sit on the Ethics Committee as an ex officio member of that Committee.
- C. <u>Persons Eligible to Request Opinions</u>. The Ethics Committee may issue opinions to persons authorized to practice law in Alaska who are in good standing, on matters of professional or judicial ethics that deal with the requesting person's own conduct. Bar Counsel may also request an opinion.
- **D.** Request Procedures. Each request for an ethics opinion shall be addressed to the Association's Bar Counsel who will first determine whether the opinion involves conduct relevant to a current disciplinary investigation or a potential discipline matter. If not, the request will be forwarded directly to the chairperson of the Ethics Committee for the Committee's review and opinion. If the request involves disciplinary matters, the request for an opinion will be denied.
- E. <u>Approval</u>. No Formal Ethics Opinion shall be published without the approval of the Board of Governors, although the Committee may issue informal letter opinions that are not binding on the Association.
- **F.** <u>Distribution</u>. Once adopted by the Board, an ethics opinion shall be distributed to the Supreme Court, Board members, and Law Libraries throughout the State. Distribution to the membership shall be by publication on the Association's website.
- **G.** Opinions Not Adopted. Opinions either not approved by the Board, or withdrawn by the Board subsequent to initial approval, may be so designated and distributed to the Law Libraries, if determined appropriate by the Board of Governors.
- **H.** Removal for Unexcused Absences. A member shall be removed from the Committee if he or she fails to attend four (4) consecutive Committee meetings in a twelve (12) month period without approval of the absence by the Committee chair. On request by the Committee chair, the Board President will appoint a replacement member to complete the unexpired term of the removed member.
- Informal Ethics Guidance. As a service to members of the bar, informal guidance on active and pending ethics issues may be provided by bar counsel or counsel's designees. Such guidance is generally based on unverified information under informal circumstances, and assumes that the facts as related are all true and accurate. Informal guidance has no binding legal effect on Courts, the Ethics Committee, the Disciplinary Board or the Board of Governors and cannot be used as evidence in any legal or administrative proceeding. It is intended to provide practical, real-time guidance to practitioners faced with ethics issues. It is not a substitute for an attorney's own duty to be aware of the requirements of the Rules of Professional Conduct. However, it may be used as a defense or in mitigation of any subsequent ethical action involving the same facts.

XI. COMMITTEES AND SECTIONS

- **A**. Committee Structure
- **B** Standing Committees
- C. Bar Rule Committees
- **D.** Special Committees
- E. Substantive Law Sections
- F. Section Chairs Meeting
- **G.** Section Expenses
- **H.** Adjunct Organizations
- I. Expenses of Committee Members

XI. COMMITTEES AND SECTIONS

- A. <u>Committee Structure</u>. Each committee shall have a chairperson and a membership of sufficient number to meet the needs of the committee. The President shall appoint eligible Bar members to fill all vacancies or expired terms on Bar committees, except area hearing divisions, and shall appoint the chair of each committee. The President is strongly encouraged to appoint an additional one or two members admitted less than five years to Bar committees.
- **B.** Standing Committees The Board shall establish standing committees as necessary.
 - 1. <u>Names of Standing Committees.</u> The following are the established committees of the Alaska Bar:
 - (a) Bar Polls & Elections Committee;
 - (b) Continuing Legal Education Committee;
 - (c) Ethics Committee;
 - (d) Historians Committee;
 - (e) Law Related Education Committee;
 - (f) Statutes, Bylaws and Rules Committee.
 - (g) Alaska Rules of Professional Conduct Committee
 - (h) Lawyers' Assistance Committee
 - 2. <u>Supervision of Committee Work</u>. The work of the standing committees shall be supervised by the Vice President of the Alaska Bar Association.
 - 3. <u>Committee Reports.</u> The chairperson of each committee should submit to the President and the Board four reports per year, as follows: program outline due August 1; status report due December 31; follow-up status reports and committee member evaluations by February 28; final report in time for publication in the issue of the <u>Bar Rag</u> before the annual business meeting and distribution at the annual business meeting.
 - 4. <u>Membership</u>. A once yearly solicitation for committee membership will be mailed to all members of the Association no later than April 1.
 - 5. <u>Terms.</u> A committee member shall serve a three year term, beginning July 1 of the first year and ending June 30 of the third year, unless the member has been appointed to fill an unexpired term or if membership on the Committee has been expanded and the terms of the newly appointed members must be staggered.
- **C. Bar Rule Committees**. The following committees are established pursuant to the Alaska Bar Rules:
 - 1. Lawyers' Fund for Client Protection

2. Conciliation, with panels established in:

- (a) First Judicial District,
- (b) Second and Fourth Judicial Districts Combined,
- (c) Third Judicial District;

3. Discipline, with area hearing committees established in:

- (a) First Judicial District,
- (b) Second and Fourth Judicial Districts Combined,
- (b) Third Judicial District;

4. Fee Arbitration, with area subcommittees established in:

- (a) First Judicial District (Ketchikan, Juneau),
- (b) Second and Fourth Judicial Districts Combined (Fairbanks),
- (c) Third Judicial District (Anchorage, Kenai); and

5. Law Examiners

D. <u>Special Committees</u>. In addition to standing committees and bar rule committees there shall be such special committees as are from time to time established by the President with the advice and consent of the Board of Governors.

E. Substantive Law Sections.

1. **Structure.** Each section is administered by an executive committee composed of at least five Bar members who serve three-year, staggered terms. A section chairperson is elected by September 30 of each year by the section's executive committee and serves as the liaison between the section and the Association.

2. Membership and fee requirements are as follows:

- (a) Attorney Membership and Fees. Attorney membership in each section is open to all active and inactive members of the Alaska Bar Association in good standing. \$5 of a member's annual membership fee will be allocated to the budget of the first section joined by that member. A member may join additional sections at a registration fee to the member of \$15 per additional section joined per year. The New Lawyers section is free to any Bar member and does not count as a "first" section registration.
- (b) <u>Informational Membership and Fees</u>. Non-voting section membership is available at the discretion of each section to any person who is not a member of the Association, but who subscribes to the informational and educational objectives of the section. Informational section members may not serve on the executive committee of any section. There is an

annual \$15 membership fee assessed for each section joined by an Informational Member.

- 3. Fields of Law. There are 28 sections of the Alaska Bar Association. They are: Administrative Law, Admiralty Law, Alaska Native Law, Alternate Dispute Resolution, Appellate Law, Bankruptcy Law, Business Law, Corporate Counsel Law, Elder Law, Employment Law, Environmental/Natural Resources Law, Estate Planning/Probate Law, Family Law, Federal Agency and Congressional Practice Law, Healthcare Law, Immigration Law, IP/Arts & Entertainment Law, International Law, Law & Community Health Forum, Municipal Law, New Lawyers, Public Contracts Law, Real Estate Law, Service Members/Veterans/Military Families, Taxation Law, Torts/Personal Injury Law, Unbundled Law, and Workers' Compensation Law.
- 4. <u>CLE Programs.</u> On a two-year rotating schedule, each section is responsible for assisting the bar in sponsoring a continuing legal education program in that section's field of law. Any committee desiring to present a continuing legal education program shall coordinate the time, place, and subject matter of such program with the Continuing Legal Education Director of the Alaska Bar. A committee may co-sponsor or cooperate with another professional group in the presentation of a CLE program if approved by the Board of Governors. The Bar's CLE Director will provide guidance to and assist in the presentation of CLE programs approved by the CLE Committee.
- 5. <u>Section Meetings</u>. In addition to the annual section meeting, each section's executive committee will hold no less than two meetings each year of the section's membership.
- 6. **Annual Report.** Each section's executive committee will prepare a written report to be delivered to the Board at least thirty (30) days before the annual business meeting.
- 7. Annual Section Meeting. Each section's executive committee will schedule an annual meeting of the section membership to discuss recent developments in the law. The annual meeting will be held at a time and location determined by the executive committee. The section's executive committee will prepare and distribute to section members a written update on legal developments in the area of law studied by the section.
- 8. <u>Executive Committee Elections.</u> The nominations and elections for vacancies occurring on each section's executive committee will conclude not later than September 30 of each year.
- **F.** Section Chairs Meeting. To encourage participation and communication, there shall annually be a breakfast meeting of the chairs of the various section executive committees held in conjunction with the Annual Bar Convention. The expense of the breakfast meeting shall be borne by the Association.
- **G.** <u>Section Expenses</u>. Section Expenses shall be covered by the general budget for all sections in consultation with the Assistant Director.

- **H.** Adjunct Organizations. In addition to the foregoing committees, members of the Alaska Bar are appointed to serve on the following commissions and boards:
 - 1. <u>House of Delegates of the American Bar Association</u>. One delegate is elected to a two year term by the active members of the Association in a statewide election.
 - 2. <u>Alaska Association of Legal Assistants</u>. A liaison between the Alaska Bar Association and the Alaska Association of Legal Assistants is appointed by the Bar President, subject to confirmation by the Board.
 - 3. <u>Alaska Bar Foundation</u>. Foundation trustees are elected by the Board of Governors of the Alaska Bar Association, the Board currently holding the only memberships on the Foundation.
 - 4. Alaska Code Revision Commission. One member of the Alaska Bar is appointed by the Board of Governors to the Commission for a six year term. The Board conducts an advisory poll of all active members of the Association prior to making its appointment.
 - Alaska Commission on Judicial Conduct. Three attorney members who have practiced law in the State for at least ten years hold geographically designated seats and are appointed by the Governor to the Commission from a list of recommendations submitted by the Board of Governors. The Commission members are appointed for four year terms. An advisory poll is conducted by the Board only in the judicial district (First, Third or combined Second and Fourth) in which the vacancy occurs prior to making its recommendations to the Governor.
 - 6. Alaska Judicial Council. The three attorney members appointed to the Council hold geographically designated seats and are appointed to six year terms by the Board of Governors. The Board conducts an advisory poll only in the judicial district in which the vacancy occurs prior to making its appointments.
 - 7. <u>Alaska Law Review</u>. The Board of Governors appoints at least three Bar members to sit on the <u>Alaska Law Review's</u> Editorial Board.
 - 8. Alaska Legal Services Corporation (ALSC). The attorney members on the Board of Directors for the Corporation as well as their alternates, are appointed by the Association's Board of Governors after interested persons are solicited and an advisory poll is conducted of the membership residing in the judicial district in which a vacancy on the ALSC Board occurs. Appointments are made by judicial district for three year terms. A representative of the Board of Governors itself is appointed by the Bar President with the concurrence of the Board.
 - 9. Ninth Circuit Judicial Conference. Representatives of the Alaska Bar Association are appointed to the Conference by the Chief Judge of the U. S. District Court for Alaska after accepting a recommendation(s) from the Board of Governors. The Bar representatives to the Conference serve three year terms. The Board conducts a statewide advisory poll of the active Bar membership prior to forwarding its recommendation(s) to the Chief Judge.

- 10. **Rocky Mountain Mineral Law Foundation.** The Board appoints a member of the Association to act as liaison to the Foundation.
- **I.** Expenses of Committee Members. Committee members shall not be reimbursed for travel or other expenses except upon the express authorization of the Board of Governors.

XII. ADMISSIONS, EXAMINATIONS AND APPEALS

- A. Purpose
- B. Eligibility
- C. Bar Exam Application
- **D.** Bar Exam Administration
- **E.** The Multistate Bar Examination (MBE)
- F. Announcement of Exam Results
- **G**. The Multistate Professional Responsibility Exam (MPRE)
- H. Payment of Grading
- I. Appeals
- J. Bar Review Course
- **K.** Purchase of Exam Questions
- L. Out-of-State Swearing-in
- M. Admission without Examination
- N. Admission by UBE Score Transfer
- O. Special Testing Accommodations
- P. Foreign Law Consultants
- Q. A.S. 08.08.210(d): Board Interpretation Regarding 10 Month Practice

XII. <u>ADMISSIONS, EXAMINATIONS AND APPEALS</u>

A. <u>Purpose</u>. The purpose of the Alaska Bar Examination is to assist in the determination of whether an applicant for membership in the Alaska Bar Association possesses minimal competence to practice law.

B. Eligibility.

- 1. **Provisionally Approved Law School.** Graduates of schools provisionally approved by the Council of Legal Education of the American Bar Association or the Association of American Law Schools shall be eligible to apply for the Alaska Bar examination.
- 2. **Pre-conditions.** All documentation, as well as the other requirements set forth in Part I of the Alaska Bar Rules, must be satisfied in order for an applicant to be issued an bar examination permit. Where any of the conditions remain unfulfilled, the Executive Director has the authority to deny a permit to sit for the Alaska Bar Exam to any applicant. In the event of any doubt, the question shall be referred to the Board.
- 3. <u>Conditional Approval</u>. The issuance of an examination permit shall not foreclose the Board from a later determination that the candidate is ineligible for admission because of lack of good moral character.

C. Bar Exam Application.

1. **General Instructions.**

- (a) All persons seeking admission to the practice of law in Alaska by exam, except reapplicants, must complete and file an "Application for Admission" (see Appendix) with the office of the Alaska Bar Association in Anchorage, Alaska. The application and instructions are available from the Alaska Bar. Reapplicants generally are to complete only a short form which updates information previously provided on the original application filed by the applicant.
- (b) Applications which are not substantially complete when filed will be rejected. Questions on the application seeking information concerning dates and addresses should be answered with exact dates and current, complete mailing addresses, including the street name and/or post office box number, city, state, and zip code of any individual or entity provided on the application. The application must be typewritten and sworn to by the applicant.
- (c) All applicants must file with their applications:
 - (1) An admission fee in the amount of \$800.00 (this includes an application fee of \$500.00 and a character investigation fee of \$300.00);
 - (2) Two, 2-inch by 3-inch photographs of the applicant, showing a front view of the head and shoulders;

- (3) Two properly completed sets of fingerprint cards, as provided with the application; and
- (4) One properly executed Authorization and Release form, as provided with the application.
- (d) In addition, a certificate from the applicant's law school, certifying that the applicant meets the educational requirements of Alaska Bar Rule 2, may be filed with the application; in any event, however, a law school certificate must be filed by all applicants no fewer than twenty (20) days prior to the first day of the examination.
- (e) Any application received without payment of all required fees, or which is not substantially complete, will be promptly returned to the applicant with a notice stating the reasons for rejection.
- (f) Each applicant will be notified no fewer than ten days in advance of the bar examination whether his or her application has been approved by the Board. If an application is approved, the applicant will receive an examination permit, which must be presented to the examination proctor on each day of the examination.
- (g) A Resident alien must file with their application an appropriate affidavit specifying sufficient facts to enable the Alaska Bar to verify his or her status with the Immigration and Naturalization Service.

2. **Updated Application.**

- (a) Once an application is completed and filed with the Alaska Bar, the applicant has an ongoing responsibility to update that application so that the information provided to the Bar concerning the applicant is both current and accurate. An applicant must therefore promptly notify the Bar of any change in circumstance relevant to his or her application for admission. This notification must be in writing and, where applicable, provide a detailed explanation of the amendment to the application.
- (b) Failure to disclose a change in circumstance relevant to the information originally requested on the application itself shall be considered sufficient cause to withhold permission to sit for the exam, especially where that information might well be perceived as adversely reflecting on an applicant's fitness to practice law. If pertinent information comes to light after the administration of the exam itself, the failure to disclose and amend the application shall be grounds for denying certification for admission. In either instance, a hearing may be scheduled on the matter as it reflects on the applicant's good moral character.
- 3. Reapplicant Deadlines. Applicants who have failed the Alaska Bar Examination may reapply in accordance with Rule 3, Section 6. Reapplications shall be made by filing a reapplication form as required by the Board by January 15 for the February exam and by June 15 for the July bar exam.
- 4. **Reapplicant Fees.** An applicant who has taken the Alaska Bar Examination within one year must pay an application fee of \$500.00 (and, if

applicable, late fees) at the time of filing the application. If it has been more than one year since the applicant has taken the Alaska Bar Exam, the applicant must pay the full application fee.

D. <u>Bar Exam Administration</u>.

1. <u>Application deadlines.</u> An application for the February Alaska Bar Examination must be filed by December 1, and by May 1 for the July exam. Applications for the February exam received (postmarked or hand delivered) after December 1 incur penalties for late filing (see Section 3 of Bar Rule 3) up through January 15.

Applications for the July bar received (postmarked or hand delivered) after May 1 incur late penalties up through June 15 (see Bar Rule 3).

The Executive Director, for good cause, may accept applications filed after the January 15 and June 15 deadlines.

- 2. <u>Examination Dates.</u> The Alaska Bar Examination is given twice a year. Examinations begin on the Tuesday before the last Wednesday in February and July of each year.
- 3. <u>Locations</u>. Examinations may be administered in Anchorage, Fairbanks or Juneau, or wherever else the Board of Governors of the Alaska Bar shall designate.

4. Withdrawals and Refunds.

- (a) Absolutely no exam fees are refunded unless an application is withdrawn by the applicant within twenty (20) days of the first day of the exam for which he or she has applied to sit. Applications withdrawn after the final filing deadline, but before twenty days of the exam itself, will be charged a reasonable cancellation fee of \$50.00. In no instance is the amount paid for the late filing of an application subject to refund.
- (b) Applicants who withdraw past the deadline to receive a refund of the application fee may pay an application fee of \$500.00 (and, if applicable, late fees) if applying to take the succeeding bar exam.
- (c) The application of an applicant who has not formally withdrawn from an exam but who fails to appear on the first day of the exam will be returned to the applicant without a refund of his or her exam fees.
- (d) The application of any applicant who begins the exam but, for whatever reason, does not complete the exam, will be returned to the applicant without a refund of his or her exam fees and that portion of the exam completed by the applicant considered null and void.
- (e) Applicants who withdraw from an exam are not allowed to transfer fees paid to a future exam.

E. The Multistate Bar Examination (MBE).

- 1. <u>Content.</u> The MBE is a standardized, multiple-choice exam administered nationally by the American College of Testing and consists of 200 questions given in two, three-hour sessions of 100 questions each.
- 2. <u>MBE Dates</u>. The MBE is given on the last Wednesday in February and July of each year.
- 3. **Release of MBE Score.** To assist the successful applicant who is debating whether to transfer his or her MBE scaled score to another jurisdiction, upon request and being informed of such other jurisdiction, the Alaska Bar will inform the applicant of the MBE scaled score he or she received on the MBE.
- F. Announcement of Exam Results. The pass/fail result of an examination is generally announced by the Board of Governors approximately ninety (90) days after the examination. The result is certified to the Supreme Court, together with the recommendation of the Board with respect to the admission of those applicants who passed the exam and were found in all other respects to be eligible for admission. Each applicant is notified of the Board's determination.

G. The Multistate Professional Responsibility Exam (MPRE).

- 1. **Purpose.** Given the fundamental importance to the legal profession of ethical awareness and responsibility, the Board of Governors has determined that ethics should be tested separately from the substantive law questions on the Alaska Bar Exam. The purpose of the MPRE is to ensure that persons admitted to the Alaska Bar are prepared to cope with ethical problems in the practice of law.
- 2. Administration. The MPRE is not administered as a part of the bar exam, but is given separately three times a year (March, August, and November) by the NCBE in cooperation with the American College Testing Program. The MPRE may be taken at any time by an applicant to the Alaska Bar (e.g., while still in law school; before the bar exam; after the bar exam).
- 3. <u>Content.</u> The MPRE is a two hour test consisting of 50 multiple-choice questions. A scaled score of 80 or above has been determined by the Board of Governors of the Alaska Bar as demonstrating adequate awareness of the ethical principles of the Code of Professional Responsibility and the Code of Judicial Conduct for admission to the Bar.
- **H.** Payment for Grading. Each member of the Law Examiners Committee shall be paid \$400 per exam administration, for grading examinations.
- **I.** Appeals. A failing applicant shall have the opportunity to review his or her essay examination. Copies of the applicant's essay answers, together with the essay questions, shall be provided for this purpose at a cost of \$10.00 per set, plus with any extraordinary delivery charges. A representative sampling of the essay exams of overall passing and overall failing applicants will be provided at a cost of \$15.00. Benchmarks for that exam will be provided at a cost of \$15.00.
- **J.** <u>Bar Review Course</u>. While the Board supports the concept of a bar review course, there shall be no relationship between the administration of such a course and the Alaska Bar Association.

- **K.** Purchase of Exam Questions. Persons so desiring may purchase from the Alaska Bar Association copies of prior essay examination questions and grader's guides at a cost of \$10.00 per set.
- **L.** <u>Swearing-in</u>. An applicant who has successfully passed an Alaska Bar Examination shall take the oath of attorney before any state or federal judicial officer.

M. Admission Without Bar Examination (Reciprocity).

1. **General Instructions.**

- (a) All persons seeking admission on motion to the practice of law in Alaska must complete and file an "Application for Admission without Examination" with the office of the Alaska Bar Association in Anchorage, Alaska. The application and instructions are available from the Alaska Bar.
- (b) Applications which are not substantially complete when filed will be rejected. Questions on the application seeking information concerning dates and addresses should be answered with exact dates and current mailing addresses, including the street name and/or post office box number, city, state and zip code of any individual or entity provided on the application. The application must be typewritten and sworn to by the applicant.
- (c) All applicants must file with their applications:
 - (1) An admission fee in the amount of \$1,000 (before July 1, 2000) or \$1,500 (after July 1, 2000).
 - (2) Two, 2-inch by 3-inch photographs of the applicant, showing a front view of head and shoulders (larger photos are acceptable).
 - (3) Two properly completed sets of fingerprint cards, as provided with the application.
 - (4) A certificate from the applicant's law school, certifying that the applicant meets the educational requirements of Alaska Bar Rule 2.
 - (5) From each jurisdiction to which the applicant is admitted, a certificate from the admitting authority in that state, territory, or the District of Columbia, which states the current membership status of the applicant in that jurisdiction (e.g., active, inactive) and, in addition, from at least one of the jurisdictions in which admitted, certification that the applicant passed the <u>written</u> bar examination required by that authority prior to admission.
 - (6) A copy of the <u>current</u> admission requirements from the jurisdiction(s) from which the applicant claims "reciprocity."

- (7) Not less than three <u>affidavits</u> from former employers, clients, associates, or other attorneys, which will establish that the applicant has engaged in the <u>active</u> practice of law for five of the seven years immediately preceding the date of application for admission to the Alaska Bar [see the definition of "active practice" in Section 2(c) of Bar Rule 2].
- (8) One properly executed Authorization and Release form, as provided with the application.
- (d) Any application received without payment of all required fees, or which is not substantially complete, will be promptly returned to the applicant with a notice stating the reason for the rejection.
- (e) An application for admission without examination may be filed at any time, and the application will be presented to the Board at the next meeting following completion of the character investigation.
- 2. **Withdrawals and Refunds:** An administrative fee of \$50.00 will be withheld if the application is denied because the applicant fails to demonstrate his or her eligibility for admission on motion; or if the applicant withdraws the application before the character investigation is commenced.

An administrative fee of \$175.00 will be withheld if the application is denied on the basis of character; or if the applicant withdraws the application after the character investigation is commenced.

N. Admission by Uniform Bar Exam (UBE) Score Transfer.

1. General Instructions

- (a) All persons seeking admission to the practice of law in Alaska by UBE score transfer must complete and file an "Application for Admission by UBE Score Transfer" with the office of the Alaska Bar Association in Anchorage, Alaska. The application and instructions are available from the Alaska Bar.
- (b) Applications which are not substantially complete when filed will be rejected. Questions on the application seeking information concerning dates and addresses, should be answered with exact dates and current mailing addresses, including the street name and/or post office box number, city, state and zip code of any individual or entity provided on the application.
- (c) All applicants must file with their applications:
 - (1) An admission fee in the amount of \$800.
 - (2) Two, 2-inch by 3-inch photographs of the applicant, showing a front view of head and shoulders (larger photos are acceptable).
 - (3) Two properly completed sets of fingerprint cards, as provided with the application.

- (4) A certificate from the applicant's law school, certifying that the applicant meets the educational requirements of Alaska Bar Rule 2.
- (5) From each jurisdiction to which the applicant is admitted, a certificate from the admitting authority in that state, territory, or the District of Columbia, which states the current membership status of the applicant in that jurisdiction (e.g., active, inactive).
- (6) One properly executed Authorization and Release form, as provided with the application.
- (7) An official UBE score transcript provided by the NCBE and sent directly to the Alaska Bar Association.
- (d) Any application received without payment of all required fees, or which is not substantially complete, will be promptly returned to the applicant with a notice stating the reason for the rejection.
- (e) An application for admission by UBE score transfer may be filed at any time, and the application will be presented to the Board at the next meeting following completion of the character investigation.
- 2. **Withdrawals and Refunds:** An administrative fee of \$50.00 will be withheld if the application is denied because the applicant fails to demonstrate his or her eligibility for admission by UBE score transfer; or if the applicant withdraws the application before the character investigation is commenced.

An administrative fee of \$175.00 will be withheld if the application is denied on the basis of character; or if the applicant withdraws the application after the character investigation is commenced.

O. Special Testing Accommodations

1. **Policy**

It is the policy of the Board of Governors that the bar exam will be administered to all eligible applicants in a manner that does not discriminate against applicants with disabilities. The applicant has the burden of proving the necessity for the special accommodations by a preponderance of the evidence.

2. Deadlines for Receipt of Requests

February exam: December 1

July exam: May 1

Applicants are encouraged to file the request as early as possible with their bar exam applications, but not later than the deadlines listed above.

An applicant may submit an emergency request for special testing accommodations after the deadlines if the applicant subsequently suffered a disability that would necessitate special testing accommodations.

3. **Information Required**

To apply for special testing accommodations, the four accommodation forms available on the Bar's website must be submitted. Please note that Form 2 (Medical Declaration Verification Form) must be submitted directly to the Alaska Bar Association by the individual completing the form.

The forms are intended to provide the Board of Governors with information concerning the nature and extent of the disability for which accommodations are requested, the specific accommodations requested for this exam, information concerning past accommodations, and a current opinion from an appropriate specialist regarding the disability and the requested accommodation.

An applicant may be required to submit to independent diagnostic testing at the Bar's expense, by a physician or specialist selected by the Bar Association. The Bar may also, at its expense, have the information submitted by the applicant evaluated by a physician or specialist selected by the Bar.

4. **Decision by Board of Governors**

The Board of Governors will review the request as early as practicable prior to the exam, generally in January and June. Each applicant's request for special accommodations is assessed individually. You will be advised if additional information is required and of the Board's decision.

The Board may deny or defer a request if there is not sufficient time remaining before the exam to make a determination on the merits or to provide appropriate accommodations.

5. **Reapplicant Requests**

The executive director is authorized to allow a reapplicant similar special accommodations which had previously been approved by the Board of Governors, provided the reapplicant has demonstrated that the disability is continuing.

Any reapplicant request for more time than that previously granted by the Board of Governors must be approved by the Board. A request for different accommodations shall be treated as a new request and subject to all the requirements for an original application.

P. Foreign Law Consultants

1. **Fee**

The application fee for a Foreign Law Consultant under Bar Rule 44.1 is \$1,000.

2. **Professional Liability Insurance**

At this time the Board recommends to the Alaska Supreme Court that Foreign Law Consultants not be required to carry professional liability insurance.

Q. A.S. 08.08.210(d): Board Interpretation Regarding 10 Month Practice

- 1. The 10 month period commences on the day the individual starts working for the Department of Law, the Public Defender Agency, or the Office of Public Advocacy.
- 2. An individual may practice law for 10 months total for either the Department of Law, the Public Defender Agency or the Office of Public Advocacy.
- 3. An individual may exclude from the 10 month period time away from employment for medical or family leave, for the three days of the Alaska Bar Examination, or for unpaid leave from the individual's position.

XIII. DISCIPLINE; MEDIATION GUIDELINES

- A. Statistical Records
- B. Board Decision
- C. Public Members
- **D.** Private Reprimand
- E. Attorney's Fees and Costs Awards in Discipline Cases
- F. Press Releases
- **G.** Board Guidelines for Bar Counsel Referral of Mediation Cases
- **H.** Board Discipline Liaison
- I. Board Guidelines for Grievance Intake Decisions

XIII. DISCIPLINE; MEDIATION GUIDELINES

- A. <u>Statistical Records</u>. Statistical records of all complaints and requests for investigation shall be maintained, together with records of the status of each case and ultimate disposition. Statistical summaries shall be provided to the Supreme Court and to the Board of Governors on a quarterly basis.
- **Board Decision**. For each discipline case brought before it, after a review of the record, hearing oral argument (if requested), and deliberations, the President shall assign one member of the Disciplinary Board to prepare the written findings of fact, conclusions of law, and recommendation(s) of the Disciplinary Board.
- **C.** <u>Public Members</u>. Public members of disciplinary hearing committees shall be notified by the Executive Director of the ultimate Board action in the cases in which they have participated.
- **D.** Private Reprimand. Private reprimands shall be administered by the Bar President, except when the Respondent lives in the same locale and then the President shall appoint a Board member from a different location to deliver the reprimand. Private reprimands shall be delivered in an appropriate setting, in a grave and dignified manner, and with an explanation as to why the proceedings are necessary.
- **E.** Attorney's Fee and Costs Awards in Discipline Cases. If the Disciplinary Board enters an order or recommendation that the respondent attorney pay Bar Counsel's attorney's fees and costs, the Board Discipline Liaison shall review Bar Counsel's application, any opposition submitted by the respondent, and then enter an order or recommendation concerning Bar Counsel's attorney's fees and costs.

Bar Counsel shall file the application with the Board Discipline Liaison within 10 days of the Board's order or recommendation and serve a copy on the respondent. The respondent shall file an opposition, if any, within 10 days of the date of service of Bar Counsel's application and serve a copy on Bar Counsel.

Bar Counsel and their legal assistants/investigators shall maintain records reflecting time and nature of work performed on discipline cases beginning on the date a petition for formal hearing is filed with the Executive Director. The fee rate for Bar staff shall be the actual hourly cost of the staff member's salary and benefits plus 10 per cent.

In addition, Bar Counsel shall maintain records reflecting the following costs:

- (1) necessary expense of taking depositions for use at the formal hearing before the area hearing committee and producing exhibits;
- (2) the expense of service and publication of the petition for formal hearing or notices, and postage when the same are served by mail;
- (3) transcription and copy fees for transcripts required in the formal proceedings before the Area Hearing Committee and the Disciplinary Board;
- (4) photocopy expenses for preparation of the record before the Disciplinary Board; and

- (5) other expenses, not included above, which are necessarily incurred in order to enable Bar Counsel to secure some right accorded the Alaska Bar Association in the formal proceedings before the Area Hearing Committee and the Disciplinary Board.
- **F.** <u>Press Releases.</u> In addition to the public notice requirements of Bar Rule 28, it is the policy of the Disciplinary Board to issue press releases concerning publicly-imposed discipline to the public media.

Releases will normally be issued in cases of: reprimand, publicly imposed, by the Disciplinary Board; public censure by the Alaska Supreme Court; probation by the Alaska Supreme Court; suspension by the Alaska Supreme Court; or disbarment by the Alaska Supreme Court.

Releases will include: the name of the respondent attorney, office location, a brief description of the facts and the ethical violations committed, the sanctions imposed by the Board or the Court, any conditions attached to the sanctions imposed, an explanation of any practice restrictions, and a statement that questions concerning the discipline imposed may be directed to the office of bar counsel. In addition, a copy of the decision or order of the Board or Supreme Court will be attached.

The release will be prepared by bar counsel and reviewed and approved by the Board Discipline Liaison or the Board President.

G. <u>Board Guidelines for Bar Counsel Referral of Mediation Cases</u>.

- 1. If the case were to be handled through the disciplinary process, it would likely result in either a dismissal or discipline no greater than a written private admonition. Examples would be failure to communicate or minor neglect.
- 2. No case alleging intentional dishonesty or material misrepresentation would be referred to mediation.
- 3. The case should involve a small number of issues (1-3), rather than numerous allegations.
- 4. The harm, if any, caused by the attorney's conduct should be minor.
- 5. The complaining party should be a client or an adverse attorney or a successor attorney.
- 6. The case should involve a dispute between the complaining party and the respondent-attorney which would appear to be able to be resolved by mediation and both parties agree to mediation.
- 7. The respondent (lawyer) cannot be one who a) has been the subject of more than two other mediation referrals within the last two years; b) has failed to abide by the terms of any previous mediation; c) who has been disciplined by a private censure or by any public discipline within the last two years.

H. Board Discipline Liaison

- 1. As provided in Bar Rule 11(f), the president will appoint, on an annual basis, a member of the board to serve as the Board Discipline Liaison to Bar Counsel and Bar Counsel's staff.
- 2. In addition to the duties and responsibilities set out in Bar Rule 11(f), the Liaison will review complainant appeals of Bar Counsel's decision not to accept a grievance for investigation including decisions based on the pendency of civil or criminal proceedings. The Liaison may affirm Bar Counsel's decision not to open an investigation or may direct that Bar Counsel open an investigation into all or specific allegations made in a grievance.

I. Board Guidelines for Grievance Intake Decisions

In deciding whether a grievance warrants investigation under Alaska Bar Rule 22(a), Bar Counsel may consider, but is not limited in considering, the following factors:

- 1. the alleged conduct does not constitute grounds for discipline as set forth in Alaska Bar Rule 15;
- 2. the likelihood that no additional information is necessary from the Complainant and the Respondent to enable Bar Counsel to make a decision regarding the merits of the grievance;
- 3. the likelihood that the alleged conduct could not be proven by clear and convincing evidence;
- 4. the Complainant has not exhausted other forms of relief such as an ineffective assistance of counsel claim or post conviction relief;
- 5. the pendency of a criminal or civil case or appeal that might provide information relevant to the grievance; or
- 6. the conduct complained of primarily concerns fee, contract or malpractice issues.

XIV. <u>LEGISLATIVE LIAISON</u>

- **A.** Functions
- **B.** Retention
- C. Reports

XIV. <u>LEGISLATIVE LIAISON</u>

- **A.** <u>Functions</u>. The legislative liaison of the Alaska Bar shall engage primarily in monitoring activities. Active lobbying efforts shall be undertaken only at the express direction of the Board.
- **B** Retention. The legislative liaison shall be employed from year to year, on a contract basis, the terms of which are subject to annual negotiation.
- **C.** Reports. The legislative liaison shall make weekly reports during the legislative session to the President and the Executive Director.

XV. <u>INVESTMENT PORTFOLIO POLICY</u>

- **A.** Statement of Purpose
- **B.** Objectives
- **C.** Policy Determination
- **D.** Policy Implementation
- **E.** Operating Proceedures
- **F.** Policy Revisions and Review

XV. <u>INVESTMENT PORTFOLIO POLICY</u>

A. <u>Statement of Purpose</u>

This policy statement applies to the resources of the Association that are available for investment.

B. Objectives

The objective of the investment portfolio is to earn an optimum rate of return over the long term consistent with adequate liquidity and appropriate safety considerations.

C. <u>Policy Determination</u>

Investment policy parameters will be recommended to the Board of Governors of the Association by the Investment Committee, which shall consist of the President, or his or her designee, the Treasurer and the Executive Director, in consultation with the Controller. Determination of final investment policy shall be the prerogative of the Board of Governors of the Association.

D. Policy Implementation

The Executive Director will be responsible for implementation of the investment policy. All investment activity shall be executed by the Executive Director or by the Controller at the direction of the Executive Director.

E. Operating Procedures

1. Determination of Investment Funds Available:

- (a) The cash inflow and outflow pattern for a typical 12 month operating cycle will be analyzed to determine the amount of money required to meet the expected liquidity needs.
- (b) Unusual cash flow elements will be identified and used to determine the final amount available for investment.

2. **Maturity Constraints:**

- (a) The maximum permitted maturity of investment securities shall be up to 5 years when the Board or staff feels that conditions warrant such a move.
- (b) Investment maturities shall be determined as appropriate by the Investment Committee.

3. **Permitted Investment Securities:**

- (a) Money Market Accounts at federally insured financial institutions.
- (b) Money market funds (a fund that buys investment vehicles with maturities of 1 year or less and which has a certain percentage of those

vehicles maturing on any given day to provide liquidity) at major brokerage firms.

- (c) Treasury Bills
- (d) Zero coupon treasury bonds.
- (e) CD's -- Primary and secondary market certificates of deposit at federally insured financial institutions.
- (f) Fixed Income Mutual Funds mutual funds which holds exclusively fixed income investments such as government or corporate bonds, t-bills, t-notes certificates of deposit, commercial paper, etc., all of which pay periodic interest payments.

4. Concentration of Risk:

- (a) U.S. Government and Agency Securities may be held in unlimited amount.
- (b) Money market accounts may be held up to insured amounts.
- (c) Money market funds at major brokerage houses may be held in amounts as deemed necessary for prudent cash flow management.
- (d) Certificates of Deposit may be held up to insured amounts with any given financial institution.
- (e) Fixed income mutual funds may not represent more than 33 1/3% of the total investment portfolio.

5. **Broker Selection:**

Brokers shall be selected based upon the type of security to be purchased or sold and the ability to execute at the best price consistent with integrity and back-office capability. To insure ease of communication preference should be given to a broker with an Alaska office.

F. Working Capital Reserve

The Working Capital Reserve is set at an amount equal to seven months of expenses, based on the budget, figured annually (as of January 2013.)

G. Policy Revisions and Review

The statements of policy outlined above are not static, just as the investment market and the affairs of the association are not static. Rather, they are policies designed to accomodate the current environment. They may be modified by action of the Board of Governors as necessary and shall be reviewed on an annual basis at the October Board meeting after review by the Investment Committee.

INVESTMENT POLICY ADOPTED BY THE BOARD OF GOVERNORS ON JUNE 7, 1988

Revised 11/2013

XVI. BROADCAST E-MAIL AND REGULAR MAIL

POLICIES AND PROCEDURES

The Alaska Bar Association recognizes that broadcast e-mail messages are a quick and efficient way to provide information to members. The Bar is also aware of the nuisance or "spam" factor for our members in receiving unwanted e-mail. We want our members to associate e-mail from the Bar with Bar services such as CLEs, Section information, etc. In accordance with the following policies and procedures, the Bar will send messages to its members for the Alaska Bar Association, and the following entities only:

- Alaska Court System
- Alaska Judicial Council
- Judicial Conduct Commission
- Local Bar Associations
- Alaska Bar Foundation

Messages must be on issues, events or activities directly related to the Bar or entity. There is a two e-mail message limit for any given event. The Alaska Bar staff reserves the right to review all proposed messages for accuracy, length, and suitability. As an integrated Bar, the Alaska Bar is limited in its ability to be involved in political or legislative activity. E-mail messages must comply with these restrictions/limitations.

Messages can be sent to the entire membership or selected groups (i.e. a specific section or area of the state.) Messages must contain the name and

e-mail address of an individual to whom message recipients can reply. Attachments can be included on broadcast messages. Please contact Rachel Batres or JoAnne Baker to find out how best to attach a message and make sure recipients can open the attachments.

Member Email List: The member email list will only be given to the Alaska Court System, Alaska Judicial Council, Alaska Commission on Judicial Conduct, Alaska Bar Foundation and local bar associations. Member emails are not for sale; however, mailing labels can be purchased (see regular mail policy below).

Tips for broadcast e-mail messages

- Subject line should convey the main message if possible.
- Messages should be brief.
- Critical information; i.e. date, time, etc. should be in the first two lines of the message.
- It is preferable for messages to be no longer than ½ a page.

Adopted by Board of Governors 1/15/04

Regular Mail Policy for Other Organizations

Copying for member mailings takes a significant amount of staff time, as well as costs. Therefore all other organizations will be asked to provide the copies to be included in a Bar mailing. Other actual costs of mailings include the stuffing charge, and additional postage.

Any copies provided should be limited to one page (i.e., one piece of paper.)

The Bar will not mail fund-raising announcements.

1. Alaska Court System and pro bono organizations

- These organizations will provide the copies to be sent in the mailing, and the Bar will incur the other mailing costs, e.g., stuffing, postage.
- The court may also request the Bar roster on disk or electronically (for mailing labels) at no charge.
- Pro bono organizations may receive the Bar roster on disk or electronically (for mailing labels), quarterly at no charge.

2. <u>Alaska Law-related Non-profit organizations and government agencies in Alaska</u>

- They will provide the copies to be sent in the mailing and they will pay the pro-rata share of stuffing additional pieces and postage.
- They may purchase the roster on disk or electronically for \$25.

3. Other Non-profit organizations, private companies and for-profit organizations

- The Bar will not include items in Bar mailings for other Non-profit organizations, private companies and for-profit organizations.
- Other organizations may purchase the roster on disk or electronically for \$75, or the mailing labels at .15/label.

Adopted by Board of Governors 1/15/04

Chart of E-mail and Regular Mail Policies

	E-mail	Regular Mail
Court, Local Bars, Bar Foundation, Judicial Council, Judicial Conduct Commission	-no limit -no charge -we will send for them	-they provide copies -we mail at no charge -AND- They may get roster on disk at no charge
Pro Bono organizations	No	-they provide copies -we mail at no charge -ANDthey may get roster on disk quarterly at no charge
AK legal non-profits and govt. agencies	No	-they provide copies -they pay pro-rata share of mailing
Other non-profits or private companies	No	-Bar will not include items in mailing -they may purchase roster on disk for \$75 or labels at .15/label

Examples of Alaska Law Related Non-profit organizations:

- Youth Court
- AkCLU
- Disability Law Center

Pro bono organizations

- ALSC
- APBP
- CSS-Immigration Project
- ANDVSA
- Office of Public Advocacy (if for pro bono purposes)

G:\ADMIN\EXDIR\MEMBERS\Email and mailings policies 1-04.doc

XVII. INDIVIDUALS PERMITTED TO PRACTICE UNDER AS 08.08.210(d)

- A. <u>AS 08.08.210(d):</u> Employees of the Department of Law, the Public Defender Agency, and the office of public advocacy, whose activities would constitute the practice of law under this chapter and under the Alaska Bar Rules are required to obtain a license to practice law in Alaska no later than 10 months following the commencement of their employment.
- **B. Board interpretation**. The Board interprets this statute as follows:
 - 1. The 10 month period commences on the day the individual starts working for the Department of Law, the Public Defender Agency, or the Office of Public Advocacy.
 - 2. An individual may practice law for 10 months total for either the Department of Law, the Public Defender Agency or the Office of Public Advocacy.
 - 3. An individual may exclude from the 10 month period time away from employment for medical or family leave, for the three days of the Alaska Bar Examination, or for unpaid leave from the individual's position.

Adopted by Board of Governors 1/15/04 Updated 3/5/2008

G:\ADMIN\EXSEC\BOG\BOG Standing Policies.doc