



# ***MSBA PROCEDURES AND POLICY MANUAL***

***Published by the  
Maryland State Bar Association, Inc.***





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## I. INTRODUCTION

The smooth and efficient functioning of every organization requires a set of clear and familiar policies and procedures which set forth its basic structure, authority and operation. This booklet provides you the quickest, most handy compilation of the Bylaws, Regulations, Standing Rules and Policies and Procedures which govern your association. These policies provide us a point of coordination, consistency and continuity of our decisions and actions. As an involved member of the Maryland State Bar Association, please review and use this booklet as needed.

The staff is eager to share their knowledge and experience to assist you. Please call on us to help you whenever possible.

Sincerely,

Paul V. Carlin  
*Executive Director*



***MSBA  
Articles of  
Incorporation &  
By-Laws***

## **II. MSBA ARTICLES OF INCORPORATION AND BYLAWS**

### **A. ARTICLES OF INCORPORATION**

This is to Certify:

First: That we the subscribers, J. DeWeese Carter, whose post office address is Court House, Denton, Maryland, H. Vernon Eney, whose post office address is 1400 Mercantile Building, Baltimore, Maryland and William L. Marbury, whose post office address is 900 First National Bank Building, Baltimore, Maryland, all being more than twenty-one years of age, do under and by virtue of the General Laws of the State of Maryland authorizing the formations of corporations, associate ourselves with the intention of forming a corporation by the execution and filing of these articles.

Second: That the name of the corporation which is hereinafter called the "Corporation" is:

**MARYLAND STATE BAR ASSOCIATION, INC.**

Third: The purpose of the Corporation is to advance the science of jurisprudence, to promote reform in the law, to facilitate the administration of justice, to uphold the standard of integrity, honor and courtesy in the legal profession, to encourage legal education, and to cultivate a spirit of cordiality and brotherhood among the members of the Bar. It shall be a non-profit corporation, no part of the net earnings of which is to inure to the benefit of any member, shareholder or other individual.

Fourth: The post office address of the principal office of the Corporation is 520 West Fayette Street, Baltimore, Maryland 21201. The resident agent of the Corporation is Paul V. Carlin, whose post office address is 520 West Fayette Street, Baltimore, Maryland 21201. Said resident agent is a citizen of the State of Maryland and actually resides therein.

Fifth: The Corporation is not authorized to issue any capital stock. Members of the Maryland State Bar Association on the date of the filing of the articles of incorporation shall be the first members of the Corporation. Members may resign or be removed, vacancies may be filled and additional members elected as provided in the by-laws, which may prescribe different

classes of members and prescribe the powers and duties of each class.

Sixth: The Corporation shall have ten directors, which number may be increased or decreased pursuant to the bylaws of the Corporation, but to not less than three directors, and J. DeWeese Carter, H. Vernon Eney, William L. Marbury, Hal C. B. Clagett, S. Vannort Chapman, Clayton C. Carter, Ridgely P. Melvin, Jr., J. Louis Boublitz, David P. Gordon and Norman P. Ramsey shall act as such until the first annual meeting or until their successors are duly chosen and qualify.

In witness whereof, we have signed these Articles of Incorporation on this 9th day of March 1965.

J. DeWeese Carter  
H. Vernon Eney  
William L. Marbury

Witness  
S. Vannort Chapman

**B. BYLAWS**

Article I.  
Members

Section 1. Any member of the bar or the judiciary who has been admitted to practice law by the Court of Appeals of Maryland, who is not required to hold another form of membership in the Association, and who is not currently under suspension from the practice of law, is eligible to be an active member of the Association.

Section 2. Any active member who has retired from the practice of law or from the judiciary, any member of the bar or the judiciary of another state or the District of Columbia, and any teacher in an American Bar Association approved law school is eligible to be an affiliate member of the Association.

Section 3. Applications for active or affiliate membership shall be submitted to the Executive Director who shall report all applications to the Board of Governors. Unless the Board of Governors by a majority vote

directs that an investigation of an applicant be made, an applicant shall be deemed elected to membership and shall be so notified by the Secretary.

Section 4. Persons who are ineligible to be members of the Association may qualify as associates if they are in one of the following classifications, have never been disbarred or suspended from the practice of law in any jurisdiction, are of good moral character, and satisfy such further eligibility requirements as may be approved by the Board:

(a) Law Students: A law student currently enrolled in an ABA-approved school may apply for associate membership under rules prescribed by the Board of Governors. Dues for law students must be paid as prescribed by the Board of Governors.

(b) A paralegal/ legal assistant is a person qualified through education, training or work experience to perform work that requires knowledge of legal concepts and is customarily, but not exclusively, performed by a lawyer. This person shall be sponsored by a lawyer member and be employed and must remain employed as a regular staff employee, not as an independent contractor, by a lawyer, law office, governmental agency or other entity or be authorized by administrative, statutory or court authority to perform this work. A paralegal/ legal assistant may apply for associate membership under rules prescribed by the Board of Governors. Dues for paralegals/ legal assistants must be paid as prescribed by the Board of Governors.

(c) Law Firm Administrators: A law firm administrator is a non-lawyer who is qualified through education, training or work experience. This person shall be retained or is employed as a law office manager or administrator by a lawyer, law office, governmental agency or other entity. A law office administrator may apply for associate membership under rules prescribed by the Board of Governors if sponsored and employed by an active lawyer member of the Association. Dues for law firm administrators must be paid as prescribed by the Board of Governors.

(d) Law students, paralegal/legal assistants, and law firm administrators may participate in activities of the Association as authorized by the Board of Governors, except that they;

1. may not participate in electing members of the Board of Governors;

2. may not participate in nominating a member of the Board or an officer of the Association, and may not serve in any of those capacities;
3. may not vote in Association elections or referendums; and
4. may not sign a petition for Association elections of referendums;

Section 5. A member shall be responsible for designating a home or office address as his or her primary address, which shall be conclusively presumed to be the member's address for all purposes until the member notifies the Association of a change. A member whose dues are paid in full may resign from the Association by submitting a resignation in writing to the Executive Director who shall submit it to the Board of Governors.

Section 6. Upon the recommendation of the Board of Governors, and by a three-fourths vote at an Annual or Mid-Year Meeting of the association, honorary life membership may be conferred upon any person who shall have rendered notable service to the profession. A member of the Association shall also be eligible if that person has been a member for at least thirty years, has retired from the practice of law and, if a judge, from the judiciary, and has reached the age of seventy. An honorary member shall have none of the obligations of membership in the Association, but shall be entitled to all of the privileges, except that an honorary member who is not admitted to practice law by the Court of Appeals of Maryland shall not be entitled to vote.

## Article II. Dues and Finance

Section 1. The annual dues for both active and affiliate members, payable in advance on July 1 each year, shall be one hundred twenty-five dollars, except that:

- (a) Annual dues shall be reduced by fifty dollars for the fiscal year during which a member has, for the first time, been admitted to the bar of the State of Maryland, and for each of the four next succeeding fiscal years;
- (b) If a new member is elected to membership within six months from the date on which that member has, for the first time, been admitted to the

bar of the State of Maryland, dues attributable to the eight calendar months beginning on the first day of the month in which that member is admitted to membership shall be waived;

(c) The provisions of (a) and (b) above shall not apply to any member who, prior to being admitted to the Maryland bar, was admitted to the bar of any other state, territory or possession of the United States, or the District of Columbia, except to the extent that such provisions would apply if such member had been admitted to the Maryland bar on the date of such member's initial admission to the bar of any other jurisdiction;

(d) If not waived under (b) above, dues for the remainder of the fiscal year in which a new member is elected to membership shall be one-half of the applicable dues if such new member was elected to membership after January 1; and

(e) The Board of Governors may waive dues in special cases.

Section 2. The Treasurer shall send statements for dues to all members on or before July 1 each year. The Treasurer shall notify members three months in arrears and assess a five dollar (\$5.00) late payment for the second notice. Any notice sent by the Treasurer subsequent to the second notice shall contain an additional five dollar (\$5.00) late fee and those whose dues are not paid on or before January 1 of the same fiscal year shall be dropped from membership in the Association unless the Board of Governors grants an extension. Services and benefits, including publications and participation in Association activities, are subject to suspension if dues are more than three months in arrears.

Section 3. A budget for the following fiscal year shall be presented by the Treasurer for approval of the Board of Governors at its May meeting. The adopted budget, and any amendments thereto adopted by the Board of Governors by majority vote, shall constitute the Treasurer's authority to expend sums not in excess of the amounts listed in each category if supported by a proper voucher.

Section 4. The membership, by a two-thirds vote at any meeting, may impose an assessment on all members other than honorary life members and members whose dues have been waived by the Board of Governors, provided

that notice of the proposed assessment has been sent to all members with the notice of the meeting. Notice of a proposed assessment shall specify the amount thereof and the date on which the same is to become due. Upon imposition of an assessment, the Treasurer shall send statements there for to all members on or before the due date specified by the membership. The Treasurer shall notify members three months in arrears, and those who have not paid the assessment within nine months of the due date shall be dropped from membership in the Association unless the Board of Governors grants an extension.

Section 5. The fiscal year shall be from July 1 to June 30, inclusive.

### Article III. Officers

Section 1. The elective officers of the association shall be a President, a President-Elect, a Secretary, a Treasurer, one or more District Governors elected from each District, and three Young Lawyer Governors.

Section 2. The appointive officers of the Association shall be an Executive Director, and such other directors as deemed necessary and employed by the Board of Governors. The Board of Governors may appoint from the membership of the Association an Assistant Secretary and an Assistant Treasurer as it deems necessary.

Section 3. The Board of Governors, acting in executive session, shall constitute a Nominating Committee. It shall be the duty of this committee to nominate candidates for elective offices, except President and Governor. These nominations shall be mailed to all members not later than March 1 each year. Additional nominations may be made by petition filed with the Executive Director on or before April 1, signed by at least 30 members.

Section 4. The elective officers, except the President and Governors, shall be elected at the Annual Meeting for a term of one year or until their successors are elected, and their term of office shall begin at the close of the Annual Meeting at which they are elected. Governors shall be divided as equally as may be into two classes, Class I being elected in odd numbered years and Class II being elected in even numbered years, the members of each class to serve for a term of two years or until their successors are elected,

said term beginning at the close of the Annual Meeting held immediately following their election.

Section 5. For the purposes of this Association, the term “District” shall mean any of the following districts: District 1 - Baltimore City; District 2 - Dorchester, Somerset, Wicomico, and Worcester Counties; District 3 - Caroline, Kent, Queen Anne’s, and Talbot Counties; District 4 - Calvert, Charles and St. Mary’s Counties; District 5 - Prince George’s County; District 6 - Montgomery County; District 7 - Anne Arundel County; District 8 - Baltimore County; District 9 - Harford and Cecil Counties; District 10 - Howard County; District 11 - Frederick and Carroll Counties; and District 12 - Washington, Allegany and Garrett Counties.

Section 6. Any member of the Association having that member’s primary address within a District may be nominated for District Governor by a petition filed with the Executive Director in accordance with Regulations promulgated by the Board of Governors and not inconsistent with these Bylaws. The petition shall be (a) signed by an appropriate officer of the nominee’s county Bar Association, or in the First District, the Bar Association of Baltimore City, certifying that the candidate was selected by the governing body of such Bar Association, or (b) signed by not less than ten members of the Association, each of whom has a primary address within such District.

Section 7. The District Governors shall be elected by plurality vote by mailed secret ballot as provided in the parliamentary authority adopted by the Association, except in cases where the number of nominees does not exceed the number of District Governors to be elected, in which case nomination shall constitute election at the close of nominations. The election shall be conducted in accordance with Regulations promulgated by the Board of Governors and not inconsistent with these Bylaws. The District Governors shall be elected on a district-wide basis.

Section 8. Representation of Districts by Governors shall be determined according to the following procedure.

a. The maximum number of District Governors of the Association shall be thirty-two (32). Each district shall be entitled to at least one (1) Governor.

b. On the first day of September of each calendar year, the Secretary

of the Association shall determine the number of lawyers who are both in the State of Maryland and members of the Association. The Secretary shall divide this number of members by thirty-two (32) in order to establish the Base Number used to determine the minimum number of District Governors who shall represent each District. The Secretary shall certify to the Board of Governors the number of members whose primary addresses are in each District, and the number of additional District Governors who shall represent each District in accordance with the following formula:

1) The Secretary shall subtract the Base number from the total number of members whose primary addresses are in each District to establish a Secondary Total in each District, and rank each District in order from the largest to the smallest.

The Secondary Total from each District shall be added together to establish a Grand Secondary Total, which when divided by twenty (20), (the remaining number of Board Seats to be allocated) will provide the Secondary Divider.

2) After identifying the District with the largest Secondary Total, the Secretary shall divide the number of members in that District by the Secondary Divider. The whole number of the quotient shall equal the number of additional Governors for that District. The Secretary shall follow this procedure for the other Districts which have a Secondary Total greater than the Base Number, in descending order from largest to smallest, until the allocation of thirty-two (32) Governors has been completed.

3) A District with a zero (0) or a negative remainder shall not be entitled to an additional Governor.

4) If after the allocation pursuant to Paragraph two (2) above, the total number of Governors does not equal thirty-two (32), the Secretary shall then rank each District beginning with the District having the largest fraction in its quotient to the District having the smallest fraction in its quotient. The District having the highest fraction in its quotient shall be entitled to one additional District Governor. The Secretary shall follow this same procedure for succeeding Districts in descending rank according to the fraction value of the quotients until there are a total of thirty-two (32) Governors.

c. The Secretary shall certify the total number of District Governors for each District. In those Districts with an even number of District Governors, one half will be Class I Governors, and the remainder will be Class II Governors. In those Districts with an odd number of Governors, one half of the Governors plus one (1) will be Class II Governors.

Section 9. Young Lawyer Governors shall be elected by the Section of Young Lawyers as provided in its bylaws, two in Class I and one in Class II, provided, however, that all such Governors shall qualify as, and be, members of the Section of Young Lawyers at the beginning of their terms as Governors.

Section 10. No District comprising two or more counties shall be represented by a Governor from the same county for more than four consecutive years, unless there are no candidates from the other county or counties in the District who run for election. No Governor shall be elected to a successive term as a governor until at least one intervening two-year term has expired.

Section 11. The officers shall perform the duties prescribed by these Bylaws, the parliamentary authority adopted by the Association, and as ordered from time to time by the Association or the Board of Governors. In the temporary absence of the President, the President-Elect shall perform the duties of that office.

Section 12. Vacancies in elective offices shall be filled as follows:

(a) Should the office of President become vacant, the President-Elect shall immediately become President and, for the remainder of the term, shall hold both the office of President and the office of President-Elect. Should the office of President become vacant again during the same term, the Board of Governors, at its next meeting, shall elect a President who shall serve as President during the remainder of the term and the vacancy in the office of President-Elect shall be treated in accordance with Subsection (b) of this Section.

(b) Should the office of President-Elect become vacant, the vacancy shall not be filled. However, if such vacancy occurs prior to February 1, the Board of Governors shall, under Section 3 of this Article, nominate a candidate for President as well as candidates for the other elective offices to be filled and a President shall be elected with the other officers at the Annual Meeting. If such vacancy occurs after February 1, the Board of Governors shall nominate a candidate for President at the Annual Meeting and nominations from the floor shall be permitted.

(c) A vacancy in any other elective office shall be filled within the Dis-

trict by the Board of Governors at its next meeting. In the case of District Governors, any vacancy shall be filled by election of a member from the District or County within the District in which the vacancy occurs. In the case of Young Lawyer Governors, any vacancy shall be filled by the Section of Young Lawyers.

#### Article IV. Meetings

Section 1. The Annual Meeting of the membership shall be held during June each year unless otherwise ordered by the Board of Governors, the dates and place to be fixed by the Board of Governors. It shall be for the purpose of electing the elective officers, except the President and Governors, receiving annual reports of the officers and committees and for any other business that may arise. A notice of the annual Meeting shall be sent to all members at least 30 days before the meeting.

Section 2. The Mid-Year Meeting of the membership shall be held during January each year unless otherwise ordered by the Board of Governors, the dates and place to be fixed by the Board of Governors. It shall be for the purpose of receiving reports of officers and committees and for any other business that may arise. A notice of the Mid-Year Meeting shall be sent to all members at least 30 days before the meeting.

Section 3. Special meetings of the membership may be called by the Board of Governors and shall be called upon the written request of 75 members. The date and place of special meetings shall be fixed by the Board of Governors. The purpose of the meeting shall be stated in the notice which shall be sent to all members at least 10 days before the meeting.

Section 4. The agenda for all meetings of the membership shall be prepared by the Secretary and submitted to the Board of Governors for its approval. Upon approval by the Board, the agenda for business meetings, including any general or special orders set forth therein, may be altered by the membership meeting by a two-thirds vote.

Section 5. No action recommending a change in the law or the administration of justice shall be taken by the Association until the subject matter thereof shall have been reported upon by an appropriate section or

committee, unless, by a two-thirds vote, this requirement is suspended. No resolution complimentary to any living member shall be permitted at any meeting of the Association.

Section 6. Fifty members of the Association shall constitute a quorum at all meetings of the membership.

## Article V. Board of Governors

Section 1. The elective officers of the Association, the Immediate Past President, the State Delegate to the House of Delegates of the American Bar Association, and the Chair of the Section of Young Lawyers shall constitute the Board of Governors. The Executive Director may be invited to all meetings of the Board.

Section 2. The Board of Governors shall have full power and authority over the affairs of the Association between its membership meetings and shall perform such other duties as are specified in these Bylaws. None of the acts of the Board shall conflict with action taken by the membership.

Section 3. Unless otherwise ordered by the Board, regular meetings of the Board of Governors shall be held monthly on a date and at a time set by it from time to time. Special meetings of the Board may be called by the President and shall be called upon the written request of ten members of the Board. Seventeen members of the Board shall constitute a quorum.

Section 4. Upon a vote of two-thirds of the members of the Board of Governors, the Board may submit to a referendum any question which could be decided by the membership at a membership meeting. Such referendum shall be carried out within sixty days by submitting the question to the entire membership for decision by a mailed secret ballot as provided in the parliamentary authority adopted by the Association. A majority of the votes cast or such greater proportion as is specified in these Bylaws for the action to be taken shall decide the question and be binding upon the Association, and can be amended or rescinded by subsequent referendum or by vote at an annual or mid-year meeting.

Article VI.  
Executive Committee

Section 1. The President, President-Elect, Secretary, Treasurer, Chair of the Section of Young Lawyers, and three members of the Board of Governors elected by it shall constitute the Executive Committee. The Executive Director may be invited to all meetings of the Executive Committee.

Section 2. The Executive Committee shall supervise the work of the Executive Director, act in an advisory capacity to the Executive Director and other members of the staff, have general supervision of the affairs of the Association between meetings of the Board of Governors and perform such other duties as the Board of Governors may from time to time assign it. It shall make a report on any action taken by it at each meeting of the Board of Governors.

Section 3. The Executive Committee shall meet at the call of the President or upon the request of three of its members. It may take action by conference telephone, provided that any such action is agreed to by a majority of all members of the Executive Committee and the result of the vote is recorded in the minutes of the next meeting of the Executive Committee.

Article VII.  
Committees

Section 1. A Committee on Budget-Finance shall consist of at least nine members, approximately one-third of whom shall be appointed annually by the President to serve for a term of three years or until a successor is appointed. The Treasurer and the Executive Director shall serve as ex-officio members of the Committee. It shall be the duty of this Committee to conduct a continuing study of the finances of the Association; to prepare a budget for each fiscal year to be presented by the Treasurer for the approval of the Board of Governors at its May meeting as provided in these Bylaws; to present amendments to the adopted budget to the Board of Governors as provided in these Bylaws from time to time as required; and to make recommendations with respect to the financial affairs of the Association including, but not limited to, its accounting procedures, controls, and related matters.

Section 2. A Committee on Continuing Legal Education shall consist of at least six members. No less than one member shall be from each of the Appellate Circuits. Approximately one-third of the members shall be appointed annually by the President. Each member shall serve for a term of three years (or such lesser term as may be set by the President). It shall be the duty of this Committee to study and promote continuing legal education for Maryland lawyers, to study, develop and make recommendations to the Board of Governors concerning plans for improving the professional competence of Maryland lawyers, to make recommendations with regard to actions of the Maryland Institute for Continuing Professional Education of Lawyers, Inc. and other organizations which conduct programs of continuing legal education for Maryland lawyers and to perform such other functions relating to the continuing legal education and professional competence of lawyers as may be assigned by the Board of Governors.

Section 3. A Committee on Ethics shall consist of at least fourteen (14) members, not less than one (1) from each Appellate Circuit, approximately one-third (1/3) of whom shall be appointed annually by the President, with the approval of the Board of Governors, to serve for a term of three (3) years or until a successor is appointed. It shall be the duty of this Committee to render and publish opinions on the proper interpretation of the Maryland Rules of Professional Conduct and the Code of Judicial Conduct in its discretion, either on its own initiative or upon the request of any person, judge, court, corporation, or association.

Section 4. A Committee on Judicial Appointments shall consist of members-at-large and local members. The members-at-large should consist of at least fourteen members, not less than two from each of the Appellate Circuits, approximately one-third of whom shall be appointed annually by the President with the approval of the Board of Governors to serve for a term of three years or until a successor is appointed. The local members shall consist of six members from Baltimore City, and six members from each County, except for the aggregated counties where nine members shall be appointed for each aggregate group. There shall be five groups of aggregated counties: (1) Wicomico, Worcester and Somerset; (2) Calvert, St. Mary's and Charles; (3) Talbot, Caroline and Dorchester; (4) Cecil, Kent and Queen Anne's; and (5) Garrett, Allegany and Washington. Approximately one-third of the local members shall be appointed annually by the President, in consultation with the presidents of the local and specialty bar associa-

tions which are involved in that selection process, with the approval of the Board of Governors, to serve for a term of three years or until a successor is appointed. A member of the Committee shall be restricted to serving two consecutive terms, or five years, whichever is longer, thereafter said person can be reappointed, but not until at least one intervening three-year term has expired. No member of the Committee shall serve as both a member-at-large and a local member. It shall be the duty of the Committee to make recommendations as respects the qualifications of the members of the Bar of this State to fill judicial vacancies in the United States District Court for the District of Maryland, the United States Court of Appeals for the Fourth Circuit, and the Courts of the State. When considering the qualifications of members of the Bar to fill a vacancy in the Courts of the State, other than a state-wide vacancy, the members-at-large and the local members from the Appellate Circuit where the vacancy exists shall meet as the Committee to make recommendations. When considering a state-wide vacancy, a vacancy in the United States District Court for the District of Maryland or in the United States Court of Appeals for the Fourth Circuit, the members-at-large, together with all local members, shall meet as the Committee to make recommendations. The Committee is authorized to advise the Judicial Nominating Commission and the Governor that, in its opinion, a known applicant for judicial appointment is "highly recommended," "recommended," "not recommended," or "not recommended at this time." To the extent possible the committee or its designee shall endeavor to explain, verbally or in writing the basis of the Committee's opinion to the commission. Further, the Committee shall promptly respond to any inquiry initiated by the commission as to the rationale for any vote. The Committee may advise the public of the names of those persons recommended for appointment. The Committee may solicit members of the Bar to make application for appointment to fill vacancies in the Courts of the State, and in cooperation with the local bar associations, shall strive to persuade highly qualified persons to make application for appointment to fill a vacancy in the Courts. In the event of a public election to one or more judicial offices, the Committee may, if it deems desirable, recommend to the Board of Governors, that the public be advised of the person or persons deemed by the Association to be so qualified.

Section 5. A Committee on Laws shall consist of at least fourteen members, not less than two from each Appellate Circuit, approximately one-third of whom shall be appointed annually by the President to serve for a term

of three years or until a successor is appointed. It shall be the duty of this Committee to review proposed legislation before the General Assembly of Maryland in which the Association or its sections may be interested, and it shall refer such legislation to appropriate sections or committees of the Association. Any such legislation which in the opinion of the Committee is not pertinent to the jurisdiction of any section or committee or which should be considered and acted upon by the Association as a whole shall be submitted to the Board of Governors with the Committee's recommendation. In any areas of concern to the Association in which it may wish to express an opinion, take a position or present proposed legislation, the Committee shall confer with other committees, with sections and with legislators, and provide the Board of Governors with recommendations for affirmative legislative activity by the Association.

Section 6. A Committee on Lawyer Assistance shall consist of at least seven members, not less than one from each Appellate Circuit, approximately one-third of whom shall be appointed annually by the President to serve for a term of three years or until their successors are appointed. It shall be the duty of this Committee to assist those attorneys who are experiencing difficulty in the practice of law, in accordance with guidelines and procedures established by the Board of Governors. The Director of this Committee shall be hired by the Association and shall be a permanent member of this Committee whether or not the Director is a member of the bar.

Section 7. A Committee on Membership shall consist of at least fourteen members, not less than two from each Appellate Circuit, approximately one-third of whom shall be appointed annually by the President to serve for a term of three years or until a successor is appointed. It shall be the duty of this Committee to recommend to the Board of Governors programs for increasing and sustaining the membership of the Association and to execute all such programs approved by the Board of Governors.

Section 8. A Committee on Pattern Jury Instructions shall consist of five persons: a Presidential designee, the Chairpersons of the Budget and Finance and Planning Committees, and the Chairpersons of the Committee's Civil and Criminal Subcommittees. It shall be the duty of the Committee to oversee the production and publishing of both Civil and Criminal Pattern Jury Instructions by the respective subcommittees in a format with a pub-

lisher deemed appropriate. The subcommittees are to enable the Committee to comply with its contractual responsibilities. Each of the subcommittees shall consist of at least seven members, not less than one from each of the first five Appellate Circuits and two from the Sixth Appellate Circuit, approximately one-third of whom shall be appointed annually by the President to serve for a term of three years or until a successor is appointed.

Section 9. A Committee on Planning shall consist of at least ten members, appointed annually by the President, and the Chair of the Section of Young Lawyers or the designee of the Young Lawyers' Chair. Not less than one member shall be appointed from each of the Appellate Judicial Circuits. One member shall be either the Treasurer or the Chairman of the Budget-Finance Committee, and at least three members shall be members of the Board of Governors. It shall be the duty of this Committee to evaluate the responsiveness of the Association to the needs of the profession and the public; to make recommendations to the Board for organizational revision, additional programs and modification of existing programs; to develop a generalized plan for modifications of existing programs and for new programs to be undertaken by the Association in future years; and generally to aid the President and Board in anticipating problems and in developing resolutions for the problems challenging the Association and the legal profession in the future.

Section 10. A Committee on Program shall consist of at least seven members, not less than one from each of the Appellate Circuits, approximately one-third of whom shall be appointed annually by the President to serve for a term of three years or until their successors are appointed. It shall be the duty of this Committee to recommend to the Board of Governors the location for Annual and Mid-Year Meetings of the Association and to recommend plans and arrangements for educational, social, and other aspects of such meetings, including any attendance fees or charges.

Section 11. A Committee on Resolution of Fee Disputes shall consist of at least thirty members, not less than five from each Appellate Circuit, approximately one-third of whom shall be appointed annually by the President to serve for a term of three years or until their successors are appointed. It shall be the duty of this Committee to take jurisdiction (except as hereinafter provided) over any disagreement concerning any fee paid, charged, or claimed for legal services rendered by any attorney admitted to

practice in this State which is submitted to the Committee by the person, firm, or organization allegedly liable for the payment of the fee in dispute. It shall be the duty of the Committee to encourage the amicable resolution of fee disputes failing within its jurisdiction, and, in the event such resolution is not achieved to arbitrate and determine such disputes. The Committee shall discharge its duties in accordance with Regulations promulgated by the Board of Governors which:

(a) are not inconsistent with these Bylaws;

(b) include a provision that in the event an attorney fails or refuses to consent to arbitration, the arbitration panel to which the matter is assigned shall proceed to conduct an ex parte hearing, and, if it finds that the complainant's allegations are justified, shall direct an assigned member of the Committee to represent the complainant either to institute suit for the refund of any portion of the fee paid and determined to be excessive or to resist any suit by the attorney seeking to collect any portion of the fee not yet paid and determined to be excessive; and

(c) provide that all records relative to the arbitration of any fee dispute, including the award itself, shall be kept confidential except as otherwise provided by law. The Committee shall decline to exercise jurisdiction of any fee dispute which is within the jurisdiction of any local bar association (as defined in Maryland Rule BVI.b) that annually files with the Executive Director a certification that it has established a procedure for the arbitration of fee disputes involving attorneys who practice within its jurisdictional boundaries pursuant to written rules that (i) conform to the requirements of subsection (b) above, except that such conformity shall not be required for the plans of the Baltimore City, Baltimore County, Montgomery County and Prince George's County Bar Associations, (ii) define the scope of their jurisdiction, and (iii) provide the name and address of the representatives of the local bar association to whom any complaint is to be forwarded.

Section 12. Such other committees, standing or special, shall be appointed by the President as the Association or the President shall from time to time deem necessary to carry on the work of the Association. The motion or order of the President establishing a standing or special committee not named in these Bylaws shall identify the committee by name, state the charge to the committee, the number of its members and the terms and juris-

diction, if applicable, of their appointment by the President. This motion or order and the names of those initially appointed to serve on the committee shall be announced at a business meeting or a meeting of the Board of Governors and entered in the Minutes of that meeting. The President and the President-Elect shall be ex-officio members of all committees.

Section 13. Any committee may, within its area of responsibility, express its opinion on any legislative matter before the General Assembly of Maryland, and may appear, provided it is clearly stated as the opinion of the committee only and is not in conflict with a stated position of the Association. A committee shall advise the Board of Governors, in writing, of its intention to express an opinion and of its position prior to the expression of such opinion.

## Article VIII. Sections

Section 1. On the recommendation of the Board of Governors, sections of the Association may be established or dissolved from time to time as deemed necessary or desirable by majority vote at any meeting of the membership.

Section 2. A section shall be semi-autonomous but shall always be under the authority of the membership and the Board of Governors. It is authorized to adopt bylaws provided they do not conflict with the Bylaws of the Association. A current copy of the bylaws of each section and any amendments thereto shall be filed with the Executive Director. Upon the establishment of a new section, the President with the approval of the Board of Governors shall appoint a Chair and Council thereof. Thereafter the Council and officers of the section shall be selected as provided in its bylaws.

Section 3. Each substantive law section, after it has been in existence for two fiscal years, shall provide in its bylaws for dues of not less than five dollars per year to be paid by its members to the Treasurer of the Association, except to the extent that a waiver of such dues is approved by the Board of Governors. The budget of the Association for each fiscal year shall make an appropriation for each section, and all financial affairs of sections shall be transacted through the Treasurer of the Association.

Section 4. Any section may within its area of responsibility express its opinion on any legislative matter before the United States Congress or the General Assembly of Maryland, provided that it is clearly stated as the opinion of the section only, and is not in conflict with the position of the Association. Such expression of opinion may be superseded at any time by action of the membership or the Board of Governors. A section shall advise the Board of Governors, in writing, of its intention to express an opinion and of its position prior to the expression of such opinion.

Article IX.  
Parliamentary Authority

The rules contained in the current edition of *Robert's Rules of Order Newly Revised* shall govern the Association in all cases to which they are applicable and in which they are not inconsistent with these Bylaws and any special rules of order adopted by the Association.

Article X.  
Amendment of Bylaws

These Bylaws may be amended at any meeting of the membership by a two-thirds vote, provided the amendment has been reviewed by the Board of Governors and sent to all members with the notice of the meeting.

# ***Regulations***

### **III. REGULATIONS**

#### **A. REGULATIONS GOVERNING THE NOMINATION AND ELECTION OF DISTRICT GOVERNORS**

##### Article 1.

##### Entitlement to Representation

Section 1. In September of each year the Board of Governors shall declare the number of governors to be elected from each district as determined in accordance with the Association's Bylaws, and notice of such declaration shall be given to all members of the Association by publication in the Maryland Bar Journal or Bar Bulletin. Such notice shall identify any county ineligible for representation.

Section 2. All elections shall be conducted on a district wide basis.

##### Article II.

##### Nominations

Section 1. The number of candidates nominated by any county bar association or by the Bar Association of Baltimore City shall not exceed the number of Governors to which their district is entitled.

Section 2. A uniform form of nominating petition shall be prepared and furnished upon request by the Executive Director. All nominating petitions shall be filed with the Executive Director not later than 120 days before the opening day of the Annual meeting of the association. In addition to giving general publicity thereto, the Executive Director shall give due notice of the dates on or before which nominating petitions must be filed to all local bar associations.

Section 3. The Executive Director shall reject the nomination of any Association member whose primary address is not within the district entitled to representation.

Section 4. In the event that no nominating petitions are received from within a district within the time prescribed, no election shall be held in such district and, immediately following the annual Meeting, the resulting

vacancy shall be filled by a member of the Association from such district selected by the Board.

Section 5. Should the Executive Director be uncertain of the qualifications of any nominee or of the validity or timeliness of any nominating petition or if his decision with respect thereto is challenged, the matter shall be referred to the Executive Committee of the Association which shall immediately rule on the question.

### Article III. Election Procedure

Section 1. Immediately after the expiration of the time within which nominations must be made, the Executive Director shall (a) appoint, with the approval of the President, not less than three tellers to conduct the various elections; (b) cause to be printed and mailed to all Association members entitled to vote thereon within the respective districts a notice of nominations providing adequate instructions to the voters, such as biographical information (not to exceed 100 words) as may be submitted by each nominee, and a ballot which shall contain the names of the nominees, listed in alphabetical order in vertical arrangement, and which shall make no provision for write-in voting; (c) mail with the ballot an envelope addressed to the Executive Director on which there shall be provision made for the signature of the voting member. Each voter shall be directed to mark the ballot, to seal it inside the ballot envelope and, after signing and completing the necessary information contained on the envelope, to mail it to the Executive Director with a postmark not later than 75 days before the opening day of the Annual Meeting of the Association.

Section 2. All ballots, to be valid, must be postmarked not later than 75 days and received by the Executive Director not later than 70 days before the opening of the Annual Meeting.

Section 3. Upon receipt of the ballots, the Executive Director shall check off the signatures of the voters against the current list of qualified voters and shall deposit the unopened ballot envelopes in sealed ballot boxes segregated as to district. Any Association member whose primary address is located in Maryland shall be eligible to vote in elections held in the district in which that primary address is located. An Association member whose office is

located outside of Maryland, but whose residence is located in Maryland shall be eligible to vote in elections held in the district if that residence is designated as the member's primary address.

Section 4. Immediately after the expiration of the time within which ballots must be received, the tellers of election shall open the sealed ballot boxes and the ballot envelopes, shall supervise the counting of the ballots and shall certify the results in writing to the Executive Director, setting forth in their report the total number of ballots cast by district and the number of votes received by each candidate by district. The tellers shall also deliver to the Executive Director, appropriately segregated, all of the ballots cast in each of the elections and all of the ballot envelopes received for each of the elections, which records shall be held in custody until after the final adjournment of the Annual Meeting of the Association or as otherwise directed by the Board of Governors.

Section 5. The candidates receiving the greatest number (a plurality) of votes shall be elected to the office or offices for which nominated. When two or more candidates receive an equally high number of votes and all cannot serve, the winner or winners shall be determined by lot under the supervision of the tellers.

Section 6. The rules contained in the parliamentary authority of the Association regarding secret mailed ballot voting shall govern the elections insofar as they may be applicable. The decisions of the tellers of election and of the Executive Director shall be subject to review by the Executive Committee of the Association.

#### Article IV. Election Results

Section 1. Upon receipt of the certified results of each of the elections, the Executive Director shall forthwith notify all candidates in each of the elections of the winner or winners of each election, stating the number of ballots cast and the number received by each candidate.

Section 2. The Executive Director shall present to the Board of Governors the tellers' report of the results of the elections, and shall also advise the membership at the Annual Meeting of the names of the successful candidates.

## Nomination Petition

On behalf of Candidate for Member of Board of Governors of the Maryland State Bar Association, Inc.

1. Nomination by Association Members. We, the undersigned members of the Maryland State Bar Association, Inc., being in good standing and entitled to vote for such nominee, hereby nominate \_\_\_\_\_ who maintains his/her primary address at \_\_\_\_\_ County of \_\_\_\_\_, State of Maryland for the office of Governor from the \_\_\_\_\_ District. We, and each of us, do hereby certify that we are members of the Association and that our respective primary addresses are located at the addresses set opposite our names below.

2. Nomination by a Local Bar Association. I, the undersigned, being the \_\_\_\_\_ of the Bar Association of \_\_\_\_\_ (County) (City), do hereby certify that by action of its governing body duly taken in accordance with its bylaws, the Bar Association of \_\_\_\_\_ (County) (City) hereby nominates \_\_\_\_\_, who maintains his or her primary address at \_\_\_\_\_ (County) of \_\_\_\_\_, State of Maryland, for the office of Governor from the \_\_\_\_\_ District.

\_\_\_\_\_  
Signature of Officer

\_\_\_\_\_  
(Type or Print Name of Officer)

\_\_\_\_\_  
Name of Bar Association

### Acceptance of Nomination

I, the above-named candidate, hereby accept the nomination to the office of Governor from the District and I hereby certify that I am a member of the Association and that my primary address is as set forth above.

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

## Instruction for Filing Petitions

Petitions must be filed with the Executive Director in the office of the Maryland State Bar Association, Inc., 520 West Fayette Street, Baltimore, Maryland 21201 not later than 5:00 P.M. on \_\_\_\_\_ (120 days before opening day of the Annual Meeting). Voting will be closed at 5:00 P.M. on \_\_\_\_\_ (75 days before the opening day of the Annual Meeting).

Unless the Petition is signed by an appropriate officer of a county bar association within the above-named district or of the Bar Association of Baltimore City, a minimum of ten valid signatures of Association members is required.

\_\_\_\_\_  
Signature

(Type or Print your name under your signature)  
Address of Primary Address

- 1. \_\_\_\_\_
- 2. \_\_\_\_\_
- 3. \_\_\_\_\_
- 4. \_\_\_\_\_
- 5. \_\_\_\_\_
- 6. \_\_\_\_\_
- 7. \_\_\_\_\_
- 8. \_\_\_\_\_
- 9. \_\_\_\_\_
- 10. \_\_\_\_\_

## **B. REGULATIONS GOVERNING THE RESOLUTION OF FEE DISPUTES**

### Appointment of Committee Members

1. The Committee on Resolution of Fee Disputes shall consist of at least thirty members, not less than five from each Appellate Circuit, approximately one-third of whom shall be appointed annually by the President to serve for a term of three years or until their successors are appointed. The term of any member which expires while an arbitration is pending before him or before a panel of which he is a member shall be extended until such arbitration is concluded, but such extension shall not interfere with the President's power to appoint a successor to the Committee.

2. In making appointments to the Committee, the President should select only experienced attorneys who have practiced for not less than five years and who are, at the time of their appointment, actively engaged in the practice of law. Members should be selected to provide representation from a broad spectrum of the Bar from the standpoint of both firm organization (i.e., large firms, small firms and sole practitioners) and types of practice (i.e., general practice, litigation practice, criminal practice, domestic practice, real estate practice, etc.). The President shall endeavor to insure that each county is represented on the Committee, in reasonable proportion to its lawyer population.

### Committee Organization

3. The President shall appoint from the members of the Committee a Committee Chair and also one Vice-Chair from each of the six Appellate Judicial Circuits. The President may appoint any additional Assistant Vice-Chairs as necessary. The Chair and the six Vice-Chairs, and any additional Assistant Vice-Chairs, shall constitute the Executive Council of the Committee.

4. It shall be the duty of the Executive Council to oversee the work of the Committee, review recommendations for dismissal of complaints, develop forms to implement the procedures prescribed herein, and assure the faithful execution of these regulations. The Executive Council may submit amendments to these regulations for adoption by the Board of Governors

and may formulate rules by procedures not inconsistent with the Bylaws of the Association or these regulations. The Executive Council shall review recommendations for dismissal of complaints and may do so in panels of three designated by the Chairman for that purpose.

5. Each Vice-Chairman shall assign the members within his Appellate Judicial Circuit to perform duties as client representatives and arbitrators, and shall assure that such duties are performed in conformity with these regulations. A member may serve simultaneously in both capacities, but not in relation to the same complaint. When serving as a client representative or arbitrator, a member shall perform the duties prescribed by these regulations. A Vice-Chairman may establish a roster of client representatives to whom complaints are to be forwarded in rotation and may establish one or more arbitration panels each consisting of three arbitrators.

6. The Executive Director of this Association shall receive and transmit requests for consideration of fee disputes, disseminate information to the public concerning the committee's regulations and procedures and the availability of its services, maintain records, make reports, and perform other duties requested by the Executive Council and authorized by the Board of Governors.

### Jurisdiction

7. The Committee may, in its discretion, decline or defer the exercise of its jurisdiction for good cause. Disputes which may be declined by the Committee for good cause include, but are not limited to, disputes [concerning any fee dispute] which [is] are pending in a court or which involve[s] conduct that may constitute a violation of the Code of Professional Responsibility. Whenever it becomes apparent to a member that the Committee should decline or defer jurisdiction, he/she shall so advise his/her Vice Chair who may defer further action on the dispute pending communication with competent judicial authority, Bar Counsel of the attorney Grievance Commission, or the Clients' Security Trust Fund of the Maryland Bar, as may be appropriate.

8. The Committee shall decline to exercise jurisdiction of any fee dispute which is within the jurisdiction of any local bar association (as defined in Maryland Rule BVI.B) that annually files with the Executive Director

a certification that it has established a procedure for the arbitration of fee disputes involving attorneys who practice within its jurisdictional boundaries pursuant to written rules that (a) provide that in the event an attorney fails or refuses to consent to binding arbitration, the arbitration panel to which the matter is assigned will proceed to conduct an ex parte hearing and, if it finds the complainant's allegations are justified, will direct an assigned member to represent the complainant either to institute suit for the refund of any portion of the fee paid and determined to be excessive or to resist any suit by the attorney seeking to collect any portion of the fee not yet paid and determined to be excessive, (b) defines the scope of its jurisdiction, and (c) identifies the name and address of the representative to whom complaints are to be forwarded; provided, however that conformity to part (a) above shall not be required for the plans of the Baltimore City, Baltimore County, Montgomery County and Prince George's County Bar Associations. Prior to its acceptance as a basis for declining jurisdiction, said certification shall be approved by the Executive Council after an appropriate investigation to determine compliance with the above criteria. Any dispute regarding compliance with the above criteria established herein shall be decided by the Board of Governors of the Maryland State Bar Association.

9. A written request for Committee consideration of a fee dispute with an attorney shall be deemed a complaint. The request need not follow any specific form but should state with clarity and brevity the facts with respect to the fee dispute, the names and addresses of the parties to the dispute and those persons who may be directly affected by the outcome.

### Processing Complaints

10. A complaint submitted by the Committee shall be addressed to the Executive Director of this Association. Upon receipt, a complaint shall be immediately acknowledged and then forwarded to the Vice-Chairman of any Appellate Judicial Circuit in which the attorney maintains an office for the practice of law. The Vice-Chairman shall assign the complainant to a client representative within the Appellate Judicial Circuit. If The Vice-Chairman has established a roster of client representatives to whom complaints are to be forwarded in rotation, the Executive Director may send the complaint directly to the client representative next in rotation, and shall advise the Vice-Chairman. The three member panel of the Committee of which the client representative is a member shall be disqualified from participating

in any manner in proceedings involving the request assigned to its client representative.

11. Upon receipt, the client representative shall promptly review the complaint and, if necessary, obtain additional information from the complainant, and if appropriate the attorney involved, to satisfy himself that he has all of the relevant facts.

12. Upon the completion of any preliminary investigation he deems appropriate and assuming the truth of the complainant's representations, the client representative shall determine whether, in his judgement, there is probable cause to believe a legitimate fee dispute exists. If the client representative determines that a complaint should be dismissed without further action, either because there appears to be no just ground for the complaint or dispute, or the matter is moot, or if for some reason deemed adequate jurisdiction is, or becomes unwarranted, he shall prepare a written report setting forth the facts and his recommendation for submission to the next meeting of the Executive Council of the Committee. If the Council concurs in the client representative's recommendation, the matter shall be closed and the complainant so advised. If the Council disapproved the client representative's recommendation, it may request further investigation or designate another client representative to proceed in accordance with these regulations.

13. If, following his preliminary investigation, the client representative concludes that a legitimate complaint has been stated, he shall notify the complainant and the attorney involved and shall forward to the attorney involved a copy of the complainant's allegations. The parties shall be advised that the Committee has assumed jurisdiction but will delay any further steps until the expiration of a thirty day period during which the parties are urged to exert their best effort to reach an amicable resolution of their dispute. The client representative shall, during this period, attempt informally to amicably resolve the fee dispute by consulting with both the complainant and the attorney.

14. If the parties do not themselves settle the dispute within the thirty day period, the client representative shall request the complainant to execute a consent to binding arbitration. If the complainant fails or refuses to execute such consent, the matter shall be closed.

15. Upon receipt of the complainant's consent to binding arbitration, the assigned member shall request the attorney to execute a consent to binding arbitration and, in the event that the attorney so consents, he shall be requested to submit a formal answer to the allegations for submission to the arbitration panel in order that it be advised of the issues between the parties. At the time this request is submitted to the attorney, the client representative shall advise him that, in the event the attorney fails or refuses to consent to binding arbitration, the arbitration panel to which the matter is assigned will proceed to an **ex parte** hearing and, if it finds that the client's allegations are justified, will direct the client representative to represent the complainant to either institute suit for the refund of any portion of the fee paid and determined to be excessive or to resist any suit by the attorney seeking to collect any portion of the fee not yet paid and determined to be excessive.

### Arbitration

16. Upon receipt of the attorney's consent to binding arbitration, or his refusal or the expiration of the time fixed for the attorney's submission of his consent to binding arbitration, whichever the case may be, the client representative shall notify the Vice-Chairman. If the amount in dispute exceeds \$10,000, the Vice-Chairman shall assign the matter to an arbitration panel composed of three arbitrators practicing within the attorney's appellate circuit and shall designate one of the arbitrators as the panel chairman. If the amount in dispute is \$10,000 or less, the Vice-Chairman shall designate a sole arbitrator practicing within the attorney's Appellate Circuit to conduct all arbitration proceedings.

17. It shall be the obligation of any member so designated to serve as arbitrator to disclose to the Vice-Chairman any reasons why he cannot serve objectively, ethically and conscientiously. In the event that a member so designated to serve declines or is unable to serve, the Vice-Chairman shall designate another arbitrator who may be eligible. In designating arbitrators, the Vice-Chairman shall endeavor to rotate selection in an equitable manner and with due regard to the criteria set forth in paragraph 2 of these regulations.

18. If at any time set for the hearing before a three member panel, any panel member is not present, the Chairman of the panel, or in the event of

his unavailability, the Circuit Vice-Chairman, in his sole discretion, shall decide either to postpone the hearing, or, with the consent of the parties, to proceed with the hearing with one member of the panel as the sole arbitrator, in which case he shall also designate the member of the panel who will hear the case as sole arbitrator. In no event will a hearing be conducted by or proceed with two arbitrators.

19. If any member of a three member panel dies or becomes unable to continue to act while the matter is pending and before an award has been made, the proceedings to that point shall be declared null and void and the matter assigned to a new panel for rehearing unless the parties, with the consent of the panel chairman, or in the event of his unavailability, the Circuit Vice-Chairman of the Committee, consent to proceed with the hearing with one of the remaining members of the panel as the sole arbitrator.

20. If all the parties to a controversy agree, they may waive oral hearings and may submit their contentions in writing, together with any exhibits, to the arbitrator or arbitrators assigned, who may then determine the controversy on the basis of such documents. However, the arbitrators may nevertheless, if they deem it desirable, require oral testimony of any party or witness, after due notice to all parties.

21. The members of the Committee selected as arbitrators of any dispute shall be vested with all the powers, and shall assume all the duties granted and imposed upon neutral arbitrators by the provisions of the Maryland Uniform Arbitration Act as codified in the annotated Code of Maryland, Courts and Judicial Proceedings, Title 3, Subtitle 2 (Arbitration and Award, Section 3-201, et seq.), as may be amended from time to time which are not in conflict with these regulations.

22. When a complainant and attorney have both executed written consents to binding arbitration of their fee dispute, such consents shall together constitute their agreement (a) to provide for arbitration under the laws of Maryland, within the meaning of the Maryland Uniform Arbitration Act, (b) to authorize the appointment of arbitrators and the conduct of arbitration proceedings in the manner prescribed by these regulations, and (c) to be bound by the award.

23. The term “party” or “parties” as used in these regulations shall

refer to those who have executed a consent to binding arbitration. Any attorney who has failed to consent to binding arbitration shall not be deemed a party, shall not be entitled to notice of the hearing and shall not be eligible to participate in the hearing.

24. The single arbitrator or panel assigned shall endeavor to hold a hearing no later than thirty days after the receipt of the assignment. The award of the panel shall be made by a majority of the panel where heard by three members, or by one member of the panel who was designated as sole arbitrator, as provided herein.

25. The panel chairman, or the single arbitrator, assigned, as the case may be, shall fix a time and place for the hearing and cause written notice thereof to be served personally or by registered or certified mail on the parties to the arbitration and on the other members of the panel not less than ten days before the hearing. A party's appearance at a scheduled hearing shall constitute a waiver on his part of any deficiency in respect to the giving of notice of the hearing.

26. The parties to the arbitration are entitled to be heard, to present evidence and to cross-examine witnesses appearing at the hearing. Any party to an arbitration has the right to be represented by an attorney at the hearing or at any stage of the arbitration proceeding. The complainant shall be presented by the client representative unless he exercises his right to retain counsel of his own choice. Any party may also have a hearing before a panel reported by a Certified Shorthand Reporter at his expense by written request presented to the panel chairman of single arbitrator at least three days prior to the date of the hearing. In the event of such request, any other party to the arbitration shall be entitled to acquire at his own expense a copy of the reporter's transcript of the testimony by arrangements made directly with the reporter. When no party to the arbitration requests that the hearing be reported, and the panel or sole arbitrator deems it necessary to have a hearing reported, the panel or sole arbitrator may employ a Certified Shorthand Reporter for such purpose if authorized to do so by the Committee Chairman. The written notice of the hearing sent to the parties shall advise them of these rights.

27. All parties shall have an absolute right to attend all hearings. The exclusion of other parties or witnesses waiting to be heard shall rest in the

discretion of the arbitrators.

28. Adjourned dates for the continuation of any hearings which cannot be completed on the first day shall be fixed for such times and places as the arbitrators may select with due regard to the circumstances of all the parties and the desirability of a speedy determination. Upon request of a party to the arbitration for good cause, or upon its own determination, the panel may postpone the hearing from time to time.

29. The chairman of the panel shall preside at the hearing. The panel shall rule on the admission and exclusion of evidence and on questions of procedure, and shall exercise all powers relating to the conduct of the hearing.

30. The arbitrators may request opening statements and may prescribe the order of proof. In any event, all parties shall be afforded full and equal opportunity for the presentation of any material evidence.

31. The testimony of parties and witnesses shall be given under oath. The chairman of the panel shall administer such oaths.

32. If either party to an arbitration, who has been duly notified, fails to appear at the hearing, the panel may hear and determine the controversy upon the evidence produced, notwithstanding such failure to appear, and enter a binding award.

33. Before closing the hearing, the arbitrators shall specifically inquire of all parties whether they have further evidence to submit in whatever form. If the answer is negative, the hearing shall be declared closed and a notation to that effect made by the arbitrators as well as the date for submission of memoranda or briefs, if requested by the arbitrators.

34. The hearing may be reopened by the arbitrators on their own motion or upon application and a showing of good cause by a party at any time before the award is signed and filed.

35. In the event of the death or incompetency of a party to the arbitration proceeding prior to the close of the hearing, the proceeding shall be abated without prejudice to either party to proceed in a court of proper

jurisdiction to seek such relief as may be warranted. In the event of death or incompetency of a party after the close of the hearing but prior to a decision, the decision rendered shall be binding upon the heirs, administrators or personal representatives of the deceased and on the estate of guardian of the incompetent.

### The Award

36. The decision of the arbitrators shall be expressed in a written award signed by all of those who concur. If there is a dissent, the award shall be binding as determined by the majority of the arbitrators. Unless the submission or contract provides otherwise, the arbitrators may grant any remedy or relief they feel proper, including a direction for specific performance. An award may be entered on consent of all the parties. Once the award is signed and filed, the hearing may not be reopened except upon consent of all parties.

37. While it is not required that the award be in any particular form, it should, in general, consist of a preliminary statement reciting the jurisdictional facts (i.e., that the hearing was held upon notice pursuant to a written agreement to arbitrate, that the parties were given an opportunity to testify and to cross-examine, etc.), a brief statement of the dispute, the factual findings, and the award. It shall include a determination of all the questions submitted to the arbitrators, the decision of which is necessary in order to determine the controversy.

38. The arbitrators may include in the award a direction for payment of expenses related to the proceedings other than fees to arbitrators, client representatives, or counsel.

39. The original and four copies of the award shall be signed by the members of the panel concurring therein. The panel chairman or sole arbitrator shall forward said award, together with the entire file, to the Executive Director, who shall thereupon, for and on behalf of said panel, serve a signed copy of the award on each party to the arbitration, personally or by registered or certified mail, and notify the Vice-Chairman that the matter has been concluded.

## Enforcement of the Award

40. In any case in which both the complainant and the attorney signed a consent to binding arbitration, any award rendered may be enforced by any court of competent jurisdiction.

41. In the event of an award to the complainant in a matter in which the attorney has not executed a consent to binding arbitration, involving a fee which has already been paid, the client representative shall, if the complainant consents, institute suit on behalf of the complainant against the attorney for the refund of any portion of the fee found to be excessive.

42. In the event of an award to the complainant in a matter in which the attorney has not executed a consent to binding arbitration, involving any portion of a fee claimed but not paid, the client representative shall, if the complainant consents, represent the complainant in defense of any suit by the attorney seeking to collect any portion determined to be excessive. In the event of such award, the client representative shall also institute suit to vacate any lien asserted by the attorney on the basis of any such fee charged determined to be excessive upon any property of the complainant. The client representative shall, immediately following the entry of an award in such circumstances and with the consent of the complainant, notify the attorney of the award and of his appearance as counsel for the complainant.

43. In any lawsuit by or against the complainant in which he is represented by the client representative, no fee shall be charged for the assigned member's services but costs advanced by the Association shall be reimbursed to the Association from any recovery.

44. If the award shall determine that the participating attorney or attorneys who consented to binding arbitration are entitled to no portion of the disputed fee, service of a copy of such award on said attorney or attorneys shall:

(a) terminate all claim and interest of the participating attorney or attorneys against the participating client or clients in respect to the subject matter of the arbitration;

(b) terminate all right of such attorney or attorneys to retain possession of any documents, records or other properties of such client or clients pertaining to the subject matter of the arbitration then held under claim of attorney's lien or for other reasons;

(c) terminate all right of such attorney or attorneys to oppose the substitution of one or more other attorneys designated by such client or clients in any pending litigation pertaining to the subject matter of the arbitration.

45. If the award shall be in favor of an attorney or attorneys who submitted their consent to binding arbitration, it shall fix the amount to which he or they are found to be entitled. Payment of that amount or amounts shall:

(a) constitute a complete satisfaction of all claims and interest of the participating attorney or attorneys against the participating client or clients in respect to the subject matter of the arbitration;

(b) terminate all right of such attorney or attorneys to retain possession of any documents, records or other properties of such client or clients pertaining to the subject matter of the arbitration then held under claim of the attorney's lien or for other reasons;

(c) terminate all right of such attorney or attorneys to oppose the substitution of one or more other attorney's designated by such client or clients in place of the participating attorney or attorneys in any pending litigation pertaining to the subject matter of the arbitration.

### Confidentiality

46. Except as otherwise provided herein, all records, documents, files, proceedings and hearings, including the award itself, pertaining to the arbitration of any fee dispute under these rules in which both the complainant and the attorney have consented to be bound by the result, shall not be opened or revealed to the public or to any person not involved in the dispute, except as otherwise provided by law. In the event suit is instituted, the award may be introduced into evidence.



# ***Standing Rules***

## **IV. STANDING RULES**

### **A. APPOINTMENT OF NON-LAWYERS TO COMMITTEES**

The President, with the approval of the Board of Governors or the Executive Committee, if designated by the Board, may appoint non-lawyers to the Standing and Special Committees of the Association upon request of a committee or pursuant to the following guidelines:

1. The functions and duties of the committee directly affect the public interest;
2. Non-lawyer participants can be expected to contribute significantly and meaningfully to the work of the committee;
3. The committee is not one established exclusively to develop or express a lawyer or association position;
4. The appointment of a non-lawyer shall be made on the basis of demonstrated competence, ability, and good judgment.  
(Mem. Mtg. - 6/13/80)

### **B. BRIEFS AMICUS CURIAE**

It shall be the policy of the Association to authorize the filing of briefs amicus curiae sparingly and only in appropriate cases as described. Briefs amicus curiae shall be authorized for filing on behalf of the Association only after a determination has been made that the brief to be filed is of high professional quality. Briefs amicus curiae authorized by the Maryland State Bar Association shall be filed only in the name of the Association.

Briefs amicus curiae shall be authorized at the appropriate judicial level where the issue is likely to be determined. Further, they shall only be authorized when such a brief would constitute a significant contribution to the determination of the issue or issues involved and only when the position sought to be advanced is consistent with previously adopted policy of the Association, or in a matter of compelling public interest which the Board of Governors there adopts as policy of the Association, or is of peculiar significance to lawyers or the legal profession. Briefs

amicus curiae shall only advance arguments with respect to legal issues and not factual questions.

Briefs amicus curiae filed in behalf of the Association shall only be authorized by the Board of Governors, except in cases of emergency when the Board cannot be convened on a timely basis in which case, the Executive Committee may authorize such action.

Section 25.2 of the Bylaws of the American Bar Association as well as the guidelines as set forth by the Board of Governors of the ABA pertaining to Application to the Board of Governors, Procedure, Joint Briefs, and Appearances shall be followed.

The Maryland State Bar Association will pay no legal fee for the preparation of or review of the brief amicus curiae. The costs of printing, filing and other incurred expenses connected with the preparation of an authorized amicus curiae brief shall be borne by the Maryland State Bar Association, as authorized by the Board of Governors.

(Bd. of Gov. - 4/22/77, 10/24/97)

## **C. CRITERIA FOR DETERMINING QUALIFICATIONS OF APPLICANTS FOR JUDICIAL APPOINTMENT**

1. The term “criteria” as used in Article VI I, Section 4, of the Bylaws of the Maryland State Bar Association, Inc., respecting the qualifications of judicial candidates, shall mean the meeting of citizenship, residence, age, membership in the bar and other requirements set forth by constitution, law, regulation and executive order, in addition to integrity, wisdom, sound legal knowledge, professional experience, industry and temperament, all with special relation to the particular judicial office under consideration.

(Bd. of Gov. - 7/18/78)

## **2. CONFIDENTIALITY AGREEMENT FOR MEMBERS OF THE COMMITTEE ON JUDICIAL APPOINTMENTS**

All members of the committee on Judicial Appointments shall sign a confidentiality agreement, agreeing not to disclose information about the applicants or the evaluation process to third parties (excluding the MSBA staff assisting the committee) unless expressly authorized to do so. A violation

of this agreement shall be sanctioned by removal from the committee.  
(Bd. of Gov. - 5/8/98)

**3. ADDITIONAL INFORMATION TO BE FURNISHED TO THE JUDICIAL NOMINATING COMMISSION.**

The president, or appropriate designee, shall endeavor to meet with each commission to explain the process and the purpose of the committee on judicial appointments. As appropriate during the ongoing evaluation process, the background of the interviewing members and voting members of the committee shall be communicated to the commission together with the evaluations of the applicants and the recommendations of the committee.

(Bd. of Gov. - 5/8/98)

**D. DISTRIBUTION OF MINUTES OF THE BOARD OF GOVERNORS**

Copies of the Minutes of the meetings of the Board of Governors may be distributed by the Executive Director to all local Bar Presidents, all Executive Directors of Local Bar Associations, and all Section and Committee Chairmen, upon request.

(Bd. of Gov. - 1/10/79)

**E. LEGISLATIVE MATTERS**

1. It is important for the Association to take an active role in legislation of concern to the membership and to the general legal community, and to participate in the formulation of such legislation. It is equally important to establish guidelines that will enable the Association to participate in the legislative process in the most effective manner possible.

The Board of Governors shall pursue these two objectives in the following manner:

(a) Determine from the sections and committees through the use of the Committee on Laws and its liaison, issues of concern which may be appropriate for inclusion in a preliminary legislative program that contains general issue areas and general legislative goals;

(b) Review the preliminary legislative program and provide direction to the Committee on Laws and its liaison for inclusion in a final legislative program;

(c) Approve a final legislative program in advance of the legislative session which authorizes the Association to take action on general issue areas as with specific legislative goals.

(d) Approve additional issues to the final legislative program during the legislative session.

2. When the membership of the Association or the Board of Governors takes action on a legislative matter in anticipation of or during a legislative session, such action shall be deemed to apply specifically to the terms of the legislative matter on which action is expressed and to expire with the closure of the General Assembly session and the Governor's deadline date to sign or veto enacted legislation.

3. In all cases where the Board of Governors takes action on a legislative matter in the interim between meetings of the membership, it shall conform to the provisions of Article IV, Section 5 of the By-Laws.

4. The Executive Committee is authorized and empowered to adopt positions on behalf of the Board of Governors with respect to legislation pending before the Maryland General Assembly during the legislative session provided that:

(a) the position receives the affirmative vote of a majority of the members of the Executive Committee;

(b) a copy of the bill and the position taken by the Executive Committee is promptly mailed to each member of the Board of Governors.

If time constraints make polling the Executive Committee impracticable the President is authorized to adopt positions on behalf of the Executive Committee. The President-Elect is authorized to act if the President is unavailable.

(Bd. of Govs. - 1/12/88, 1/22/08)

## **F. LITIGATION**

It shall be the policy of the Association to institute or join in litigation infrequently and only under certain circumstances. It is recognized, however, that if suit is instituted against the Association, said suit must be defended appropriately and vigorously. Institution of, or joining in actions shall take place only where deemed appropriate by the Board of Governors. The entering of a defense on behalf of the Association shall take place only after action by the Board of Governors, except in an emergency situation where approval may be by the Executive Committee.

Participation by the Association in litigation shall be authorized only when such participation would constitute a significant contribution to the determination of the issue or issues involved, and only when the position sought to be advanced is consistent with adopted policy of the Association, and is of special significance to the Association to lawyers, or to the legal profession.

Except in extraordinary circumstances, the Maryland State Bar Association will pay no legal fee for the institution, prosecution, defending, or handling of litigation involving the Association, or authorized by the Board of Governors. The costs of printing, filing and other incurred expenses connected with the representation of the Association shall be borne by the Maryland State Bar Association, as authorized by the Board of Governors.

(Bd. of Gov. - 6/9/77)

## **G. MAILING LISTS**

The Association's membership lists will be made available to users subject to the following guidelines and agreement:

1. MSBA lists are made available to users for communications by mail which are germane to the interests of MSBA members (or nonmember lawyers) as professionals or consumers.
2. MSBA's grant of permission to use an MSBA list is conditioned upon the terms contained herein or elsewhere regarding limitation of advertising practices, types of use or users and products or services.

3. MSBA lists may not be used in connection with any communication which, in the opinion of the MSBA, would tend to mislead, misinform or deceive or which is distasteful in content or presentation.

4. MSBA lists may not be used in connection with any communication concerning the promotion of any tobacco product, beer, wine or other spirits.

5. MSBA lists may not be used in connection with any communication regarding investments or income opportunities unless the prospectus describing the offering has been declared effective by the SEC and is available upon request.

6. MSBA lists may not be used in connection with any fund raising effort or for lobbying for or against legislation.

7. MSBA lists may be used only for mailing purposes and may not be used for telephone or personal contact.

8. In advance of any use of any MSBA list, user will furnish MSBA with a copy or sample of all literature, advertising material or other matter to be mailed. MSBA, in its discretion (which it agrees to reasonably exercise), may decline to approve any part or all of such matter for mailing. Notwithstanding any MSBA approval, user will hold MSBA harmless against any damages or claim of damage, costs and reasonable attorney fees, arising out of any actual or alleged impropriety or illegality of mailed matter, or infringement of trademark, trade name or copyright belonging to others.

9. User may use any MSBA list for an approved use but one time only. User will not copy the list or any portion thereof or extract or retain any information therefrom. User will not at any time permit any MSBA list information to pass into the hands of any other person, association, organization or company. Any prohibited use by user shall constitute a material breach of this Agreement.

10. It is expressly understood and agreed that MSBA's rights, including, but not limited to, common law and statutory rights of literary property and copyright in the MSBA list and the data contained therein are not assigned or released as a result of this Agreement, but are reserved and retained by

the MSBA, subject to the limited use permitted under this Agreement.

11. User agrees to forward to MSBA within thirty (30) days following receipt, any letters or other documents (or copies thereof) containing complaints by MSBA members regarding the user's mailing, the matter transmitted therein, or the offered product or service.

12. MSBA charges for the use of its lists do not include sales, use, excise or similar taxes. Consequently, in addition to the standard charge, the amount of any present or future tax applicable to the sale of the list or data will be paid by user, or in lieu thereof, user will provide MSBA with a tax exemption certificate applicable to the taxing authorities.

13. MSBA will make every effort to meet scheduled delivery or mailing dates but will not be liable for any failure to meet requested or scheduled dates.

14. For material breach of this Use Agreement, user will be liable to MSBA for all damages (plus reasonable attorney fees, court costs and expenses, including expenses incurred in investigation) and loss of income.

15. This Agreement shall be construed and interpreted in accordance with the law in the State of Maryland.

All statements for dues shall provide members with an opportunity to indicate that they do not wish their names to be included in the lists provided to users, and the names of all members so indicating shall be deleted from such lists.

The charges to be made for use of the membership lists shall be fixed by the Executive Director, subject to approval by the Executive Committee. (Bd. of Gov. - 1/13/82)

## **H. MEMBERSHIP**

(i) The Committee on Membership shall, except as hereinafter provided, submit applications for membership on behalf of all persons admitted to practice law in this State at the time of their original admission; (ii) the Committee on Membership shall not submit an application on behalf

of any person whose original admission to the bar has been the subject of proceedings before the Court of Appeals concerning such person's character, or for such other reason as, in the opinion of the Committee, may warrant individual consideration of the Board of Governors, and applications from such persons shall only be considered by the Board of Governors upon individual application made by such person; (iii) in the case of individual applications for membership, the Executive Director shall determine whether the applicant has been the subject of proceedings before the Court of Appeals concerning such person's character and, if so, shall so advise the Board of Governors of such fact at the time that such application is reported to the Board of Governors pursuant to Section 3 of Article I of the Bylaws; and (iv) in those instances in which the Board of Governors, pursuant to the provisions of Section 3 of Article I of the Bylaws, directs that an investigation be made of an applicant, the person or committee conducting such an investigation shall be directed to submit a report and recommendation to the Board of Governors on the question of whether such applicant is a person of good moral character who will uphold the standard of integrity, honor and courtesy in the legal profession.

(Bd. of Gov. - 2/21/84)

## **I. NON-MEMBER ADMISSION TO MEETINGS**

All questions concerning the admission of nonmembers of the Association to educational programs and other functions held incident to Annual and Mid-Year Meetings of the Association shall be decided on an ad hoc basis by the President, with the approval of the Executive Committee.

(Bd. of Gov. - 6/14/84)

## **J. POLITICAL ACTIVITY BY SECTIONS**

Sections shall not express opinions respecting candidates for election or appointment to offices or positions either within or outside of the Association other than within the comparable Section of the American Bar Association.

(Mem. Mtg. - 6/9/77)

## **K. USE OF PRIVATE OR PUBLIC MEETING FACILITIES**

In order to promote full participation by all MSBA members and comply with federal and state law, if private clubs or public accommodations are to be used by the association or any of its authorized entities for any professional, business or social function, the function may not be held in clubs or accommodations where there is possible evidence that the club or accommodation excludes persons from membership or use on the basis of race, color, creed, sex, national origin or disability. (Discrimination on the basis of disability may take the form of architectural or other barriers to full use of the facility, in addition to a direct refusal of service based on the individual having a disability). Henceforth, all MSBA meetings will be held in accessible locations as required under the Americans with Disabilities Act (ADA). MSBA Section and Committee chairs must obtain prior approval from the MSBA for the specific locations of all Section and Committee meetings. All meetings must be arranged and scheduled by the MSBA Meeting Coordinator who will confirm that the facility has completed an Accessibility Assurance Form and is on the MSBA's approved list. (Bd. of Gov. - 2/21/84), (6/11/98), (10/22/99), (4/18/00)

## **L. SECTION FISCAL AUTONOMY**

1. The Budget and Finance Committee will retool the budget process to reflect income, expense and net of individual sections.

2. The Budget and Finance Committee is encouraged to approve without detailed review the budgets of those sections which submit budget requests which limit their expenses, less an appropriate deduction for administrative services, to their income provided that those requests comply with existing MSBA Policy Guidelines; and it is further,

3. Section newsletters may be published by those sections financially able to do so.

(Bd. of Gov. - 1/8/86)

## **M. WAIVER OF SECTION DUES**

Any substantive law section may waive its section dues for a member of the Association who qualifies for the waiver of Association

dues under the provisions of Subsections (b) and (c) of Section 1 of Article II of the Bylaws of the Association, provided, however, that (1) the waiver of section dues shall not extend for any period longer than the period permitted for the waiver of Association dues and (2) the maximum number of substantive law sections for which section dues may be waived for a respective member is three.

(Bd. of Gov. - 9/15/87)

## **N. PUBLIC STATEMENTS BY SECTIONS/COMMITTEES**

Any Committee, Section or Section Council may, within its area of responsibility and scope, make a public statement (any disclosure to any person or group outside the Association stating a position of a Section or Committee) by a duly authorized spokesperson on its own behalf provided that the statement is clearly identified as the respective Committee's or Section's position and is not an Association position. The statement can not conflict with an Association position. In order to make a public statement, written notice setting forth the substance of the issue must be given to the members of the respective body in advance, a quorum existed at the meeting and the statement is approved by a majority of those members present. Prior to making any statement, a committee or section shall advise the President, in writing, of its intention to make a public statement.

Such a statement may be superseded at any time by action of the membership, Board of Governors, or Executive Committee. Statements pertaining to legislation are covered by separate rules. The preceding rules do not apply to the Judicial Appointments Committee, the Ethics Committee and the Resolution of Fee Disputes, which committees are governed by separate rules regarding public disclosures.

(Bd. of Gov. - 12/13/88)

## **O. LIMITATION OF LIABILITY AND INDEMNIFICATION**

(a) To the maximum extent that Maryland law in effect from time to time permits limitation of the liability of directors and officers, no director or officer of the Corporation shall be liable to the Corporation or its members for money damages. Neither the amendment nor repeal of this Article, nor the adoption or amendment of any other provision of the Charter or Bylaws inconsistent with this Article, shall apply to or affect in

any respect the applicability of the preceding sentence with respect to any act or failure to act which occurred prior to such amendment, repeal or adoption.

(b) To the maximum extent permitted by the Maryland General Corporation law, as in effect from time to time, the Corporation shall indemnify its currently acting and its former directors and officers against any and all liabilities and expenses incurred in connection with their services in such capacities, and shall indemnify its employees and agents and all persons who serve and have served, at its request, as a director, officer, employee or agent of another corporation, partnership, joint venture or other enterprise. In addition, to the maximum extent permitted by the Maryland General Corporation law, as in effect from time to time, and with the approval of the Board of Governors, the Corporation may advance all or part of expenses to its directors, officers, and other indemnified persons, if any, and may by Bylaw, resolution or agreement, make further provision for indemnification of directors, officers, employees, and agents. Neither amendment or repeal of this paragraph, nor the adoption of any provision of the Corporation's Charter inconsistent with this paragraph, shall apply to or affect in any respect the indemnification of any director or officer of the Corporation with respect to any alleged act or omission which occurred prior to such amendment, repeal or adoption.

(Bd. of Gov. - 2/20/90)

***Association  
Policies &  
Procedures***

## **V. ASSOCIATION POLICIES AND PROCEDURES**

### **A. BOARD OF GOVERNORS LIAISON**

A member of the BOG shall be appointed by the President at the first meeting of the new BOG to serve as a liaison to each Section and Standing Committee of the Association and such Special Committees as he deems appropriate.

The BOG Liaison shall receive (1) notices of all meetings of said Section or Committee and (2) copies of correspondence, as appropriate.

The BOG Liaison shall be expected to attend all such meetings and shall be responsible for reporting to the Section or Committee or Association all BOG activity which may be of interest and, further, shall submit to the Board at each BOG meeting an oral report regarding current Section or Committee activities.

(Exec. Comm. - 5/2/78)

### **B. BUDGET AND FINANCE COMMITTEE DUTIES**

The Committee on Budget and Finance, established by Article VI 1, Section 1 of the Bylaws, has many responsibilities which are not detailed in the Bylaws, and which should be amplified for its direction and that of the officers and staff.

The Committee on Budget and Finance shall exercise the following powers and duties:

(a) Establish a time-table for reviewing the annual budget proposals and presenting its recommendations on the Budget to the Board of Governors.

(b) Supervise the annual audit and the monthly financial statements, and make recommendations to the Board of Governors on selection of the auditor.

(c) Supervise the investment and the management of all funds of the Association.

(d) Supervise the retirement plan and retirement benefits for employees provided by the Association.

(e) Be responsible for making recommendations to the officers and Board of Governors on long range financial needs and plans for the Association.

(Exec. Comm. - 4/1/80 & 6/2/87)

### **C. COMPLIMENTARY TICKETS FROM TRAVEL AGENCIES**

No complimentary tickets will be made available to any member of the Association but any cash allowances will be used to pay the costs of any additional feature of the trip for all persons on tour.

(Exec. Comm. - 9/2/76)

### **D. CONFERENCE ROOM**

1. A fee of \$100.00 payable in advance will be levied for use of the room. (This fee will cover set-up and clean-up of the room, consumption of sodas, coffee, tea, and all other non-alcoholic beverages and other miscellaneous expenses incurred by the Headquarters Office.)

2. A reduced fee of \$50.00 will be levied for use of the room in instances where no services other than set-up and clean-up services are required; provided, however, that in such instances local bar associations and business meetings of other bar related groups shall be exempt from the payment of any fee. The Executive Director is given discretion to determine the appropriateness of this fee.

3. All arrangements for food which may be served must be made directly by the user organization with the facility providing such food. Set-up and service of food is the responsibility of the user organization.

4. Food deliveries made to the Headquarters Office must be paid for in advance by the user organization.

5. Usage hours shall be 9:00 a.m. to 8:30 p.m. Monday through Friday (excluding official Maryland State Bar Association holidays).

(Exec. Comm. - 9/8/81, 10/6/81, 2/10/82 & 6/2/87)

## **E. CONTRIBUTIONS**

It is generally not appropriate for the Association, or any of its entities, to contribute funds to other organizations. Members' dues represent a contribution to the activities of the Association and should not be redistributed. A project or program involving a contribution of staff or voluntary services may be approved by the Board when it believes collaboration would be in the best interests of the Association.

(Exec. Comm. - 11/1/77)

## **F. DINNER MEETINGS**

### **1. Board of Governors**

It is the policy of the Association to pay for all meals consumed at Meetings of the Board of Governors. Alcoholic beverages will not be paid for by the Association. In order to cover the cost of alcoholic beverages at the various Meetings, the Board of Governors will maintain a drink fund under the control of the Executive Director. The fund will be maintained by an assessment of each member of the Board of Governors from time to time as necessary.

(Exec. Comm. - 7/18/78 & 5/10/90)

### **2. Sections and Committees**

The Maryland State Bar Association will pay an amount which is approved by the Budget and Finance Committee and the Board of Governors for all meals consumed at meetings held by Chairmen of Sections, Standing Committees, Special Committees, the Board of Governors, the Executive Committee or Sub-Committees thereof, and other arms of the association at which official MSBA business is conducted. In no case will alcoholic beverages be paid for by the Association. Wine, with dinner, is not an exception to this rule.

(Exec. Comm. - 4/4/78, 6/2/87 & 5/10/90)

## **G. LEGISLATIVE AGENT**

The Director of Legislative Relations shall serve as the legislative liaison for the Association: (i) working with the Committee on Laws to

monitor legislation of interest and coordinate the legislative activities of the Association; (ii) keeping legislators apprised of the interests of the Association; and, (iii) where expressly authorized by the President, testifying on behalf of the Association with respect to pending legislation. (Exec. Comm. - 1/7/88)

## **H. REFUND OF DUES**

No portion of any dues paid to the Maryland State Bar Association (for either Association or Section membership) shall be refunded for any reason. However, if requested by the Executive Director, the Board of Governors may review and approve or disapprove a request for refund. (Exec. Comm. - 4/4/78)

## **I. REIMBURSEMENT OF EXPENSES OF ASSOCIATION MEMBERS**

Upon request by a member and when within budgetary limitations, the Association will reimburse a member of the Association for expenses incurred in fulfilling the member's official duties or obligations as a member or officer of a Section, Standing Committee, Special Committee, or Subcommittee thereof. Such expenses may include long distance telephone calls, postage and reproduction services, provided such reproduction services were performed on an emergency basis or were not able to be performed by the Association. Charges for mileage for travel to and from meetings is not reimbursable. However, if requested, the Executive Director or Executive Committee may review and approve or disapprove a request for reimbursement. (Exec. Comm. - 4/4/78 & 2/7/06)

When incurred with respect to the business of the Association, the Association shall reimburse members of the Association or staff of the Association for all reasonable travel expenses, all reasonable accommodation expenses and a per diem living expense allowance (meals, local transportation, incidentals) of \$80 per day, when such trip has been approved by the Executive Committee prior to the occurrence thereof. Reimbursement for public transportation shall be at economy or tourist rates. Private automobile expenses shall be reimbursed at the approved IRS rate per mile. When a private automobile is used by an Association member or employee

on Association business and the trip begins or ends at home, the reimbursable mileage shall be the difference between the home-office mileage and the office-business meeting mileage, except that the total mileage for such travel on Saturdays, Sundays and holidays shall be reimbursed.

(Exec. Comm.-1/3/78, 6/5/79, 4/7/81, 12/10/81, 9/19/88, & 1/30/91)

## **J. REIMBURSEMENT OF TRAVEL EXPENSES**

Requests for reimbursement for the following three (3) categories need to be submitted within three (3) months of incurrence or by June 30, whichever occurs sooner.

### **1. MSBA Delegates and MSBA State Delegates**

The Association shall reimburse the MSBA Delegates to the ABA House of Delegates, the Maryland State Delegate to the ABA and any other members whose expenses have been approved by the Executive Committee for all reasonable travel expenses, all reasonable accommodation expense and a per diem living expense allowance of \$80 per day for attendance on days their respective bodies hold official meetings.

(Exec. Comm. - 9/11/84 & 9/19/86)

### **2. Reimbursement of Expenses of MSBA Officers**

The Association shall reimburse the President, President-Elect, Immediate Past President and Executive Director and their spouses or guests for all reasonable travel expenses, all reasonable accommodation expenses and a per diem living expense allowance of \$80 per day per person or \$120 per day per couple for attendance at the yearly Southern Conference of Bar Presidents, the Mid Atlantic Bar Conference, and the Annual and Mid-Year Meetings of both the Maryland State Bar Association and the American Bar Association.

This policy shall also apply to attendance by the President and his/her spouse/guest at the 4th Circuit Judicial Conference.

This policy shall also apply to attendance by the President-Elect and the President-Elect-Nominee, excluding spouses, at the ABA Bar

Leadership Institute.

(Exec. Comm. - 1/5/82, 9/19/86, 2/15/89 & 9/13/94)

### 3. Reimbursement of Lodging Expenses

For those who are reimbursed by the MSBA for attending ABA Annual and Midyear Meetings, it is the policy of the MSBA to reimburse at the standard rate for a single/double room at the headquarters hotel of the National Conference of Bar Presidents or ABA House of Delegates designated hotel. It has been the long standing policy of the MSBA not to reimburse for suites or upgrades to deluxe or concierge level rooms. Those wishing to use such rooms must pay for the difference themselves.

(Exec. Comm. - 4/15/03, 9/9/08)

## **K. REIMBURSEMENT OF EXPENSES OF PARTICIPANTS IN SECTION OR COMMITTEE EDUCATIONAL PROGRAMS AT ASSOCIATION MEETINGS**

Upon request by the Chairman, reimbursement will be made to participants (i.e., guest speakers, panelists, etc.) of Section or Committee educational programs conducted at Association Annual or Mid-Year Meetings for expenses incurred in connection with their attendance at those Meetings, provided that funds are available therefor in that Section's or Committee's budget. Such reimbursement will be restricted to those participants who are not members of the Maryland State Bar Association, Inc. Speakers, even if members, can attend the sessions they are speaking at without paying the registration fee.

(Exec. Comm. - 9/5/78 & 6/2/87)

## **L. NON-RECIPROCITY OF REIMBURSEMENT EXPENSES**

1. If the Association approves the President or the President-Elect attending the investiture of an officer of another bar association, or the attending of an annual meeting of another bar association, outside the State of Maryland, the Association will be responsible for the normal expenses attributable to that attendance.

2. If an officer of another bar association is invited by the Maryland State Bar Association to attend the investiture of this Associa-

tion's President or the annual meeting of this Association, the Association will not be responsible for the expenses attributable to that attendance.  
(Exec. Comm. - 4/10/89)

***Media  
Response  
Policies***

## **VI. MEDIA RESPONSE POLICIES**

### **A. MEETING INACCURATE AND UNJUST CRITICISM OF THE JUDICIAL SYSTEM**

WHEREAS: The effectiveness of the administration of justice depends in large measure on public confidence. The reporting of inaccurate or unjust criticism of judges, courts, or the system of justice by the news media erodes public confidence and weakens the administration of justice. It is vital that non-litigants as well as litigants have reason to believe that the courts and decisions are fair.

WHEREAS: The dissemination to the public of accurate and complete information about the operation and role of the legal system in our free society is necessary to provide a meaningful basis for evaluating the performance and effectiveness of the administration of justice;

WHEREAS: We should make no attempt to prevent just criticism, but we should make every effort to prevent or answer unjust criticism. The cause of such unjust criticism, not the criticism, should be eliminated. Criticism which results from a lack of understanding of the system - the reason for a decision, for a sentence, for a courtroom action should be answered.

WHEREAS: Individual judges usually are in no position to defend their own actions or some feature of the legal system, and they ought not to be put into that position. It is generally undesirable for a judge to answer criticism of his or her own actions appearing in the news media. This tradition developed to insure the dignity of the administration of justice, to prevent interference with pending litigation, and to reaffirm the commitment to an independent judiciary - a judiciary dedicated to decision making based on the facts and law as presented and not based on the clamor of any segment of the community. It is acknowledged that criticism directed at a particular judge would be more appropriately directed at the legislature at times when the judge's action clearly followed the dictates of the law.

WHEREAS: The risk is apparent that a response by a judge to criticism of his or her own actions or the court's procedures may be received by the community as "self-serving" and perceived as a defensive position that fails for the lack of credibility. The Bar also recognizes its duty to defend

the judicial system as set forth in the Rules of Professional Conduct.

WHEREAS: A judge's comment, whether or not concerning his or her own conduct, contains the potential of reflecting on pending litigation and may have an undesirable effect on the litigants. In addition, an inappropriate response may give encouragement to those who would control the judiciary by intimidation and thus weaken the independence of the judiciary.

AND NOW THEREFORE, IT IS RESOLVED: That the Board of Governors reaffirms its belief that it is the duty of the legal profession and all of its members to:

1. Take steps to maintain and promote understanding and confidence among the citizens of this state and the nation, in the need for an independent judiciary;
2. Explain the difference between valid, constructive criticism of the decisions and processes of our courts, on the one hand, and on the other hand, unfounded criticism which erodes our system of justice;
3. Assist the public in understanding the difficult responsibility of the courts to strike that proper yet often elusive balance between individual constitutional rights and the rights of society;

and it is

FURTHER RESOLVED, that the Bar Association should create the necessary and appropriate guidelines to support these principles and to aid the profession and the public in understanding them.

### **Guidelines for Responding to Inaccurate and Unjust Criticism of the Judicial System**

#### **A. When Appropriate**

A response to criticism is appropriate, except in unusual circumstances, when the criticism is of the following kinds:

1. When the criticism is serious and substantial and will have a negative effect in the community and the criticism cannot adequately be met by a response from some other appropriate source; AND

2. When the criticism is inaccurate and displays a lack of understanding of the legal system or the role of the judge and is based at least partially on such a misunderstanding; or

3. When the criticism is directed at a particular judge but unjustly reflects on the judiciary generally, the court or another element of the judicial system (e.g., grand jury, lawyers, probation, etc.); or

4. When a response provides the opportunity to inform the public about an important aspect of the administration of justice (e.g., sentencing, evidence rules, fundamental rights, etc.); or

5. When the critic is so obviously uninformed about the judicial system that a response can be made on a factual basis; or

6. When the criticism or report, although generally accurate, does not contain all or enough of the facts of the event or procedure reported so as to misinform the public; or

7. When the time of the response is especially important and can be best met by the bar association.

## **B. When Not Appropriate**

A response is NOT appropriate to the following circumstances:

1. When there is a feud between the critic and the judge on a personal level;

2. When the criticism is vague or the product of innuendo, except when the innuendo is clear;

3. When a detailed investigation to learn the true facts is necessary;

4. When the judge can be adequately defended by another credible source;
5. When the issue is one of substantive law on which there may be reasonable differences of opinion;
6. When the controversy involves a pending proceeding, unless the response can be made on a matter not at issue in the case;
7. When the controversy is insignificant;
8. When the criticism is a fair comment or opinion.

### **C. Timing**

To be effective, the response must be prompt and accurate. If at all possible, the response should be within 48 hours, keeping in mind the deadlines of the news media reporting the original criticism. Caveat: a fast answer with inaccurate facts may be worse than no answer.

### **D. The Response**

The following should be considered in drafting a response:

1. The response should be a concise, accurate, “to the point” statement, devoid of emotional or subjective terms;
2. The response should be informative and not argumentative, condescending, or like a lecture;
3. The response should include a correction of the inaccuracies, citing facts and authorities (e.g., state law) where appropriate;
4. The response should be in lay person’s terms;
5. Where appropriate, the response should include the point that the judge had no control or discretion (e.g., state law, within executive-branch authority);

6. Where appropriate, the response should include an explanation of the process involved (e.g., sentencing, temporary restraining order);

7. The response should **not** attempt to discredit the critic, that is, attack the competence, good faith, motives, or associates of the critic;

8. The response should **not** indicate overreaction;

9. The response should not defend the indefensible;

10. The cause of the criticism or controversy should be considered if not immediately apparent;

11. The response should aim for the same level of exposure as was given the criticism;

12. Form of Response: A letter to the editor is generally the best form of response, in that it is the most likely to be printed in full and more-or-less accurately. Press releases are usually more subject to editing, and pamphlets are too elaborate. Letters to the editor or press releases would not necessarily be the only methods of response.

## **E. Procedures**

1. It is the primary responsibility of members of the Board of Governors to identify and refer items and reports of unjust criticism occurring in the media to the attention of the President by contact with the MSBA Headquarters;

2. Any member of the Association may direct a request for review and response of unjust criticism of the judicial system which comes to his or her attention;

3. A judge may also initiate a request for review and response of unjust criticism;

4. The President shall as soon as possible confer with the President-Elect and the Executive Director as to the need for a response and the most expeditious and effective method of proceeding. The President

may seek the assistance of the Committees, Sections or other Officers and Staff;

5. The President, the President-Elect, in the President's absence, or their designee shall be the sole voice of the Association in responding to criticism;

6. The President should seek coordination with local bar associations so that any response will be uniform, clear and effective;

7. Nothing contained herein shall prevent an individual judge from answering inaccurate or unjust criticism without requesting intervention by the Association.

(Bd. of Gov. - 5/20/88)

## **B. MASS DISASTER PLAN**

For the purposes of the Maryland State Bar Association's Mass Disaster Plan, a disaster is defined as any type of accident or tragedy involving multiple injuries and/or deaths where the public interest is affected.

In the event that such a tragedy occurs in Maryland, the Maryland State Bar Association will immediately activate the following disaster plan:

-- MSBA will issue a press release as soon as possible, advising the public of the appropriate rules of professional conduct; instructing the public to report all violations to the Attorney Grievance Commission, with phone number; and announce the availability of MSBA's Disaster Guide for Victims.

-- In most cases, the MSBA will hold a press conference at bar headquarters to announce all of the above information and emphasize the availability of the disaster brochure.

-- The MSBA's 800 phone number will be declared a "disaster hotline" and publicized. The hotline will be manned by pre-selected volunteer lawyers from MSBA. These volunteers will offer information and assistance to victims and their families. No referrals for legal services will be given.

-- MSBA will contact the appropriate County Bar Association President, in

the specific locale where the tragedy has occurred, and ask for volunteers from that bar to assist in disseminating the MSBA guide and provide appropriate assistance as requested.

-- MSBA will contact the appropriate emergency service and make MSBA's disaster guide available to their workers for distribution.

Through this plan, MSBA hopes to work in partnership with the media to advise victims and their families of the proper means of the retention of legal services.

(Bd. of Gov. - 9/27/96)

***MICPELIMSBAI  
UBIUM CLE  
Agreement***

## VII. AGREEMENT

The Maryland Institute for Continuing Professional Education  
of Lawyers, Inc. (MICPEL)  
The Maryland State Bar Association  
The University of Baltimore Law School  
and  
The University of Maryland Law School

### I. Preamble

MICPEL was created in 1976 by the Maryland State Bar Association and the University of Maryland Law School and the University of Baltimore Law School, to be the continuing legal education arm of the three sponsoring organizations. It was recognized that the greatest service to the lawyers and public of Maryland would be provided by combining the then separate and largely uncoordinated continuing professional education functions of the law schools and the Association. Each sponsoring organization turned its ongoing "C.L.E." activities over to MICPEL and agreed to present future continuing legal education programs through the combined organization. It is the purpose of this agreement to formalize the understanding pursuant to which MICPEL and the sponsoring organizations (the Maryland State Bar Association, the University of Baltimore Law School, and the University of Maryland Law School) have agreed to work together to provide continuing professional education to the lawyers of Maryland.

### II. Publications

#### A. Existing Publications:

1. The Maryland State Bar Association will turn over to MICPEL the existing inventory for the following CLE books now published by the Maryland State Bar Association: the U.S. District Court Forms, and District Court Forms, Rights of Prisoners, Pattern Jury Instructions, Criminal Forms Book, Maryland Discovery Opinions, and Practice Manual for Maryland Attorneys and other similar volumes. MICPEL will sell the inventory and remit to the Maryland Bar Association the proceeds from such sales less any costs for handling of the inventory.

2. When the inventory of any publication is exhausted, MICPEL will assume responsibility for ordering new copies, when appropriate, and continue to market the publications. MICPEL will retain all proceeds from the sales of books where MICPEL has ordered and paid for the inventory.

3. Where MICPEL reorders additional inventory, it will insure that the section that originally published the book will continue to get recognition for publishing the book even if the section declines to participate in the periodic updating of the book or publication.

B. Future Publications: All future CLE publications by the Maryland State Bar Association (including its Sections) or by the sponsoring law schools will be done through MICPEL. Prior to beginning work on a project, sections must get approval for any planned publication from MICPEL subject to the arbitration procedure set forth below.

C. Law Reviews:

The Maryland State Bar Association has agreed to provide cash subsidies to the law reviews of the University of Maryland and the University of Baltimore Law Schools in the amount of \$28,000 for the fiscal year ending June 30, 1982. By this agreement, the MSBA shall be relieved of that responsibility, and MICPEL will be responsible for providing up to \$28,000 of substitute support to the law reviews of both law schools for this year. The amount and nature of such support, if any, for future years, is subject to negotiation between MICPEL and the law schools.

### III. Seminars

All CLE programs by the Maryland State Bar Association (including its sections or committees) or by the sponsoring law schools will be offered by MICPEL. Prior to beginning substantive work on any program, prior approval for the program must be obtained from MICPEL subject to the arbitration procedure set forth below.

A. The following CLE programs may be presented by the Maryland State Bar Association (including its sections) independent of MICPEL. The Association, however, may request, and MICPEL may provide, assistance

with respect to these programs:

1. Seminars offered at the annual and semiannual meeting of the Maryland State Bar Association need not be offered through MICPEL.

2. Short programs offered in conjunction with luncheon meetings.

3. Primarily social meetings such as the Young Lawyers Spring Weekend or Ski Weekend.

B. The University of Baltimore Law School may continue to present its annual program on labor law and maritime law, although the said law school may, at any time, decide to permit MICPEL to present these programs.

#### IV. Obligations and Responsibilities

##### A. MICPEL

MICPEL will insure that the Sections of the Maryland State Bar Association will be given recognition for their co-sponsorship of programs and publications. MICPEL will hold copyrights to all materials and programs, but will insure that all future publications of the materials will reflect the Sections' original and continuing participation in the publication.

##### B. Maryland State Bar Association

The Maryland State Bar Association will take all steps necessary, including a written statement in the Maryland State Bar Association manual, to communicate to the members and sections of the Maryland State Bar Association that MICPEL is the CLE arm of the Maryland State Bar Association and that all CLE publications and programs will be offered through MICPEL.

##### C. The Law Schools

The sponsoring law schools will take all steps necessary, including a written statement to their faculty members, to communicate to their faculties, that MICPEL is the CLE arm of the law schools and that all CLE publications

and programs will be offered through MICPEL.

## V. ARBITRATION OF DISPUTES

In the event that the MICPEL staff rejects a proposal for a publication, seminar, program or lecture that has been submitted by a sponsoring organization (including a section of the Maryland State Bar Association) or if any dispute arises as to content or editorial issues, the question shall be submitted to a special committee of three trustees of MICPEL, one of whom shall be designated by the sponsoring organizations involved, one by the President of the Board of Trustees of MICPEL and the third by the two trustees so designated. The special committee shall meet with the parties involved, after notice to all, and will render its decision within ten days of such meeting. In the event that the special committee rejects the position of a sponsoring organization, that sponsoring organization, may proceed independently at its own cost and expense provided it obtains approval from its own governing body. This procedure will be used to resolve all disputes as to subject matter, content, format and procedure.









