

North Carolina State Bar's Handbook

for

Officers of Judicial District Bars

2013

North Carolina State Bar's Handbook for Officers of Judicial District Bars 2013

1. Essential Duties of District Bar Officers
2. Professional Governance: The District Bars and the State Bar
3. Statutes Governing District Bar Activities
4. Rules and Regulations Governing District Bars
5. Advisory Opinion: Use of Mandatory District Bar Dues for BarCARES Program
6. Notice of Election: Examples and Sample Ballot
7. State Bar Policy: Defense of Local District Bar Grievance Committee Members
8. Retention Schedule for Judicial District Bar Records
9. North Carolina Conference of Bar Presidents: Rules of Membership and Governance
10. John B. McMillan Distinguished Service Award

Essential Duties of District Bar Officers

- Correspond with your district bar councilor(s) to advise of the district bar's position on recent actions proposed by the State Bar Council
- Review district bar bylaws, governing statutes, and governing rules and regulations (see attached governing statutes and rules and regulations)
- Make sure a current copy of the district bar bylaws is on file with the executive director of the State Bar and with the office of the resident superior court judge for your district
- Provide the names and addresses of all officers and members of the Board of Directors (if the bylaws provide for a BOD) to the executive director of the State Bar
- Call and schedule annual and special meetings for purposes of:

-Electing district bar officers

-Electing State Bar Councilor(s), upon notification from State Bar that a councilor's term has expired

-Choosing candidates for submission to the Governor in filling district court judge vacancies

-Any other official business of the district bar as may come up from time to time, such as amendments of bylaws, imposition of or increase in dues, and other matters requiring formal action by the active members of the bar

-Any other activities of the district bar, such as CLE, programs/speakers, and volunteer activities/outreach projects undertaken by the district bar

- Appoint board of directors and committee members, as required by bylaws
- Oversee committee responsibilities, including functions of the fee dispute resolution committee and local grievance committee (if any)
- Update roster of district bar membership annually, as requested by State Bar (with assistance of the secretary/treasurer)
- Assist State Bar in locating attorneys to serve as law practice trustees in the event of the death, disability, or disbarment of an attorney who has no partners or associates capable of winding down his or her law practice
- Oversee collection of district bar dues by secretary/treasurer (if any are imposed)
- Report to State Bar any judicial district bar member who is 12 months or more in arrears in payment of district bar dues
- Oversee expenditures of district bar dues to ensure proper uses of dues
- Make sure that the district bar provides an annual financial report to the executive director of the State Bar



The North Carolina State Bar

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MEMORANDUM

To: District Bar Officers

From: L. Thomas Lunsford II

Re: Professional Governance: The District Bars and the State Bar

Congratulations on your having been elected as an officer of your judicial district bar. Thank for your willingness to participate in an important aspect of the legal profession's self-regulation. This memorandum is offered as a detailed description of how the legal profession in North Carolina is to be governed at the local or "district" level. While most of the state's regulatory authority relative to the legal profession has been vested in the Council of the North Carolina State Bar, it is plain from Chapter 84 of the General Statutes that the judicial district bars have a significant role to play in professional governance. As a practical matter, the ways in which district bars fulfill their responsibilities vary greatly, generally as a function of the number of lawyers included within the district. For instance, some district bars are well financed, well organized and are administered by paid professional staff. They engage in a wide array of regulatory activities. On the other hand, many districts where lawyer population is small and widely dispersed have little, if any, organizational structure and function at the most elemental level. I intend for this memorandum to serve as a sort of basic primer relative to the structure, organization, financing, and activities of the judicial district bars and to outline the relationship between the North Carolina State Bar and the various judicial district bars.

What is a judicial district bar?

Judicial district bars (hereinafter "district bars") are subdivisions of the North Carolina State Bar, subject to the general supervisory authority of the Council. They may adopt rules, regulations, and bylaws which are not inconsistent with the provisions of Chapter 84 of General Statutes. N.C. Gen. Stat. 84-18.1(a). There are 45 district bars, one for each judicial district. For these purposes, judicial districts are generally coterminous with the prosecutorial districts established by the General Assembly. N.C. Gen. Stat. 84-19. That being the case, if the General Assembly should at any time reconfigure the prosecutorial districts, there would be a similar reconfiguration of judicial districts for the purposes of the State Bar. Should an additional

prosecutorial district be created, there would likewise be created by operation of law a new judicial district and a new district bar.

The North Carolina State Bar is an agency of the state of North Carolina created by the General Assembly. N.C. Gen. Stat. 8-15. As a subdivision of the North Carolina State Bar, each district bar is also an agency of the state of North Carolina. Persons acting on behalf of the district bar within the scope of the district bar's regulatory responsibilities are acting on behalf of the state of North Carolina and in that capacity are clothed with qualified immunity from suit. That is to say, they cannot be sued for damages unless they have acted wrongfully with malice.

Because the district bar is an agency of the state of North Carolina, its revenues must be regarded as public funds and as such must be used only for valid public purposes. Since the state of North Carolina is generally not subject to taxation by the federal government, it is not necessary for the district bar to file a federal income tax return. However, district bars should obtain federal tax ID numbers in order that earnings on deposits might be properly reported by financial institutions.

Who belongs to a district bar?

Every active member of the North Carolina State Bar residing in the state of North Carolina is deemed a voting member of the district bar in the judicial district in which the member resides. Unless informed to the contrary, the State Bar assumes that the address maintained for each member in its official records is indicative of the judicial district in which he or she resides. N. C. Gen. Stat. 84-34. A lawyer may elect to participate in the district bar where he or she practices (if different than where he or she resides) by informing the secretary-treasurer of the North Carolina State Bar of his or her decision in writing. N.C. Gen. Stat. 84-16. Whenever a roster of district bar members is desired, a list can be produced by the State Bar's computer showing each lawyer who is resident in the judicial district or who has elected to affiliate with the district bar despite his or her status as a nonresident. If possible, the district bar president should appoint some member or members of the local bar to review the list to identify errors or omissions and report any such matters to the North Carolina State Bar.

Only active members of the North Carolina State Bar are eligible to vote in district bar elections. Since members of North Carolina's judiciary are active members of the North Carolina State Bar, they are entitled to vote and must pay mandatory membership fees if any are duly assessed. Inactive members of the North Carolina State Bar may not vote in district bar elections nor may they be compelled to pay district bar dues. If the district bar wishes to establish a category of honorary membership, inactive members of the North Carolina State Bar may affiliate on that basis.

Tammy Jackson is the State Bar's membership director. She is primarily responsible for maintaining the State Bar's membership database. She will be pleased to respond by telephone or in writing to inquiries regarding the membership status of any particular lawyer and will provide

February 2013

Page 3

upon request the entire membership roster of the district bar in an electronic format (a text file or Excel spreadsheet as requested). She can also provide mailing labels for each member of the district bar when labels are needed for official district bar business.

What are the responsibilities of the district bar?

The district bar is required to do relatively few things. However, those things must be done correctly. Here is what is required of the district bar:

1. The district bar must elect one or more of its members to sit on the North Carolina State Bar Council. N.C. Gen. Stat. 84-17 and 84-18.
2. The district bar must choose up to three nominees for submission to the governor in filling district court vacancies in the district. N.C. Gen. Stat. 7A-142.
3. When the public defender district is coterminous with the district bar, choose two or three nominees for submission to the senior resident superior court judge for appointment to a public defender vacancy. N.C. Gen. Stat. 7A-498.7(6).
4. The district bar must adopt bylaws and submit those bylaws to the State Bar Council for approval. 27 N.C. Admin Code 1A, Rule .0900.
5. If a district bar elects to assess an annual membership fee, the district bar must follow the procedures in 27 N.C. Admin Code 1A, Rule .0902, and, to avoid conflicts with the State Bar's collection of membership fees, must adopt a fiscal year that is not a calendar year. 27 N.C. Admin Code 1A, Rule .0903.

The items on the foregoing list constitute the entire universe of things that district bars are required to do. Allow me to elaborate on each of these responsibilities.

Council elections - Elections of State Bar councilors are controlled in large part by very specific rules of the State Bar. 27 N.C. Admin Code 1A, Rule .0800 et. seq. Of particular importance is the notice requirement specified in Rule .0802. That rule requires that notice of an election to fill a seat on the Council must be mailed to each member of the district bar by the secretary-treasurer of the North Carolina State Bar at least 30 days before the election. See tab 6 for sample notices. Obviously, this is to ensure that anyone interested in participating, either as a voter or as a candidate, has sufficient notice of the election. The State Bar's rules do not attempt to prescribe specific electoral procedures but do prohibit cumulative voting and absentee ballots. The rules also require that voting be done by secret ballot and that election be by a majority of the votes cast. The district bar in its bylaws has substantial freedom to adopt electoral procedures consistent with these requirements so long as the procedures are fair. Rule .0804 of the same section permits district bars to adopt bylaws for election of councilors by mail. The rule requires

that a written ballot be mailed to each active member of the district bar at the member's address on file with the State Bar. The procedure for numbering ballots is set forth in the rule. Rule .0805 of the same section permits district bars to adopt bylaws for election of councilors by electronic vote, the procedure for which is set forth in the rule.

Election of district court nominees – The district bar's role in the selection of district court nominees is entirely a matter of statute. N.C. Gen. Stat. 7A-142. There is a recommended model bylaw to govern such elections. However, the district bar is free to develop its own procedures so long as they are fair. District bars are encouraged to adopt a bylaw in advance of the need to hold such an election. See tab 6 for sample notices and a sample letter to the Governor's office.

Election of public defender nominees – The district bar's role in the selection of public defender nominees is also entirely a matter of statute. N.C. Gen. Stat. 7A-498.7(6). Note that those entitled to vote for such nominees are "attorneys resident in the defender district . . ." and not attorneys resident in the judicial district. Note also that the balloting is conducted pursuant to rules adopted by the Commission on Indigent Defense Services. The commission should be contacted in the event of a public defender vacancy.

Bylaws – There are model bylaws for district bars in the State Bar rules. N.C. Admin Code, 1A Rule .1000 *et seq.* Although each district bar must adopt bylaws, there is no requirement that they be the same as the model bylaws. However, the model bylaws are the product of a great deal of careful study and would probably suit the needs of most, if not all, of the district bars. A copy of the model bylaws is in this handbook (see tab 4). Please note that the model bylaws provide the answers to many questions concerning the governance of district bars, particularly in regard to the handling of district bar finances. Note also that the model bylaws do not attempt to prescribe procedures for every aspect of district bar affairs. For instance, the model bylaws contemplate that district bars may wish to formulate their own election procedures. If your district bar is currently without bylaws or is operating under bylaws that have not been recently reviewed, I urge you to appoint a committee for the purpose of reviewing any existing documents in light of the model bylaws. A copy of your district bar's current bylaws should be maintained on file with the State Bar and will be provided to you upon request. If our copy of the bylaws is not current, please send any amendments to your district's bylaws to Peter Bolac at the North Carolina State Bar.

What is the relationship of the district bar to the State Bar?

As was previously noted, the district bar is a subdivision of the North Carolina State Bar. N.C. Gen. Stat. 84-18.1. This statute makes clear that the district bars are subject to the general supervisory authority of the State Bar Council. As a matter of fact, the State Bar has historically exercised relatively little supervision or control over district bar operations. Although a district bar may voluntarily assume some programmatic responsibilities (local grievance and fee dispute

mediation committees), relatively few mandates have issued from the State Bar in regard to district bar affairs. The current leadership of the North Carolina State Bar does not anticipate any further shifting of regulatory responsibilities from the State Bar to the district bars in the near term. However, it is clear that the State Bar must play an active role in ensuring that the governmental responsibilities are delegated to the district bars are performed competently and in accordance with law. This is particularly important in regard to the handling of district bar elections and district bar finances.

The State Bar believes that education and communication are the keys to ensuring that each new generation of district bar officers has the information necessary to manage the affairs of the district bars appropriately. It is hoped that this memorandum will go a long way toward dispelling most of the ignorance and many of the misunderstandings relating to the governance of the legal profession at the local level. We realize, of course, that it is impossible to anticipate and deal with every contingency in a document of this sort. That being the case, the Administrative Committee of the State Bar Council was assigned the responsibility for helping the districts to fulfill their regulatory responsibilities. This committee hired Peter Bolac as district bar liaison to coordinate district bar activities. Mr. Bolac is available to assist you with your programmatic responsibilities and administration of your district bar.

District Bar Finances

North Carolina is unique in that the agency responsible for regulating the legal profession, the North Carolina State Bar, has political subdivisions that have the power to tax. On the one hand, this arrangement gives lawyers at the local level significantly more freedom and flexibility in their regulatory efforts than if there were no reliable source of funding. On the other hand, there follow from the decision to levy taxes many worrisome obligations relating to the exaction, stewardship, and use of tax money.

Lease Of Space By District Bars

The district bars, as well as the North Carolina State Bar, are required by statute to seek approval from the Governor and the Council of the State before leasing or buying property. We are familiar with the procedures and will be happy to assist you if your bar needs to lease or buy space.

Proper Uses of Dues

It should be remembered that annual membership fees or "dues" paid by lawyers to the State Bar, or to the district bars to which they belong, become public funds in the hands of the government. As such, these revenues may be used only for public purposes. Accordingly, the North Carolina State Bar has, as a matter of policy, declared that funds derived from dues payments may not be used to reimburse councilors or other State Bar officials for expenditures relating to alcohol

consumption, personal entertainment, or the attendance of a spouse or guest at an official business function. Given that the district bars are subject to the same legal strictures as the North Carolina State Bar, these policies should also be observed at the district bar level.

Two other points are worth making in this regard. First, the district bar may use voluntary contributions to purchase goods or services that could not be legitimately acquired by the use of public funds. If the district bar wishes to serve alcohol at one of its functions or bestow a contribution on some deserving charity, those transactions can certainly be financed from private funds. In situations where voluntary contributions are used to finance acquisitions or activities, which might not have been properly financed with mandatory dues, careful records should be kept and appropriate explanation should be given to the membership.

Second, activities that might in and of themselves seem inappropriate for sponsorship by the district bar may be legitimately funded if there is some substantial official business purpose associated with the event. For instance, a monthly bar luncheon that is intended to provide an opportunity for the members of the bar to socialize, might be appropriately paid for with dues money if a brief business meeting is convened. Collection of mandatory and voluntary membership dues should be the primary means of financial support for district bars, as fund-raising activities are discouraged and often do not serve a public purpose.

For what purposes can district bar dues be properly spent?

Revenues derived from district bar dues must be spent for public purposes. However, not all public purposes are appropriate uses of such funds. Generally speaking, the State Bar and the district bars are entitled to use dues money to support political or ideological causes only where such expenditures can be said to relate to the regulation of the legal profession or the improvement of legal services to the public. These legitimate purposes were identified by the United States Supreme Court in *Keller v. The State Bar of California*, a case wherein dissident members of the California State Bar argued on constitutional grounds that certain expenditures of the State Bar were constitutionally impermissible. In *Keller*, the Supreme Court specifically determined that mandatory dues revenues could not be used to advocate positions in controversies, which were primarily ideological or political, unless the issues involved were directly related to the legitimate purposes identified above. A footnote suggests that there might exist some issues so fraught with political content that they might not properly be the object of dues financing, even though they might arguably have something to do with the regulation of the legal profession or improvement of legal services to the public.

As was recognized by the Supreme Court in *Keller*, it is relatively easy to identify some expressive activities on either extreme as appropriate or inappropriate objects of mandatory dues funding. Certainly, it would be wrong to appropriate dues money to lobby Congress for a nuclear freeze or to support a candidate running for the office of president of the United States. Likewise, it is clear that dues money can be used appropriately to run a district bar grievance

committee or to organize and produce a CLE program. Unfortunately, there is much in the gray area. Some would contend, for instance, that the organized bar might legitimately use dues monies to campaign on behalf of a local bond referendum to build a new courthouse. Others might argue that dues money might be used to lobby the state legislature for a bill providing for merit selection of judges. In both instances, there would be a clear nexus to the administration of justice and the issues presented would be of particular interest to lawyers. Nevertheless, in both cases the issues are essentially political questions not relating directly to the regulation of lawyers or the availability of good legal services. If dues were spent to lobby for or against the bond referendum or the merit selection bill, dissident members of the bar might successfully argue, on the basis of the *Keller* decision, that their First Amendment rights had been violated by use of their tax monies to support political ideas to which they do not subscribe. To avoid that possibility, district bar leaders are urged to examine each expenditure of district bar funds derived from mandatory dues to ensure that no expenditure is made for an improper purpose.

Please note that disbursements from mandatory dues revenues can be inappropriate even if the expenditures are politically neutral and can be fairly said to serve some public purpose. In an Attorney General's opinion in 2001 on the funding of a program to provide mental health services to lawyers and their families (the BarCARES program), the Attorney General's Office concluded that the funding of such a program with mandatory district bar membership fees is a lawful use of the funds "as long as the program is restricted to attorney members of the Bar and is directly related to addressing identifiable problems which are affecting, or which may in the future affect, an attorney's competence to practice law or professional conduct." A copy of the AG's opinion is included in this handbook at tab 5. In spending public funds the district bar, like the State Bar, may act only in consequence of the powers and purposes enumerated in Chapter 84 of the General Statutes, most particularly, N.C. General Statute section 84-23.

Bifurcating the District Bar

As was previously mentioned, one way of dealing with the problem of ensuring that public funds are spent only for appropriate public purposes is to collect voluntary contributions from members who support the particular expenditures in question and to handle the entire matter separate and apart from mandatory dues collections. That is a very reasonable approach to the problem on an ad hoc basis. However, in some districts, lawyers have found that they can more easily and efficiently undertake a broad program of activities by organizing themselves into two organizations. There is, of course, the official district bar that remains a political subdivision of the North Carolina State Bar and handles its funds in accordance with the restrictions imposed by *Keller*. There is also the voluntary district bar which is funded by contributions from the membership and which is free to engage in any political, philanthropic, or frivolous activities that may seem warranted. The district bar has been split along these lines in Wake County, for instance, where the two organizations operate side by side with separate slates of officers but with a common executive director. Very careful accounts are kept of dues receipts and expenditures. When there is any doubt as to the propriety of an expenditure for the 10th Judicial

District Bar, the Wake County Bar Association is able to act freely. While the State Bar Council has taken no position as to the desirability of this arrangement, it is clearly working well in some districts and is deserving of consideration in those localities where lawyers would like to organize for purposes other than professional regulation. The State Bar would be happy to facilitate any such arrangement and is, of course, available to consult on any *Keller* questions that might arise in any context.

Imposition Of Dues

N.C. General Statute section 84-18.1 specifies how mandatory district bar membership fees can be assessed. According to the statute, a district bar may assess mandatory membership fees in amounts not exceeding the annual dues of the North Carolina State Bar (currently \$300 per year) upon a vote of a majority of those in attendance at a duly called meeting of the district bar. For any such action to be valid, there must be issued at least 30 days in advance of the meeting a written notice to each active member of the district bar that the matter of dues will be considered. The statute permits the assessment of a late fee not to exceed fifteen dollars (\$15.00) for failure to pay judicial district bar dues on time. It should be noted that the power of the State Bar might be invoked to assist the district bars in the collection of dues. When attorneys are 12 months in arrears in regard to district bar dues, officials of the district bar may report their delinquency to the State Bar which will then issue to the subject attorneys notices to show cause why their law licenses should not be suspended for nonpayment. Attorneys who have not paid or shown good cause for failing to pay within the time allowed will have their licenses suspended. To facilitate such matters, it is always helpful for the district bar to specify, at the time it imposes the dues obligation, precisely when dues payments are due and when they become delinquent.

Financial Administration

The State Bar does not impose upon the district bars strict rules for the handling of dues revenue with three exceptions. If dues are assessed, the district bar must notify the State Bar, 27 N.C. Admin. Code 1A, Rule .0902(a), and it must adopt a fiscal year that is not a calendar year to avoid interference with the dues collection procedures of the State Bar itself. 27 N.C. Admin Code 1A, Rule .0903. Also, within 30 days of the end of the district bar's fiscal year, the district bar must provide the State Bar with an accounting of the membership fees collected during the fiscal year. 27 NC Admin Code 1A, Rule .0902(b). Apart from these mandatory obligations, however, are some very useful suggestions contained in the model bylaws, which, if observed, should enable the responsible parties to handle their public funds appropriately.

Any district bar having money to deposit will need to get its own federal tax identification number. The district bar, like the State Bar, is not required to file federal or state tax returns. However, since any district bar having funds to deposit will no doubt want to deposit those funds at interest, it will be necessary to obtain a federal tax identification number in order that any interest earned can be regularly reported by the bank to the Internal Revenue Service. The district

bar, like the State Bar, is also exempt from paying sales tax. However, the district bar must apply to the NC Department of Revenue for the exemption from sales taxes. The district bar, like the State Bar must charge sales tax on any item sold to a third party, including copies, labels, and publications. In addition, a district bar with staff must pay all applicable employment taxes.

The treasurer of the district bar should arrange for all funds to be kept on deposit, initiate any necessary disbursements, and keep appropriate financial records. The treasurer must prepare an annual financial report for submission to the North Carolina State Bar.

As a check against the possible mishandling of district bar funds, the model bylaws contain a provision requiring that at least two signatures of district bar officials be affixed to any check exceeding a certain amount. If the anticipated yearly receipts from membership fees would exceed \$20,000, the district bar should purchase a fidelity bond to defray any possible losses attributable to the malfeasance of the treasurer or any other officer or member of the district bar staff having access to district bar funds.

Although the model bylaws do not require that the accounts of the district bar be audited on any regular basis, it would be appropriate for any district bar expecting to handle a considerable amount of money to provide for an audit on an annual basis.

What can be done in the name of the district bar?

Although the *Keller* case dealt primarily with the appropriate usage of mandatory dues, the constitutional principles articulated in that decision may limit not only the discretion of the organized bar in the expenditure of mandatory dues, but also the ability of the bar to make political endorsements. Just as it would violate the dissident member's freedom of association to compel his dues and then use them for political purposes unrelated to the legitimate mission of the State Bar, so also would it appear inappropriate to compel membership in the district bar and then to lend the district bars good name to political causes which are not directly related to the regulation of the bar or the availability of legal services.

The North Carolina Conference of Bar Presidents

Presidents and presidents-elect of the district bars are automatically members of the North Carolina Conference of Bar Presidents, an organization that is independent of the North Carolina State Bar, but which receives financial support from the State Bar and the North Carolina Bar Association. The Conference is an unincorporated association dedicated to improving the administration of justice and the governance of the legal profession through the sharing of ideas, experiences, and professional values. The chair of the Conference heads an executive committee of twelve persons who develop policy for the organization and are responsible for providing its leadership. The Conference meets annually in January in conjunction with the Bar Leadership

February 2013

Page 10

Institute of the North Carolina Bar Association. Officers of judicial district bars are encouraged to attend the January meeting.

A copy of the revised Bylaws for the Conference of Bar Presidents is included in this handbook (tab 9).

What are the responsibilities of councilors to the district bars?

Each member of the North Carolina State Bar Council is expected to keep his or her constituents within the district bar informed of significant events relating to the administration of the North Carolina State Bar. A detailed summary of each of the State Bar's quarterly business meetings (called a synopsis of council action) is made available to all State Bar members on the State Bar website (www.ncbar.gov). A councilor may also convey information about the State Bar to his or her constituents in one of the following ways: mail the synopsis to each lawyer in the district; make an oral report at a quarterly meeting of the district bar; or publish the summary in the newsletter of the district bar. Beyond that, the bar councilor is expected to exercise his or her best judgment in voting on matters of business coming before the State Bar Council in order that the best interests of the people of North Carolina might be effectuated. Obviously, in determining how to cast his or her vote on matters of significance, the councilor is expected to be mindful of the views of his or her constituents and, to the extent possible, ensure that those views are represented.

In addition to advising his or her constituents as to the most recent actions taken by the Council, the councilor is also expected to assist district bar representatives in implementing programs that the Council requires the district bars to administer.

Conclusion

Thank you again for your invaluable service to the legal profession and your community. Do not hesitate to call Peter Bolac, district bar liaison, if we may ever be of assistance. He may be reached at (919) 828-4620, or by email address: PBolac@ncbar.gov. You may also reach Alice Mine, the assistant executive director, at the same number or by email: Amine@ncbar.gov.

Statutes Governing District Bar Activities

G.S. 7A-142	Recommendation of candidates to fill district court judge vacancy
G.S. 7A-498.7	Public defender offices
G.S. 84-16	Membership and privileges (election of membership in district where lawyer resides or where lawyer works; written notice to secretary of North Carolina State Bar)
G.S. 84-17, G.S. 84-18	Election of State Bar councilor(s)
G.S. 84-18.1	Membership and fees of district bars
G.S. 84-19	Judicial districts definition
G.S. 132-1	Public records defined
G.S. 132-1.1	Confidential communications by legal counsel
G.S. 132-1.2	Confidential information
G.S. 143-318.11	Meetings of public bodies, closed sessions

Rules and Regulations Governing District Bars
27 N.C. Admin. Code, Subchapters 1A-1D

- 1A, .0800, *et seq.* Election and Appointment of State Bar Councilors
- 1A, .0900, *et seq.* Organization of the Judicial District Bars – District bars must adopt bylaws and submit bylaws to the State Bar Council for approval
- 1A, .1000, *et seq.* Model Bylaws
- 1B, .0200, *et seq.* Rules Governing Judicial District Grievance Committees (Any district with more than 100 licensed attorneys may establish a judicial district grievance committee.)
- 1D, .0700 *et seq.* Fee Dispute Resolution

Organization of the North Carolina State Bar

Section .0800 Election and Appointment of State Bar Councilors

.0801 Purpose

The purpose of these rules is to promulgate fair, open, and uniform procedures to elect and appoint North Carolina State Bar councilors in all judicial district bars. These rules should encourage a broader and more diverse participation and representation of all attorneys in the election and appointment of councilors.

History Note: Statutory Authority G.S. 84-23

Readopted Effective December 8, 1994

.0802 Election - When Held; Notice; Nominations

(a) Every judicial district bar, in any calendar year at the end of which the term of one or more of its councilors will expire, shall fill said vacancy or vacancies at an election to be held during that year.

(b) The officers of the district bar shall fix the time and place of such election and shall give to each active member (as defined in G.S. 84-16) of the district bar a written notice thereof directed to him or her at his or her address on file with the North Carolina State Bar, which notice shall be placed in the United States Mail, postage prepaid, at least 30 days prior to the date of the election.

(c) The district bar shall submit its written notice of the election to the North Carolina State Bar, at least six weeks before the date of the election.

(d) The North Carolina State Bar will, at its expense, mail these notices.

(e) The notice shall state the date, time and place of the election, give the number of vacancies to be filled, identify how and to whom nominations may be made before the election, and advise that all elections must be by a majority of the votes cast. If the election will be held at a meeting of the bar, the notice will also advise that additional nominations may be made from the floor at the meeting itself.

In judicial districts that permit elections by mail, the notice to members shall advise that nominations may be made in writing directed to the president of the district bar and received prior to a date set out in the notice.

Sufficient notice shall be provided to permit nominations received from district bar members to be included on the printed ballots.

History Note: Statutory Authority G.S. 84-18; G.S. 84-23

Readopted Effective December 8, 1994

Amended November 5, 1999

.0803 Election - Voting Procedures

(a) All nominations made either before or at the meeting shall be voted on by secret ballot.

(b) Cumulative voting shall not be permitted.

(c) Nominees receiving a majority of the votes cast shall be declared elected.

History Note: Statutory Authority G.S. 84-18; G.S. 84-23

Readopted Effective December 8, 1994

Amended November 5, 1999

.0804 Procedures Governing Elections by Mail

(a) Judicial district bars may adopt bylaws permitting elections by mail, in accordance with procedures approved by the N.C. State Bar Council and as set out in this section.

(b) Only active members of the judicial district bar may participate in elections conducted by mail.

(c) In districts which permit elections by mail, the notice sent to members referred to in Rule .0802(e) of this subchapter shall advise that the election will be held by mail.

(d) The judicial district bar shall mail a ballot to each active member of the judicial district bar at the member's address of record on file with the North Carolina State Bar. The ballot shall be accompanied by written instructions and shall state when and where the ballot should be returned.

(e) Each ballot shall be sequentially numbered with a red identifying numeral in the upper right hand corner of the ballot. The judicial district bar shall maintain appropriate records respecting how many ballots were mailed to prospective voters in each election, as well as how many ballots are returned.

(f) Only original ballots will be accepted. No photocopied or faxed ballots will be accepted. Voting by computer or electronic mail will not be permitted. (a) All nominations made either before or at the meeting shall be voted on by secret ballot.

History Note: Statutory Authority G.S. 84-18; G.S. 84-23

Adopted November 5, 1999

.0805 Procedures Governing Elections by Electronic Vote

(a) Judicial district bars may adopt bylaws permitting elections by electronic vote in accordance with procedures approved by the N.C. State Bar Council and as set out in this section.

(b) Only active members of the judicial district bar may participate in elections conducted by electronic vote.

(c) In districts which permit elections by electronic vote, the notice sent to members referred to in Rule .0802(e) of this subchapter shall advise that the election will be held by electronic vote and shall identify how and to whom nominations may be made before the election. The notice shall explain when the ballot will be available, how to access the ballot, and the method for voting online. The notice shall also list locations where computers will be available for active members to access the online ballot in the event they do not have personal online access.

(d) Write-in candidates shall be permitted and the instructions shall so state.

(e) Online balloting procedures must ensure that only one vote is cast per active member of the judicial district bar and that all members have access to a ballot.

History Note: Statutory Authority G.S. 84-18

Adopted August 23, 2012

.0806 Vacancies

The unexpired term of any councilor whose office has become vacant because of resignation, death, or any cause other than the expiration of a term, shall be filled within 90 days of the occurrence of the vacancy by an election conducted in the same manner as above provided.

History Note: Statutory Authority G.S. 84-18; 84-23

Readopted Effective December 8, 1994

Amended November 5, 1999; August 23, 2012

.0807 Bylaws Providing for Geographical Rotation or Division of Representation

Nothing contained herein shall prohibit the district bar of any judicial district from adopting bylaws providing for the geographical rotation or division of its councilor representation.

History Note: Statutory Authority G.S. 84-18; 84-23

Readopted Effective December 8, 1994

Amended November 5, 1999; August 23, 2012

Organization of the North Carolina State Bar

Section .0900 Organization of the Judicial District Bars

.0901 Bylaws

- (a) Each judicial district bar shall adopt bylaws for its governance subject to the approval of the council;
- (b) Each judicial district bar shall submit its current bylaws to the secretary of the North Carolina State Bar for review by the council on or before June 1, 1996;
- (c) Pending review by the council, any bylaws submitted to the secretary on behalf of a judicial district bar or which already exist in the files of the secretary shall be deemed official and authoritative.
- (d) All amendments to the bylaws of any judicial district bar must be filed with the secretary within 30 days of adoption and shall have no force and effect until approved by the council.
- (e) The secretary shall maintain an official record for each judicial district bar containing bylaws which have been approved by the council or for which approval is pending.

History Note: Statutory Authority G.S. 84-18.1; 84-23

Adopted March 7, 1996

.0902 Annual Membership Fee

If a judicial district bar elects to assess an annual membership fee from its active members pursuant to N.C.G.S. §84-18.1(b), the following procedures shall apply:

- (a) Notice to State Bar. The judicial district bar shall notify the North Carolina State Bar of its election to assess an annual membership fee each year at least thirty days prior to mailing to its members the first invoice therefore, specifying the amount of the annual membership fee, the date after which payment will be delinquent, and the amount of any late fee for delinquent payment.
- (b) Accounting to State Bar. No later than thirty days after the end of the judicial district bar's fiscal year, the judicial district bar shall provide the North Carolina State Bar with an accounting of the annual membership fees it collected during such judicial district bar's fiscal year.
- (c) Delinquency Date. The date upon which the annual membership fee shall be delinquent if not paid shall be not later than ninety days after, and not sooner than thirty days after, the date of the first invoice for the annual membership fee. The delinquency date shall be stated on the invoice and the invoice shall advise each member that failure to pay the annual membership fee must be reported to the North Carolina State Bar and may result in suspension of the member's license to practice law.
- (d) Late Fee. Each judicial district bar may impose, but shall not be required, to impose a late fee of any amount not to exceed fifteen dollars (\$15.00) for non-payment of the annual membership fee on or before the stated delinquency date.

(e) Members Subject to Assessment. Only those lawyers who are active members of a judicial district bar may be assessed an annual membership fee. A lawyer who joins a judicial district bar after the beginning of its fiscal year shall be exempt from the obligation to pay the annual membership fee for that fiscal year only if the lawyer can demonstrate that he or she previously paid an annual membership fee to another judicial district bar with a fiscal year that runs coterminously, for a period of three (3) months or more, with the fiscal year of the lawyer's new judicial district bar.

(f) Hardship Waivers. A judicial district bar may not grant any waiver from the obligation to pay the judicial district bar's annual membership fee. A judicial district bar may waive the late fee upon a showing of good cause.

(g) Reporting Delinquent Members to State Bar. Twelve months after the date of the first invoice for the annual membership fee, the judicial district bar shall report to the North Carolina State Bar all of its members who have not paid the annual membership fee or any late fee.

History Note: Statutory Authority G.S. 84-18.1; 84-23

Adopted December 20, 2000

Amended March 6, 2008

.0903 Fiscal Period

To avoid conflict with the assessment of the membership fees for the North Carolina State Bar, each judicial district bar that assesses a membership fee shall adopt a fiscal year that is not a calendar year.

History Note: Statutory Authority G.S. 84-18.1; 84-23

Adopted December 20, 2000

Section .1000 Model Bylaws For Use by Judicial District Bars

.1001 Name

The name of this district bar shall be THE DISTRICT BAR OF THE _____ JUDICIAL DISTRICT, and shall be hereinafter referred to as the "district bar".

History Note: Statutory Authority G.S. 84-18.1; 84-23

Adopted March 7, 1996

.1002 Authority and Purpose

The district bar is formed pursuant to the provisions of Chapter 84 of the North Carolina General Statutes to promote the purposes therein set forth and to comply with the duties and obligations therein or thereunder imposed upon the Bar of this judicial district.

History Note: Statutory Authority G.S. 84-18.1; 84-23

Adopted March 7, 1996

.1003 Membership

The members of the district bar shall consist of two classes: active and inactive.

(a) Active members: The active members shall be all persons who, at the time of the adoption of these bylaws or any time thereafter

- (1) are active members in good standing with the North Carolina State Bar; and
- (2) reside in the judicial district; or
- (3) practice in the judicial district and elect to belong to the district bar as provided in G.S. 84-16.

(b) Inactive members: The inactive members shall be all persons, who, at the time of the adoption of these bylaws or at any time thereafter

- (1) have been granted voluntary inactive status by the North Carolina State Bar; and
- (2) reside in the judicial district; and
- (3) elect to participate, but not vote or hold office, in the district bar by giving written notice to the secretary of the district bar.

History Note: Statutory Authority G.S. 84-18.1; 84-23

Adopted March 7, 1996

.1004 Officers

The officers of the district bar shall be a president, a vice-president, and secretary and/or treasurer who shall be elected and shall serve for the terms set out herein.

(a) President: The president serving at the time these bylaws are effective shall continue to serve for a term ending at the next annual meeting following the adoption or effective date of these bylaws. The president for the following term shall be the then current vice-president. Thereafter, the duly elected vice-president shall automatically succeed to the office of the president for a term of one, two, or three years.

(b) Vice-president: The vice-president serving at the time these bylaws are effective shall continue to serve for a term ending at the next annual meeting following the adoption or effective date of these bylaws, at which time said vice-president shall succeed to the office of the president. Thereafter, the vice-president shall be elected at the annual meeting as hereinafter provided for a term of one, two, or three years.

(c) Secretary and/or treasurer: The secretary and/or the treasurer serving at the time these bylaws are effective shall each continue to serve in their respective offices until the expiration of the term of that office or until successors are appointed by the president (or be elected by the active members of the district bar), whichever occurs later. In all other years, the secretary and/or treasurer shall be appointed by the president (or be elected by the active members of the district bar) to serve for a term of one, two, or three years.

(d) Election: Before (or at) the annual meeting at which officers are to be elected, the Nominating Committee shall submit the names of its nominees for the office of vice-president to the secretary. Nominations from the floor shall be permitted. If no candidate receives a majority of the votes cast, the candidate with the lowest number of votes shall be eliminated and a run-off election shall immediately be held among the remaining candidates. This procedure shall be repeated until a candidate receives a majority of the votes.

(e) Duties: The duties of the officers shall be those usual and customary for such officers, including such duties as may be from time to time designated by resolution of the district bar, the North Carolina State Bar Council or the laws of the State of North Carolina.

(f) Vacancies: If a vacancy in the office of the vice-president, secretary-treasurer occurs, the vacancy will be filled by the board of directors, if any, and if there is no board of directors, then by the vote of the active members at a special meeting of such members. The successor shall serve until the next annual meeting of the district bar. If the office of the president becomes vacant, the vice-president shall succeed to the office of the president and the board of directors, if any, and if there is no board of directors, then by the vote of the active members at a special meeting of such members, will select a new vice-president, who shall serve until the next annual meeting.

(g) Notification: Within 10 days following the annual meeting, or the filling of a vacancy in any office, the president shall notify the executive director of the North Carolina State Bar of the names, addresses and telephone numbers of all officers of the district bar.

(h) Record of bylaws: The president shall ensure that a current copy of these bylaws is filed with the office of the senior resident superior court judge with the _____ Judicial District and with the executive director of the North Carolina State Bar.

(i) Removal from office: The district bar, by a two-thirds vote of its active members present at a duly called meeting, may, after due notice and an opportunity to be heard, remove from office any officer who has engaged in conduct which renders the officer unfit to serve, or who has become disabled, or for other good cause. The office of any officer who, during his or her term of office ceases to be an active member of the North Carolina State Bar shall immediately be deemed vacant and shall be filled as provided in Rule .1004(f) above.

History Note: Statutory Authority G.S. 84-18.1; 84-23

Adopted March 7, 1996

.1005 Councilor

The district bar shall be represented in the State Bar council by one or more duly elected councilors, the number of councilors being determined pursuant to G.S. 84-17. Any councilor serving at the time of the adoption of these bylaws shall complete the term of office to which he or she was previously elected.

Thereafter, elections shall be held as necessary. Nominations shall be made and the election held as provided in G.S. 84-18 and in Section .0800 et seq. of Subchapter 1A of the Rules of the North Carolina State Bar (27 N.C.A.C. 1A .0800 et seq.). If more than one council seat is to be filled, separate elections shall be held for each vacant seat.

A vacancy in the office of councilor shall be filled as provided by Rule .0804 of Subchapter 1A of the Rules of the North Carolina State Bar (27 N.C.A.C. 1A .0804).

History Note: Statutory Authority G.S. 84-18.1; 84-23

Adopted March 7, 1996

Amended November 5, 1999

.1006 Annual Membership Fee

(a) Each active member of the district bar shall:

(1) Pay such annual membership fee, if any, as is prescribed by a majority vote of the active members of the district bar present and voting at a duly called meeting of the district bar, provided, however, that such fee may never exceed the amount of the annual membership fee currently imposed by the North Carolina State Bar. Each member shall pay the annual district bar membership fee at the time and place set forth in the notice thereof mailed to the member by the secretary-treasurer; and

(2) Keep the secretary-treasurer notified of the member's current mailing address and telephone number.

(b) The annual membership fee shall be used to promote and maintain the administration, activities and programs of the district bar.

History Note: Statutory Authority G.S. 84-18.1; 84-23

Adopted March 7, 1996

.1007 Meetings

(a) Annual meetings: The district bar shall meet each _____ at a time and place designated by the president. The president, secretary or other officer shall mail or deliver written notice of the annual meeting to each active member of the district bar at the member's last known mailing address on file with the district bar at least ten days before the date of the annual meeting and shall so certify in the official minutes of the meeting. Notice of the meeting mailed by the executive director of the North Carolina State Bar shall also satisfy the notice requirement. Failure to mail or deliver the notice as herein provided shall invalidate any action at the annual meeting.

(b) Special meetings: Special meetings, if any, may be called at any time by the president or the vice-president. The president, secretary or other officer shall mail or deliver written notice of the special meeting to each active member of the district bar at the member's last known mailing address on file with the district bar at least ten days before the date of any special meeting. Such notice shall set forth the time and place for the special meeting and the purpose(s) thereof. Failure to mail or deliver the notice shall invalidate any action taken at a special meeting.

(c) Notice for meeting to vote on annual membership fee: Notwithstanding the notice periods set forth in paragraphs (a) and (b) above, the written notice for any meeting at which the active members will vote on whether to impose or increase an annual membership fee shall be mailed or delivered to each active member of the district bar at the member's last known mailing address on file with the North Carolina State Bar at least 30 days before the date of the meeting.

(d) Quorum: Twenty percent of the active members of the district bar shall constitute a quorum, and a quorum shall be required to take official action on behalf of the district bar.

History Note: Statutory Authority G.S. 84-18.1; 84-23

Adopted March 7, 1996

Amended October 7, 2010

.1008 District Bar Finances

(a) Fiscal Year: The district bar's fiscal year shall begin on _____ and shall end on _____.

(b) Duties of treasurer: The treasurer shall maintain the funds of the district bar on deposit, initiate any necessary disbursements and keep appropriate financial records.

(c) Annual financial report: Each _____ before the annual meeting, the treasurer shall prepare the district bar's annual financial report for review by the board of directors, if any, and submission to the district bar's annual meeting and the North Carolina State Bar.

(d) District bar checks: All checks written on district bar accounts (arising from the collection of mandatory dues) that exceed \$500 must be signed by two of the following: (1) the treasurer, (2) any other officer, (3) another member of the board of directors, or (4) the executive secretary/director, if any.

(e) Fidelity bond: If it is anticipated that receipts from membership fees will exceed \$20,000 for any fiscal year, the district bar shall purchase a fidelity bond at least equal in amount to the anticipated annual receipts to indemnify the district bar for losses attributable to the malfeasance of the treasurer or any other member having access to district bar funds.

(f) Taxpayer identification number: The treasurer shall be responsible for obtaining a federal taxpayer identification number for the district bar.

History Note: Statutory Authority G.S. 84-18.1; 84-23

Adopted March 7, 1996

Amended July 22, 1999

.1009 Prohibited Activities

(a) Prohibited expenditures: Mandatory district bar dues, if any, shall not be used for the purchase of alcoholic beverages, gifts to public officials, including judges, charitable contributions, recreational activities or expenses of spouses of district bar members or officers. However, such expenditures may be made from funds derived entirely from the voluntary contributions of district bar members.

(b) Political expenditures: The district bar shall not make any expenditures to fund political and ideological activities.

(c) Political activities: The district bar shall not engage in any political or ideological conduct or activity, including the endorsement of candidates and the taking or advocacy of positions on political issues, referendums, bond elections, and the like, however, the district bar, and persons speaking on its behalf, may take positions on, or comment upon, issues relating to the regulation of the legal profession and issues or matters relating to the improvement of the quality and availability of legal services to the general public.

History Note: Statutory Authority G.S. 84-18.1; 84-23; Adopted March 7, 1996

.1010 Committees

(a) Standing committee(s): The standing committees shall be the Nominating Committee, Pro Bono Committee, Fee Dispute Resolution Committee, Grievance Committee, and Professionalism Committee provided that, with respect to the Fee Dispute Resolution Committee and the Grievance Committee, the district meets the State Bar guidelines relating thereto.

(b) Fee Dispute Resolution Committee:

(1) The Fee Dispute Resolution Committee shall consist of at least six but not more than eighteen persons appointed by the president to staggered three-year terms as provided in the district bar's Fee Dispute Resolution Plan.

(2) The Fee Dispute Resolution Committee shall be responsible for implementing a Fee Dispute Resolution Plan approved by the Council of the North Carolina State Bar to resolve fee disputes efficiently, economically, and expeditiously without litigation.

(c) Grievance Committee:

(1) The Grievance Committee shall consist of at least five but not more than thirteen persons appointed by the president to staggered three year terms as provided by the Rules and Regulations of the North Carolina State Bar governing Judicial District Grievance Committees.

(2) The Grievance Committee shall assist the Grievance Committee of the North Carolina State Bar by receiving grievances, investigating grievances, evaluating grievances, informally mediating disputes, facilitating communication between lawyers and clients and referring members of the public to other appropriate committees or agencies for assistance.

(3) The Grievance Committee shall operate in strict accordance with the rules and policies of the North Carolina State Bar with respect to district bar grievance committees.

(d) Special Committees: Special committees may be created and appointed by the president.

(e) Nominating Committee:

(1) The Nominating Committee shall be appointed by the officers (or the board of directors) of the district bar and shall consist of at least three active members of the district bar who are not officers or directors of the district bar.

(2) The Nominating Committee shall meet as necessary for the purpose of nominating active members of the district bar as candidates for officers and councilor(s) and the board of directors, if any.

(3) The Nominating Committee members shall serve one-year terms beginning on

_____ and ending on _____.

(4) Any active member whose name is submitted for consideration for nomination to any office or as a councilor must have indicated his or her willingness to serve if selected.

(f) Pro Bono Committee:

(1) The Pro Bono Committee shall consist of at least five active members of the district bar appointed by the president.

(2) The Pro Bono Committee shall meet at least once each quarter and shall have the duty of encouraging members of the district bar to provide pro bono legal services. The committee shall also develop programs whereby attorneys not involved in other volunteer legal service programs may provide pro bono legal service in their areas of concentration and practice.

(3) The members of the Pro Bono Committee shall serve one-year terms commencing on _____.

(g) Professionalism Committee:

(1) The Professionalism Committee shall consist of the three immediate past presidents of the district bar or such other members of the district bar as shall be appointed by the president.

(2) The purpose of the Professionalism Committee shall be the promotion of professionalism and thereby the bolstering of public confidence in the legal profession. The committee may further enhance professionalism through CLE programs and, when appropriate, through confidential peer intervention in association with the Professionalism Support Initiative (PSI) which is sponsored and supported by the Chief Justice's Commission on Professionalism. The PSI effort is to investigate and informally assist with client-lawyer, lawyer-lawyer, and lawyer-judge relationships to ameliorate disputes, improve communications, and repair relationships. The Professionalism Committee shall have no authority to discipline any lawyer or judge, or to force any lawyer or judge to take any action. The committee shall not investigate or attempt to resolve complaints of professional misconduct cognizable under the Rules of Professional Conduct and shall act in accordance with Rules 1.6(c) and 8.3 of the Rules of Professional Conduct. The committee shall consult and work with the Chief Justice's Commission on Professionalism when appropriate.

History Note: Statutory Authority G.S. 84-18.1; 84-23

Adopted March 7, 1996

Amended March 6, 2002; March 6, 2008

.1011 Board of Directors or Executive Committee

(a) Membership of board: A board of directors consisting of at least _____ active members of the district bar shall be elected. At all times, the board of directors shall include at least one director from each county in the judicial district. The board of directors serving when these bylaws become effective shall continue to serve until the following annual meeting. Beginning on _____ immediately after the effective date of these bylaws, the president shall appoint an initial board of directors who shall serve three-year terms commencing on _____, except that the terms of the initial members of the board shall be staggered at one-year intervals to ensure continuity and experience. To effect the staggered initial terms, the president will determine which of the initial members shall serve terms of less than three years.

The State Bar councilor (or councilors) from the judicial district shall be an ex officio member (or members) of the district bar board of directors or Executive Committee.

(b) Terms of directors: After the initial staggered terms of the board of directors expire, successors shall be elected by the active members at the annual district bar meeting, as set out in Rule .1004(d) above, and Rule .1011(c) and (d) below. Following the completion of the initial staggered terms, the directors shall serve three-year terms beginning on _____ following their election.

(c) Designated and at-large seats in multi-county districts: In multi-county districts, one seat on the board of directors shall be set aside and designated for each county in the district. Only active members of the district bar who reside or work in the designated county may be elected to a designated county seat. All other seats on the board of directors shall be at-large seats which may be filled by any active member of the district bar.

(d) Elections: When one or more seats on the board of directors become vacant, an election shall be held at the annual meeting of the district bar. Except as otherwise provided herein, the election shall be conducted as provided for in Rule .1004(d) above. The candidates receiving the highest number of votes cast will be elected, regardless of whether any of the candidates received a majority of the votes cast, provided that designated seats will be filled by the candidates receiving the highest number of votes who live or work in the designated county, regardless of whether any of the candidates received a majority of the votes cast.

(e) Vacancies: If a vacancy occurs on the board of directors, the president (or the board of directors) shall appoint a successor who shall serve until the next annual meeting of the district bar. If the vacancy occurs in a designated seat for a particular county within the district, the successor will be selected from among the active members of the district bar who live or work in the designated county.

(f) Duties of board of directors: The board of directors shall have the responsibilities described Rules .1004(f) and .1007(c) above. The board of directors shall also consult with the officers regarding any matters of district bar business or policy arising between meetings and may act for the district bar on an emergency basis if necessary, provided that any such action shall be provisional pending its consideration by the

district bar at its next duly called meeting. The board of directors may not impose on its own authority any sort of fee upon the membership.

History Note: Statutory Authority G.S. 84-18.1; 84-23; Adopted March 7, 1996

.1012 Amendment of the Bylaws

The membership of the district bar, by a (majority, two-thirds, etc.) vote of the active members present at any duly called meeting at which there is a quorum present and voting throughout, may amend these bylaws in ways not inconsistent with the constitution of the United States, the policies and rules of the North Carolina State Bar and the laws of the United States and North Carolina.

History Note: Statutory Authority G.S. 84-18.1; 84-23

Adopted March 7, 1996

.1013 Selection of Nominees for District Court Judge

Unless otherwise required by law, the following procedures shall be used to determine the nominees to be recommended to the Governor pursuant to N.C. Gen. Stat. §7A-142 for vacant district court judgeships in the judicial district.

(a) Meeting for Nominations: The nominees shall be selected by secret, written ballot of those members present at a meeting of the district bar called for this purpose. Fifteen (15) days notice of the meeting shall be given, by mail, to the last known address of each district bar member. Alternatively, if a bylaw permitting elections by mail is adopted by the district bar, the procedures set forth in the bylaw and in Rule .0804 of Subchapter 1A of the Rules of the North Carolina State Bar (27 N.C.A.C. 1A, .0804), shall be followed.

(b) Candidates: Persons who want to be considered for the vacancy shall notify the President in writing five (5) days prior to the meeting at which the election will be conducted or, if the election is by mail, five (5) days prior to the mailing of the ballots.

(c) Voting: Each district bar member may vote for three candidates. Cumulative voting is prohibited.

(d) Submission to Governor: The three candidates receiving the highest number of votes shall be the nominees to fill the vacancy on the district court and their names, and vote totals, shall be transmitted to the Governor. In the event of a tie for third place, the names of those candidates involved in the tie shall be transmitted to the Governor together with the names of the two candidates receiving the highest number of votes.

Statutory Authority G.S. 84-18.1; 84-23; 7A-142.

Adopted February 27, 2003

SUBCHAPTER B

Discipline and Disability Rules

Section .0200 Rules Governing Judicial District Grievance Committees

.0201 Organization of Judicial District Grievance Committees

(a) Judicial Districts Eligible to Form District Grievance Committees

(1) Membership Requirements for Establishing a District Grievance Committee: Any judicial district which has more than 100 licensed attorneys as determined by the North Carolina State Bar's records may establish a judicial district grievance committee (hereafter, "district grievance committee") pursuant to the rules and regulations set out herein. A judicial district with fewer than 100 licensed attorneys may establish a district grievance committee with consent of the Council of the North Carolina State Bar.

(2) Multi-District Grievance Committees: One or more judicial districts, including those with fewer than 100 licensed attorneys, may also establish a multi-district grievance committee, as set out in Rule .0201(b)(2) below. Such multi-district grievance committees shall be subject to all of the rules and regulations set out herein and all references to district grievance committees in these rules shall also apply to multi-district grievance committees.

(b) Creation of District Grievance Committees

(1) Meeting Establishing a District Grievance Committee and Certification: A judicial district may establish a district grievance committee at a duly called meeting of the judicial district bar, at which a quorum is present, upon the affirmative vote of a majority of the active members present. Within 30 days of the election, the president of the judicial district bar shall certify in writing the establishment of the district grievance committee to the secretary of the North Carolina State Bar.

(2) Meeting Establishing a Multi-District Grievance Committee and Certification: A multi-district grievance committee may be established by affirmative vote of a majority of the active members of each participating judicial district present at a duly called meeting of each participating judicial district bar, at which a quorum is present. Within 30 days of the election, the chairperson of the multi-district grievance committee shall certify in writing the establishment of the district grievance committee to the secretary of the North Carolina State Bar. The active members of each participating judicial district may adopt a set of bylaws not inconsistent with these rules by majority vote of the active members of each participating judicial district present at a duly called meeting of each participating judicial district bar, at which a quorum is present. The chairperson of the multi-district grievance committee shall promptly provide a copy of any such bylaws to the secretary of the North Carolina State Bar.

(c) Appointment of District Grievance Committee Members

(1) Members of District Committees: Each district grievance committee shall be composed of not fewer than five nor more than 21 members, all of whom shall be active members in good standing both of the judicial district bar to which they belong and of the North Carolina State Bar. In addition to the attorney members, each district grievance committee may also include one to five public members who have never been licensed to practice law in any jurisdiction. Public members shall not perform investigative functions regarding grievances but in all other respects shall have the same authority as the attorney members of the district grievance committee.

(2) Chairperson: The chairperson of the district grievance committee shall be selected by the president of the judicial district and shall serve at his or her pleasure. Alternatively, the chairperson may be selected and removed as provided in the district bar bylaws.

(3) Selection of Attorney and Public Members: The attorney and public members of the district grievance committee shall be selected by and serve at the pleasure of the president of the judicial district bar and the chairperson of the district grievance committee. Alternatively, the district grievance committee members may be selected and removed as provided in the district bar bylaws.

(4) Term and Replacement of Members: The members of the district grievance committee, including the chairperson, shall be appointed for staggered three-year terms, except that the president and chairperson shall appoint some of the initial committee members to terms of less than three years, to effectuate the staggered terms. No member shall serve more than one term, without first having rotated off the committee for a period of at least one year between three-year terms. Any member who resigns or otherwise becomes ineligible to continue serving as a member shall be replaced by appointment by the president of the judicial district bar and the chairperson of the committee or as provided in the district bar bylaws as soon as practicable.

History Note: Statutory Authority G.S. 84-23

Readopted Effective December 8, 1994

Amended October 7, 2010

.0202 Jurisdiction & Authority of District Grievance Committees

(a) District Grievance Committees are Subject to the Rules of the North Carolina State Bar: The district grievance committee shall be subject to the rules and regulations adopted by the Council of the North Carolina State Bar.

(b) Grievances Filed With District Grievance Committee: A district grievance committee may investigate and consider grievances filed against attorneys who live or maintain offices within the judicial district and which are filed in the first instance with the chairperson of the district grievance committee. The chairperson of the district grievance committee will immediately refer to the State Bar any grievance filed locally

in the first instance which

- (1) alleges misconduct against a member of the district grievance committee;
- (2) alleges that any attorney has embezzled or misapplied client funds; or
- (3) alleges any other serious violation of the Rules of Professional Conduct which may be beyond the capacity of the district grievance committee to investigate.

(c) **Grievances Referred to District Grievance Committee:** The district grievance committee shall also investigate and consider such grievances as are referred to it for investigation by the counsel of the North Carolina State Bar.

(d) **Grievances Involving Fee Disputes**

(1) **Notice to Complainant of Fee Dispute Resolution Program:** If a grievance filed initially with the district bar consists solely or in part of a fee dispute, the chairperson of the district grievance committee shall notify the complainant in writing within 10 working days of receipt of the grievance that the complainant may elect to participate in the North Carolina State Bar Fee Dispute Resolution Program. If the grievance consists solely of a fee dispute, the letter to the complainant shall follow the format set out in Rule .0208 of this subchapter. If the grievance consists in part of matters other than a fee dispute, the letter to the complainant shall follow the format set out in Rule .0209 of this subchapter. A respondent attorney shall not have the right to elect to participate in fee arbitration.

(2) **Handling Claims Not Involving Fee Dispute:** Where a grievance alleges multiple claims, the allegations not involving a fee dispute will be handled in the same manner as any other grievance filed with the district grievance committee.

(3) **Handling Claims Not Submitted to Fee Dispute Resolution by Complainant:** If the complainant elects not to participate in the State Bar's Fee Dispute Resolution Program, or fails to notify the chairperson that he or she elects to participate within 20 days following mailing of the notice referred to in Rule .0202(d)(1) above, the grievance will be handled in the same manner as any other grievance filed with the district grievance committee.

(4) **Referral to Fee Dispute Resolution Program:** Where a complainant timely elects to participate in fee dispute resolution, and the judicial district in which the respondent attorney maintains his or her principal office has a fee dispute resolution committee, the chairperson of the district grievance committee shall refer the portion of the grievance involving a fee dispute to the judicial district fee dispute resolution committee. If the judicial district in which the respondent attorney maintains his or her principal office does not have a fee arbitration committee, the chairperson of the district grievance committee shall refer the portion of the grievance involving a fee dispute to the State Bar Fee Dispute Resolution Program for resolution. If the grievance consists entirely of a fee dispute, and the complainant timely elects to participate in fee dispute resolution, no grievance file will be established.

(e) **Authority of District Grievance Committees:** The district grievance committee shall have authority to

- (1) assist a complainant who requests assistance to reduce a grievance to writing;
- (2) investigate complaints described in Rule .0202(b) and(c) above by interviewing the complainant, the attorney against whom the grievance was filed and any other persons who may have relevant information regarding the grievance and by requesting written materials from the complainant, respondent attorney, and other individuals;
- (3) explain the procedures of the district grievance committee to complainants and respondent attorneys;
- (4) find facts and recommend whether or not the State Bar's Grievance Committee should find that there is probable cause to believe that the respondent has violated one or more provisions of the Revised Rules of Professional Conduct. The district grievance committee may also make a recommendation to the State Bar regarding the appropriate disposition of the case, including referral to the Lawyer Assistance Program pursuant to Rule .0112(j) or to a program of law office management training approved by the State Bar;
- (5) draft a written report stating the grounds for the recommended disposition of a grievance assigned to the district grievance committee;
- (6) notify the complainant and the respondent attorney where the district grievance committee recommends that the State Bar find that there is no probable cause to believe that the respondent has violated the Rules of Professional Conduct. Where the district grievance committee recommends that the State Bar find that there is probable cause to believe that the respondent has violated one or more provisions of the Rules of Professional Conduct, the committee shall notify the respondent attorney of its recommendation and shall notify the complainant that the district grievance committee has concluded its investigation and has referred the matter to the State Bar for final resolution. Where the district grievance committee recommends a finding of no probable cause, the letter of notification to the respondent attorney and to the complainant shall follow the format set out in Rule .0210 of this subchapter. Where the district grievance committee recommends a finding of probable cause, the letter of notification to the respondent attorney shall follow the format set out in Rule .0211 of this subchapter. The letter of notification to the complainant shall follow the format set out in Rule .0212 of this subchapter;
- (7) maintain records of grievances investigated by the district grievance committee for at least one year from the date on which the district grievance committee makes its final recommendation regarding a grievance to the State Bar.

History Note: Statutory Authority G.S. 84-23

Readopted Effective December 8, 1994

Amended March 3, 1999

Amended December 20, 2000; August 23, 2007

.0203 Meetings of the District Grievance Committees

(a) Notice of Meeting: The district grievance committee shall meet at the call of the chairperson upon reasonable notice, as often as is necessary to dispatch its business and not less than once every 60 days, provided the committee has grievances pending.

(b) Confidentiality: The district grievance committee shall meet in private. Discussions of the committee, its records and its actions shall be confidential. The names of the members of the committee shall not be confidential.

(c) Quorum: A simple majority of the district grievance committee must be present at any meeting in order to constitute a quorum. The committee may take no action unless a quorum is present. A majority vote in favor of a motion or any proposed action shall be required for the motion to pass or the action to be taken.

(d) Appearances by Complainants and Respondents: No complainant nor any attorney against whom a grievance has been filed may appear before the district grievance committee, present argument to or be present at the committee's deliberations.

History Note: Statutory Authority G.S. 84-23

Readopted Effective December 8, 1994

.0204 Procedure Upon Institution of a Grievance

(a) Receipt of Grievance: A grievance may be filed by any person against a member of the North Carolina State Bar. Such grievance must be in writing and signed by the complaining person. A district grievance committee may, however, investigate matters which come to its attention during the investigation of a grievance, whether or not such matters are included in the original written grievance.

(b) Acknowledgment of Receipt of Grievance from State Bar: The chairperson of the district grievance committee shall send a letter to the complainant within 10 working days of receipt of the grievance from the State Bar, acknowledging that a grievance file has been set up. The acknowledgment letter shall include the name of the district grievance committee member assigned to investigate the matter and shall follow the format set out in Rule .0213 of this subchapter. A copy of the letter shall be sent contemporaneously to the office of counsel of the State Bar.

(c) Notice to State Bar of Locally Filed Grievances

(1) Notification of State Bar Office of Counsel: Where a grievance is filed in the first instance with the district grievance committee, the chairperson of the district grievance committee shall notify the office of counsel of the State Bar of the name of the complainant, respondent attorney, file number and nature of the grievance within 10 working days of receipt of the grievance.

(2) Letter to Complainant: The chairperson of the district grievance committee shall send a letter to the complainant within 10 working days of receipt of the grievance, acknowledging that a grievance file has been set up. The acknowledgment letter shall include the name of the district grievance committee member assigned to investigate the matter and shall follow the format set out in Rule .0213 of this subchapter.

(3) Grievance File Number: Grievances filed initially with the district grievance committee shall be assigned a local file number which shall be used to refer to the grievance. The first two digits of the file number shall indicate the year in which the grievance was filed, followed by the number of the judicial district, the letters GR, and ending with the number of the file. File numbers shall be assigned sequentially during the calendar year, beginning with the number 1. For example, the first locally filed grievance set up in the 10th judicial district in 1994 would bear the following number: 9410GR001.

(d) Assignment to Investigating Member: Within 10 working days after receipt of a grievance, the chairperson shall appoint a member of the district grievance committee to investigate the grievance and shall forward the relevant materials to the investigating member. The letter to the investigating member shall follow the format set out in Rule .0214 of this subchapter.

(e) Investigation of the Grievance

(1) The investigating member shall attempt to contact the complainant as soon as possible but no later than 15 working days after receiving notice of the assignment. If the initial contact with the complainant is made in writing, the letter shall follow the format set out in Rule .0215 of this subchapter.

(2) The investigating member shall have the authority to contact other witnesses or individuals who may have information about the subject of the grievance, including the respondent.

(3) The failure of the complainant to cooperate shall not cause a grievance to be dismissed or abated. Once filed, grievances shall not be dismissed or abated upon the request of the complainant.

(f) Letter of Notice to Respondent Attorney and Responses

(1) Letter of Notice: Timing and Form - Within 10 working days after receipt of a grievance, the chairperson of the district grievance committee shall send a copy of the grievance and a letter of notice to the respondent attorney. The letter to the respondent attorney shall follow the form set out in Rule .0216 of this subchapter and shall be sent by U.S. Mail to the attorney's last known address on file with the State Bar. The letter of notice shall request the respondent to reply to the investigating attorney in writing within 15 days after receipt of the letter of notice.

(2) Substance of Grievance: A substance of grievance will be provided to the district grievance committee by the State Bar at the time the file is assigned to the committee. The substance of grievance will summarize the nature of the complaint against the respondent attorney and cite the applicable provisions of the Rules of Professional Conduct, if any.

(3) Attorney Response: The respondent attorney shall respond in writing to the letter of notice from the district grievance committee within 15 days of receipt of the letter. The chairperson of the district grievance committee may allow a longer period for response, for good cause shown.

(4) Subpoena: If the respondent attorney fails to respond in a timely manner to the letter of notice, the chairperson of the district grievance committee may seek the assistance of the State Bar to issue a subpoena or take other appropriate steps to ensure a proper and complete investigation of the grievance. District grievance committees do not have authority to issue a subpoena to a witness or respondent attorney.

(5) Summarization of Response for Complainant: Unless necessary to complete its investigation, the district grievance committee should not release copies of the respondent attorney's response to the grievance to the complainant. The investigating attorney may summarize the response for the complainant orally or in writing.

(g) District Grievance Committee Deliberations

(1) Findings of Investigative Member: Upon completion of the investigation, the investigating member shall promptly report his or her findings and recommendations to the district grievance committee in writing.

(2) Information to be Considered in Recommendation by Committee: The district grievance committee shall consider the submissions of the parties, the information gathered by the investigating attorney and such other material as it deems relevant in reaching a recommendation. The district grievance committee may also make further inquiry as it deems appropriate, including investigating other facts and possible violations of the Rules of Professional Conduct discovered during its investigation.

(3) Probable Cause: The district grievance committee shall make a determination as to whether or not it finds that there is probable cause to believe that the respondent violated one or more provisions of the Rules of Professional Conduct.

(h) Report of Committee's Decision

(1) Written Report to Office of Counsel: Upon making a decision in a case, the district grievance committee shall submit a written report to the office of counsel, including its recommendation and the basis for its decision. The original file and grievance materials of the investigating attorney shall be sent to the State Bar along with the report. The letter from the district bar grievance committee enclosing the report shall follow the format set out in Rule .0217 of this subchapter.

(2) Timing of Report and Recall of Files by State Bar: The district grievance committee shall submit its written report to the office of counsel no later than 180 days after the grievance is initiated or received by the district committee. The State Bar may recall any grievance file which has not been investigated and considered by a district grievance committee within 180 days after the matter is assigned to the committee. The State Bar may also recall any grievance file for any reason.

(3) Notification of Respondent Attorney and Complainant of District Grievance Committee Findings: Within 10 working days of submitting the written report and returning the file to the office of counsel, the chairperson of the district grievance committee shall notify the respondent attorney and the complainant in writing of the district grievance committee's recommendation, as provided in Rule .0202(d)(6) of this subchapter.

History Note: Statutory Authority G.S. 84-23

Readopted Effective December 8, 1994

.0205 Record Keeping

The district grievance committee shall maintain records of all grievances referred to it by the State Bar and all grievances initially filed with the district grievance committee for at least one year. The district grievance committee shall provide such reports and information as are requested of it from time to time by the State Bar.

History Note: Statutory Authority G.S. 84-23

Readopted Effective December 8, 1994

.0206 Miscellaneous

(a) Assistance and Questions: The office of counsel, including the staff attorneys and the grievance coordinator, are available to answer questions and provide assistance regarding any matters before the district grievance committee.

(b) Missing Attorneys: Where a respondent attorney is missing or cannot be located, the district grievance committee shall promptly return the grievance file to the office of counsel for appropriate action.

History Note: Statutory Authority G.S. 84-23

Readopted Effective December 8, 1994

.0207 Conflicts of Interest

(a) No district grievance committee shall investigate or consider a grievance which alleges misconduct by any current member of the committee. If a file is referred to the committee by the State Bar or is initiated locally which alleges misconduct by a member of the district grievance committee, the file will be sent to the State Bar for investigation and handling within 10 working days after receipt of the grievance.

(b) A member of a district grievance committee shall not investigate or participate in deliberations concerning any of the following matters:

- (1) alleged misconduct of an attorney who works in the same law firm or office with the committee member;
- (2) alleged misconduct of a relative of the committee member;
- (3) a grievance involving facts concerning which the committee member or a partner or associate in the committee member's law firm acted as an attorney.

History Note: Statutory Authority G.S. 84-23

.0208 Letter to Complainant Where Local Grievance Alleges Fee Dispute Only

John Smith

Anywhere, N.C.

Re: Your complaint against Jane Doe

Dear Mr. Smith:

The [] district grievance committee has received your complaint against the above-listed attorney. Based upon our initial review of the materials which you submitted, it appears that your complaint involves a fee dispute. Accordingly, I would like to take this opportunity to notify you of the North Carolina State Bar Fee Dispute Resolution Program. The program is designed to provide citizens with a means of resolving disputes over attorney fees at no cost to them and without going to court. A pamphlet which describes the program in greater detail is enclosed, along with an application form.

If you would like to participate in the fee dispute resolution program, please complete and return the form to me within 20 days of the date of this letter. If you decide to participate, no grievance file will be opened and the [] district bar grievance committee will take no other action against the attorney.

If you do not wish to participate in the fee dispute resolution program, you may elect to have your complaint investigated by the [] district grievance committee. If we do not hear from you within 20 days of the date of this letter, we will assume that you do not wish to participate in fee dispute resolution, and we will handle your complaint like any other grievance. However, the [] district grievance committee has no authority to attempt to resolve a fee dispute between an attorney and his or her client. Its sole function is to investigate your complaint and make a recommendation to the North Carolina State Bar regarding whether there is probable cause to believe that the attorney has violated one or more provisions of the Rules of Professional Conduct which govern attorneys in this state.

Thank you for your cooperation.

Sincerely yours,

[] Chairperson

[] District Bar Grievance Committee

cc: PERSONAL & CONFIDENTIAL

Director of Investigations, The N.C. State Bar

History Note: Statutory Authority G.S. 84-23

Readopted Effective December 8, 1994

Amended August 23, 2007

.0209 Letter to Complainant Where Local Grievance Alleges Fee Dispute and Other Violations

John Smith

Anywhere, N.C.

Re: Your complaint against Jane Doe

Dear Mr. Smith:

The [] district grievance committee has received your complaint against the above-listed attorney. Based upon our initial review of the materials which you submitted, it appears that your complaint involves a fee dispute as well as other possible violations of the rules of ethics. Accordingly, I would like to take this opportunity to notify you of the North Carolina State Bar Fee Dispute Resolution Program. The program is designed to provide citizens with a means of resolving disputes over attorney fees at no cost to them and without going to court. A pamphlet which describes the program in greater detail is enclosed, along with an application form.

If you would like to participate in the fee dispute resolution program, please complete and return the form to me within 20 days of the date of this letter. If you decide to participate, the fee dispute resolution committee will handle those portions of your complaint which involve an apparent fee dispute.

If you do not wish to participate in the fee dispute resolution program, you may elect to have your entire complaint investigated by the [] district grievance committee. If we do not hear from you within 20 days of the date of this letter, we will assume that you do not wish to participate in fee dispute resolution, and we will handle your entire complaint like any other grievance. However, the [] district grievance committee has no authority to attempt to resolve a fee dispute between an attorney and his or her client. Its sole function is to investigate your complaint and make a recommendation to the North Carolina State Bar regarding whether there is probable cause to believe that the attorney has violated one or more provisions of the Rules of Professional Conduct which govern attorneys in this state.

Thank you for your cooperation.

Sincerely yours,

Chairperson

District Bar Grievance Committee

cc: PERSONAL & CONFIDENTIAL

Director of Investigations, The N.C. State Bar

History Note: Statutory Authority G.S. 84-23

Readopted Effective December 8, 1994

Amended August 23, 2007

.0210 Letter to Complainant Where District Committee Recommends Finding of No Probable Cause

John Smith

Anywhere, N.C.

Re: Your complaint against Jane Doe Our File No.

Dear Mr. Smith:

The district grievance committee has completed its investigation of your grievance. Based upon its investigation, the committee does not believe that there is probable cause to find that the attorney has violated any provisions of the Rules of Professional Conduct. The committee will forward a report with its recommendation to the North Carolina State Bar Grievance Committee. The final decision regarding your grievance will be made by the North Carolina State Bar Grievance Committee. You will be notified in writing of the State Bar's decision.

If you have any questions or wish to communicate further regarding your grievance, you may contact the North Carolina State Bar at the following address: The North Carolina State Bar Grievance Committee, P.O. Box 25908, Raleigh, N.C. 27611.

Neither I nor any member of the district grievance committee can give you any advice regarding any legal rights you may have regarding the matters set out in your grievance. You may pursue any questions you have regarding your legal rights with an attorney of your choice.

Thank you very much for your cooperation.

Sincerely yours,

Chairperson

District Grievance Committee

cc: PERSONAL AND CONFIDENTIAL

Respondent Attorney

PERSONAL AND CONFIDENTIAL

Director of Investigations, The N.C. State Bar

History Note: Statutory Authority G.S. 84-23

Readopted Effective December 8, 1994

.0211 Letter to Respondent Where District Committee Recommends Finding of Probable Cause

Ms. Jane Doe

Anywhere, N.C.

Re: Grievance of John Smith Our File No.

Dear Ms. Doe:

The district grievance committee has completed its investigation of Mr. Smith's grievance and has voted to recommend that the North Carolina State Bar Grievance Committee find probable cause to believe that you violated one or more provisions of the Rules of Professional Conduct. Specifically, the district grievance committee found that there is probable cause to believe that you may have violated [set out brief description of rule allegedly violated and pertinent facts].

The final decision in this matter will be made by the North Carolina State Bar Grievance Committee and you will be notified in writing of the State Bar's decision. The complainant has been notified that the district grievance committee has concluded its investigation and that the grievance has been sent to the North Carolina State Bar for final resolution, but has not been informed of the district grievance committee's specific recommendation.

If you have any questions or wish to communicate further regarding this grievance, you may contact the North Carolina State Bar at the following address: The North Carolina State Bar Grievance Committee, P.O. Box 25908, Raleigh, N.C. 27611, Tel. 919-828-4620.

Thank you very much for your cooperation.

Sincerely yours,

Chairperson

District Grievance Committee

cc: PERSONAL AND CONFIDENTIAL

Director of Investigations, The N.C. State Bar

History Note: Statutory Authority G.S. 84-23

Readopted Effective December 8, 1994

.0212 Letter to Complainant Where District Committee Recommends Finding of Probable Cause

John Smith

Anywhere, N.C.

Re: Your complaint against Jane Doe Our File No.

Dear Mr. Smith:

The district grievance committee has completed its investigation of your grievance and has forwarded its file to the North Carolina State Bar Grievance Committee in Raleigh for final resolution. The final decision in this matter will be made by the North Carolina State Bar Grievance Committee and you will be notified in writing of the State Bar's decision.

If you have any questions or wish to communicate further regarding your grievance, you may contact the North Carolina State Bar at the following address: The North Carolina State Bar Grievance Committee P.O. Box 25908 Raleigh, N.C. 27611.

Neither I nor any member of the district grievance committee can give you any advice regarding any legal rights you may have regarding the matters set out in your grievance. You may pursue any questions you have regarding your legal rights with an attorney of your choice.

Thank you very much for your cooperation.

Sincerely yours,

Chairperson

District Grievance Committee

cc: PERSONAL AND CONFIDENTIAL

Respondent Attorney

PERSONAL AND CONFIDENTIAL

Director of Investigations, The N.C. State Bar

History Note: Statutory Authority G.S. 84-23

Readopted Effective December 8, 1994

.0213 Letter to Complainant Acknowledging Grievance

John Smith

Anywhere, N.C.

Re: Your complaint against Jane Doe Our File No. []

Dear Mr. Smith:

I am the chairperson of the [] district grievance committee. Your grievance against [respondent attorney] [was received in my office] [has been forwarded to my office by the North Carolina State Bar] on [date]. I have assigned [investigator's name], a member of the [] district grievance committee, to investigate your grievance. []'s name, address and telephone number are as follows: [].

Please be sure that you have provided all information and materials which relate to or support your complaint to the [] district grievance committee. If you have other information which you would like our committee to consider, or if you wish to discuss your complaint, please contact the investigating attorney by telephone or in writing as soon as possible.

After []'s investigation is complete, the [] district grievance committee will make a recommendation to the North Carolina State Bar Grievance Committee regarding whether or not there is probable cause to believe that [respondent attorney] violated one or more provisions of the Rules of Professional Conduct. Your complaint and the results of our investigation will be sent to the North Carolina State Bar at that time. The [] district grievance committee's recommendation is not binding upon the North Carolina State Bar Grievance Committee, which will make the final determination. You will be notified in writing when the [] district grievance committee's investigation is concluded.

Neither the investigating attorney nor any member of the [] district grievance committee can give you any legal advice or represent you regarding any underlying legal matter in which you may be involved. You may pursue any questions you have about your legal rights with an attorney of your own choice.

Thank you very much for your cooperation.

Sincerely yours,

[] Chairperson

[] District Grievance Committee

cc: PERSONAL AND CONFIDENTIAL

Director of Investigations, The N.C. State Bar

History Note: Statutory Authority G.S. 84-23

Readopted Effective December 8, 1994

.0214 Letter to Investigating Attorney Assigning Grievance

James Roe

[] District Grievance Committee Member

Anywhere, N.C.

Re: Grievance of John Smith against Jane Doe Our File No. []

Dear Mr. Roe:

Enclosed you will find a copy of the grievance which I recently received regarding the above-captioned matter. Please investigate the complaint and provide a written report with your recommendations by [deadline].

Thank you very much.

Sincerely yours,

[] Chairperson

[] District Grievance Committee

cc: PERSONAL AND CONFIDENTIAL

Director of Investigations, The N.C. State Bar

History Note: Statutory Authority G.S. 84-23

Readopted Effective December 8, 1994

.0215 Letter to Complainant from Investigating Attorney

John Smith

Anywhere, N.C.

Re: Your complaint against Jane Doe Our File No. []

Dear Mr. Smith:

I am the member of the district grievance committee assigned to investigate your grievance against [respondent attorney]. It is part of my job to ensure that you have had a chance to explain your complaint and that the district grievance committee has copies of all of the documents which you believe relate to your complaint.

If you have other information or materials which you would like the district grievance committee to consider, or if you would like to discuss this matter, please contact me as soon as possible.

If you have already fully explained your complaint, you do not need to take any additional action regarding your grievance. The district grievance committee will notify you in writing when its investigation is complete. At that time, the matter will be forwarded to the North Carolina State Bar Grievance Committee in Raleigh for its final decision. You will be notified in writing of the North Carolina State Bar's decision.

Thank you very much for your cooperation.

Sincerely yours,

Investigating Member

District Grievance Committee

cc: PERSONAL AND CONFIDENTIAL

Chairperson, District Grievance Committee

History Note: Statutory Authority G.S. 84-23

Readopted Effective December 8, 1994

.0216 Letter of Notice to Respondent Attorney

Ms. Jane Doe

Anywhere, N.C.

Re: Grievance of John Smith Our File No.

Dear Ms. Doe:

Enclosed you will find a copy of a grievance which has been filed against you by [complainant] and which was received in my office on [date]. As chairperson of the district grievance committee, I have asked [investigating attorney], a member of the committee, to investigate this grievance.

Please file a written response with [investigating attorney] within 15 days from receipt of this letter. Your response should provide a full and fair disclosure of all of the facts and circumstances relating to the matters set out in the grievance.

Thank you.

Sincerely yours,

Chairperson
 District Grievance Committee

cc: PERSONAL AND CONFIDENTIAL

Investigating member

District Grievance Committee

Director of Investigations, N.C. State Bar

Complainant

History Note: Statutory Authority G.S. 84-23

Readopted Effective December 8, 1994

.0217 Letter Transmitting Completed File to North Carolina State Bar

Director of Investigations

N.C. State Bar

P.O. Box 25908

Raleigh, N.C. 27611

Re: Grievance of John Smith Our File No.

Dear Director:

The district grievance committee has completed its investigation in the above-listed matter. Based upon our investigation, the committee determined in its opinion that there is/is not probable cause to believe that the respondent violated one or more provisions of the Rules of Professional Conduct for the reasons set out in the enclosed report.

We are forwarding this matter for final determination by the North Carolina State Bar Grievance Committee along with the following materials:

1. The original grievance of [complainant].
2. A copy of the file of the investigating attorney.

3. The investigating attorney's report, which includes a summary of the facts and the reason(s) for the committee's decision.

Please let me know if you have any questions or if you need any additional information. Thank you.

Sincerely yours,

Chairperson

District Grievance Committee

History Note: Statutory Authority G.S. 84-23

Readopted Effective December 8, 1994

SUBCHAPTER D

Rules of the Standing Committees of the North Carolina State Bar

Section .0700 Procedures for Fee Dispute Resolution

.0701 Purpose and Implementation

The purpose of the Fee Dispute Resolution Program is to help clients and lawyers settle disputes over fees. In doing so, the Fee Dispute Resolution Program shall assist the lawyers and clients in determining the appropriate fee for legal services rendered. The State Bar shall implement the Fee Dispute Resolution Program under the auspices of the Grievance Committee (the committee) as part of the Attorney Client Assistance Program (ACAP). It will be offered to clients and their lawyers at no cost. A person other than the client who pays the lawyer's legal fee or expenses may file a fee dispute petition. The person who paid the fees or expenses will not be permitted to participate in the fee dispute resolution process.

History Note: Statutory Authority G.S. 84-23

Readopted Effective December 8, 1994

Amended February 3, 2000; May 4, 2000; March 8, 2007; March 11, 2010

.0702 Jurisdiction

(a) The committee has jurisdiction over a disagreement arising out of a client-lawyer relationship concerning the fees and expenses charged or incurred for legal services provided by a lawyer licensed to practice law in North Carolina.

(b) The committee does not have jurisdiction over the following:

(1) a dispute concerning fees or expenses established by a court, federal or state administrative agency, or federal or state official, or private arbitrator or arbitrator panel;

(2) a dispute involving services that are the subject of a pending grievance complaint alleging violation of the Rules of Professional Conduct;

(3) a dispute over fees or expenses that are or were the subject of litigation unless

(i) a court, arbitrator, or arbitration panel directs the matter to the State Bar for resolution, or

(ii) both parties to the dispute agree to dismiss the litigation or arbitration without prejudice and pursue resolution through the State Bar's Fee Dispute Resolution program;

(4) a dispute between a lawyer and a service provider, such as a court reporter or an expert witness;

(5) a dispute between a lawyer and a person or entity with whom the lawyer had no client-lawyer relationship, except that the committee has jurisdiction over a dispute between a lawyer and a person other than the lawyer's client who paid fees or expenses to the lawyer for the benefit of the client; and

(6) a dispute concerning a fee charged for services provided by the lawyer that do not constitute the practice of law.

The committee will encourage settlement of fee disputes falling within its jurisdiction pursuant to Rule .0708 of this subchapter.

History Note: Statutory Authority G.S. 84-23

Readopted Effective December 8, 1994

Amended May 4, 2000; March 11, 2010; August 23, 2012

.0704 Confidentiality

The existence of and content of any petition for resolution of a disputed fee and of any lawyer's response to a petition for resolution of a disputed fee are confidential.

History Note: Statutory Authority G.S. 84-23

Adopted March 11, 2010

.0710 District Bar Fee Dispute Resolution

Subject to the approval of the council, any judicial district bar may adopt a fee dispute resolution program for the purpose of resolving disputes involving lawyers residing or doing business in the district. The State Bar does not offer arbitration as a form of dispute resolution. The judicial district bar may offer arbitration to resolve a disputed fee. A judicial district bar fee dispute resolution program shall have jurisdiction over disputes that would otherwise be addressed by the State Bar's ACAP department. Such programs may be tailored to accommodate local conditions but they must be offered without cost and must comply with the jurisdictional restrictions set forth in Rule .0702 of this subchapter.

History Note: Statutory Authority G.S. 84-23

Adopted May 4, 2000

Amended March 11, 2010



State of North Carolina

Department of Justice

ROY COOPER
ATTORNEY GENERAL

P. O. Box 629
RALEIGH
27602-0629

REPLY TO: Norma S. Harrell
Special Deputy
(919) 716-6900
FAX: (919) 716-6763

August 16, 2001

L. Thomas Lunsford, II
Executive Director
North Carolina State Bar
208 Fayetteville Street Mall
Post Office Box 25908
Raleigh, North Carolina 27611-5908

Advisory Opinion: Use of Mandatory District Bar Dues For BarCARES Program

Dear Mr. Lunsford:

You request our opinion as to whether local district bar organizations may fund BarCARES programs through mandatory dues imposed upon their members. Set out below is our understanding of the BarCARES program, the proposal for participation by district bars, and the legal and constitutional issues raised by the proposal.

The North Carolina State Bar is created as an agency of the State of North Carolina in Article 4 of Chapter 84 of the North Carolina General Statutes. In order to practice law in North Carolina, generally, one must be an active member of the State Bar in good standing and have paid the mandatory dues authorized by N.C.G.S. § 84-34 "as a service charge for the maintenance of the several services authorized by" Article 4. *See* N.C.G.S. § 84-16. District bars are subdivisions of the State Bar, and they may impose mandatory annual fees or dues on their members and adopt rules and regulations "not inconsistent with" Article 4. N.C.G.S. § 84-18.1.

A proposal has been made for district bars to participate in BarCARES, a program initiated by the North Carolina Bar Association. Participation of a district bar in BarCARES would mean that a portion of the district bar dues required of attorneys in that district would be paid to certain mental health providers in exchange for providing each member of the district bar the opportunity to have counseling sessions with the mental health providers.

In order for the district bars to use their dues lawfully to finance BarCARES, the program must be consistent with Article 4 of Chapter 84. The statutory provisions contained in that Article relate principally to licensure of attorneys, discipline of attorneys and license revocation, and unauthorized practice of law. The State Bar Council is authorized by N.C.G.S. § 84-23 and other sections to "regulate the professional conduct of licensed attorneys" and to "take actions that are



L. Thomas Lunsford, II
August 16, 2001
Page 2

necessary to: ensure the competence of lawyers; formulate and adopt rules of professional ethics and conduct; investigate and prosecute matters of professional misconduct," and otherwise act regarding discipline, membership, certification of legal specialists, legal fees, and "determine whether a member is disabled." It also has authority under N.C.G.S. § 84-23.1 concerning prepaid legal service plans.

All of the powers and responsibilities imposed on the State Bar by statute relate to the competence and ability of attorneys and the protection of the public from incompetent attorneys or attorneys' actions that are or may be harmful to their clients or potential clients. The nature of these powers and responsibilities is consistent with the justification for the existence of the Bar, the protection of the public from incompetence or unethical actions harmful to clients or potential clients. Indeed, the North Carolina Supreme Court said long ago that the only justification for occupational licensing laws is the protection of the public. In an opinion written by then Justice (later Senator) Ervin, the Court explained that "a statute which prevents any person from engaging in any legitimate business, occupation, or trade cannot be sustained as a valid exercise of the police power unless the promotion or protection of the public health, morals, order, or safety, or the general welfare makes it reasonably necessary." *State v. Ballance*, 229 N.C. 764, 770, 51 S.E.2d 731, 735 (1949) (holding that licensure law for photographers infringed on rights under state constitution to enjoy the fruits of one's labor and not to be deprived of property except by the "law of the land"). See also *Duggins v. North Carolina Bd. of Certified Public Accountant Examiners*, 294 N.C. 120, 125, 240 S.E.2d 406, 410 (1978) (describing the certified public accountancy law as an exercise of police power "for the purpose of protecting the general public from unqualified and inexperienced accountants"). In a number of decisions, our appellate courts have recognized that the statutory authority and responsibility of the State Bar and the Board of Law Examiners stem from that need to protect the public. E.g., *North Carolina State Bar v. Frazier*, 269 N.C. 625, 630, 153 S.E.2d 367, 370 (upholding discipline of attorney on grounds that the "object of the regulations is to protect the public from unethical conduct"), *cert. denied*, 389 U.S. 826, 88 S. Ct. 69, 19 L. Ed. 2d 81 (1967); *Bring v. North Carolina State Bar*, 126 N.C. App. 655, 660, 486 S.E.2d 236, 239 (1997) (licensure requirements for attorneys based on legislative goal of "protection of the public interest by the maintenance of a competent Bar"), *aff'd*, 348 N.C. 655, 501 S.E.2d 907 (1998).

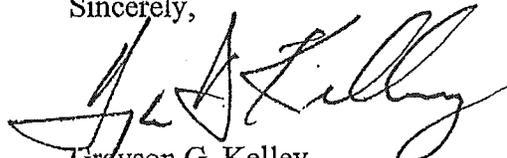
It is our understanding that the BarCARES Program as it is now constituted allows family members of attorneys to use this program and allows attorneys to receive services for problems that may not affect their professional services. While no case is exactly on point, we believe that concerns are raised by a program under which district bars compel attorneys, at risk of jeopardizing their right to practice law, to fund counseling sessions for other attorneys for problems that may not affect or threaten the quality of those attorneys' professional services. We particularly question the authority of district bars to compel attorneys, as a condition of their right to practice law, to fund counseling sessions for family members of other attorneys. Please note that the United States Supreme Court has said that attorneys may sue to challenge the use of mandatory bar dues for purposes that infringe on an attorney's first amendment rights. See *Keller v. State Bar of California*, 496 U.S. 1, 110 S. Ct. 2228, 110 L. Ed. 2d 1 (1990). We also note that our Supreme Court, in different contexts, has

L. Thomas Lunsford, II
August 16, 2001
Page 3

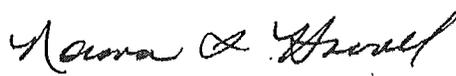
invalidated or questioned governmental agencies' authority to tax or assess persons engaged in a particular occupation for the benefit of other groups or only for certain members of the same group. *See Appeal of Arcadia Dairy Farms, Inc.*, 289 N.C. 456, 223 S.E.2d 323 (1976) (if statute authorized assessment by one subgroup for benefit of others, it would raise a question of violation of North Carolina Constitution's "law of the land" clause); *Great American Insurance Co. v. Johnson*, 257 N.C. 467, 126 S.E.2d 92 (1962) (unconstitutional to tax fire and lightning insurance to provide retirement funds for firefighters).

It is our opinion that the BarCARES Program can be a lawful use of mandatory bar dues as long as the Program is restricted to attorney members of the Bar and is directly related to addressing identifiable problems which are affecting, or which may in the future affect an attorney's competence to practice law or professional conduct. Therefore, we suggest that the state Bar review this program in this context and direct any modifications determined to be necessary to address the current problems identified in this opinion. We emphasize that we cannot say with certainty how our courts would view a challenge to the funding through mandatory district Bar dues of the BarCARES Program either as it exists now or if it should modify it.

Sincerely,



Grayson G. Kelley
Senior Deputy Attorney General



Norma S. Harrell
Special Deputy Attorney General

cc: Larry Sitton

The North Carolina State Bar

TO: <>
<>

FROM: David Irvine, President
Judicial District 2
P.O. Box 742
Williamston, NC 27892
dji@irvinelawfirm.com

RE: Election of State Bar Councilor

DATE: April 12, 2010

The term of our State Bar Councilor Sidney J. Hassell, Jr. expires on December 31, 2010. Sidney J. Hassell, Jr. has served three consecutive three year terms and is not eligible to be reelected. I am having this official notice sent to you pursuant to Section .0800 of Subchapter 1A of the Rules of the North Carolina State Bar. Take notice that an election will be held as follows:

EVENT: Meeting of Judicial District 2
DATE: May 13, 2010
TIME: 5:30 p.m.
PLACE: Deadwood
2302 Ed's Grocery Road
Williamston, NC 27892

Any member of Judicial District 2 who desires to submit a nomination for State Bar Councilor may do so by mailing a written request to me, at the address listed above or emailing the nomination to me at the address above, any time prior to the meeting and nominations may be made from the floor the day of the meeting. Election must be by a majority of votes cast by those present by secret ballot. Use of proxies is prohibited.

We look forward to seeing you at the meeting.

The North Carolina State Bar

MEMORANDUM

FROM: Anthony T. Lathrop, President
Mecklenburg County Bar, 26th Judicial District
438 Queens Road
Charlotte, NC 28207

TO: ALL MEMBERS OF THE 26TH JUDICIAL DISTRICT BAR

RE: COUNCILOR ELECTION NOTICE FOR NC STATE BAR COUNCIL

DATE: SEPTEMBER 1, 2006

All active members of the Mecklenburg County Bar (the 26th Judicial District Bar) as reflected on the official records of the North Carolina State Bar, are requested to take notice that an election will be held to fill six seats on the State Bar Council effective January 1, 2007. Two of the seats are currently held by J. Michael Booe and Edward T. Hinson, Jr. who are not eligible for re-election.

The following incumbents are eligible for re-election: Nelson M. Casstevens, Jr., eligible to serve one additional three-year term; Ronald L. Gibson, eligible to serve two additional three-year terms; Mark W. Merritt, eligible to serve three additional three-year terms; and Judy D. Thompson, eligible to serve two additional three-year terms.

The election will be held by mail pursuant to 27 N.A.C.A. 1A, Section 0800 of the Rules of the North Carolina State Bar. Any member wishing to nominate a candidate for this office must submit that nomination in writing to the President of the Mecklenburg County Bar, Anthony T. Lathrop, at 438 Queens Road, Charlotte, NC 28207 on or before October 2, 2006. Nominations received after that date will not be on the official ballot. Official printed ballots will be mailed to each active member on or before October 23, 2006 and must be returned to the Mecklenburg County Bar Center on or before November 6, 2006, in order to be counted. Under the Rules of the State Bar, the election must be by majority of the votes cast. In the event that no candidate receives a majority, you will receive notice of a run-off election.

TO: All Wake County Bar Association members & Tenth Judicial District Bar members

The Annual Meeting for the election of the 2006 Officers and Board of Directors for the Wake County Bar Association and the Tenth Judicial District Bar will be held on Tuesday, December 5, 2005 at the North Raleigh Hilton.

Lunch will be served at 12:15 PM and the meeting will begin promptly at 12:35 PM.

You can find a list of the candidates in the November issue of the Wake Bar Flyer (front page) or the December issue on line at www.wakecountybar.org on page 5.

The North Raleigh Hilton is located at 3415 Wake Forest Road in Raleigh.

Plan to attend so you can cast your vote.

Sidney S. Eagles, Jr.

President
Wake County Bar Association
Tenth Judicial District Bar

TENTH JUDICIAL DISTRICT BAR

January 2, 2007

POST OFFICE BOX 3686

To: Members of the Tenth Judicial District Bar

CARY, NORTH CAROLINA 27519-3686

From: Catharine Arrowood, President

919-677-9909/919-667-1664 (fax)

Re: Notice to All Tenth Judicial District Bar Members Regarding Election for Nominees for two positions as District Court Judge Pursuant to N.C. General Statutes § 7A-142, 27 NCAC 01A.1013, and Article XI of the Bylaws of the District Bar of the Tenth Judicial District

This is formal notice of an election meeting of the Tenth Judicial District Bar to be conducted Thursday, January 18, 2007 at 5:00 p.m. at the McKimmon Center to select nominees for two District Court Judge seats which have come vacant as a result of the recent elections. We will select by two separate written ballots three nominees for each seat, one of whom will later be selected by Governor Michael Easley to fill each of the two vacant District Court Judge seats.

1. Location of Election Meeting. The election will be held at the McKimmon Center, on Western Boulevard at Gorman Street, across from N.C. State University.
2. Candidates/Applicants. Any member of the Tenth Judicial District Bar who wishes to be a candidate for either or both of these two judicial seats must notify me of her/his intention in writing not less than five days before January 18, 2007. Notification should be mailed or delivered to the attention of Catharine B. Arrowood, President; Tenth Judicial District Bar; c/o Alice G. Roman, Executive Director; 8000 Weston Parkway, Suite 220; P.O. Box 3686; Cary, NC 27519-3686.
3. Speeches by Candidates. Beginning at approximately 5:15 p.m., each candidate will be allowed two minutes to address the members present. To accommodate our members' varying schedules, voting will be allowed before, during and following the speeches. We encourage you, however, to listen to the candidates' presentations.
4. Candidate Information: WCBA Website. Pursuant to guidelines adopted by the Bench-Bar Committee and approved by the Boards of Directors of the Wake County Bar Association and Tenth Judicial District Bar, persons desiring to be considered for nomination are requested to submit a statement of personal and professional information concerning the applicant's credentials. Information submitted by applicants, along with the ideal minimum qualification developed by the Bench-Bar Committee, will be posted at the website of the Wake County Bar Association (www.wakecountybar.org) several days prior to the election meeting to assist members of the Tenth Judicial District in evaluating applicants. Participation by applicants in this evaluation process is voluntary. Information regarding the guidelines and the submission process is attached to this notice.
5. Voting. Each voting member of the Tenth Judicial District Bar shall be entitled to vote for up to three candidates for each seat. Ballots marked for more than three candidates shall be disqualified. The three candidates receiving the highest number of votes cast shall be the nominees for the designated seat. Voting shall be limited to those attorneys licensed to practice in North Carolina who are resident members in good standing of the Tenth Judicial District Bar and in attendance at the meeting. Voting shall be by secret written ballot. Voting will begin at 4:30 p.m. as a preliminary part of the meeting, and the formal part of the meeting will be called to order at 5:00 p.m. Voting will continue until 6:30 p.m. The ballots shall be counted immediately after the meeting.
6. Results of Election. Following the meeting, I will transmit to Governor Easley the names of the three candidates receiving the most votes for each seat along with the number of votes received by each. The Tenth Judicial District Bar will be notified by e-mail of the names of the three nominees, and the names will also be listed on the WCBA website and in the Bar Flyer publication of the Wake County Bar Association.

Please attend and vote at this important election meeting. Thank you.

Evaluation Process Guidelines

The following guidelines have been recommended by the Bench-Bar Committee and adopted by the Boards of Directors of the Wake County Bar Association and Tenth Judicial District Bar. They are intended to assist members of the Tenth Judicial District Bar in evaluating applicants for nomination for district court judgeships in circumstances described by N.C. Gen. Stat. § 7A-142. The guidelines consist of two parts: (1) suggested ideal minimal qualifications for applicants and (2) a process whereby information relevant to applicants' qualifications can be disseminated to members of the bar.

Participation in the evaluation process is voluntary. Applicants desiring to participate in this evaluation process must submit the information described below no later than 5:00 p.m. January 13, 2007 to:

Alice G. Roman, Executive Director
Tenth Judicial District Bar
8000 Weston Parkway, Suite 220
P.O. Box 3686
Cary, North Carolina 27519-3686
(919) 657-1564 (fax)
aroman@ncbar.org

Recommended Qualifications

- a) **Experience.** In addition to meeting the requirements of N.C. Gen. Stat. § 7A-142, a nominee for a vacancy in the office of district court judge should be licensed to practice law in North Carolina for 5 years and have at least 2 years of litigation experience or its equivalent.
- b) **Integrity.** The nominee should be of high moral character and enjoy a general reputation in the community for honesty, industry and diligence.
- c) **Professional Competence.** Professional competence as demonstrated by intellectual capacity, professional and personal judgment, writing and analytical ability, knowledge of the law and breadth of professional experience, including courtroom and trial experience.
- d) **Judicial Temperament.** Judicial temperament as demonstrated by a commitment to equal justice under law, freedom from bias, ability to decide issues according to law, courtesy and civility, open-mindedness and compassion.

Résumé

- a) Each applicant is requested to provide a statement of personal and professional information, limited in length to three pages, which will be posted on the WCBA web site (www.wakecountybar.org).
- b) The statement of personal and professional information should include, at a minimum, the following: date of bar admission(s), undergraduate and law schools attended, professional experience, bar activities, and community involvement. A photograph is also suggested.
- c) In addition to the above, each statement of personal and professional information should include a statement supporting the applicant's integrity, professional competence and judicial temperament.

The North Carolina State Bar
Judicial District 3B
Ashley Baxter Curry, President
Emily S. Goodman, Vice President
David B. Baxter, Jr., Secretary/Treasurer

FORMAL NOTICE OF SPECIAL MEETING

FROM: Ashley Baxter Curry, President
3B Judicial District Bar
Post Office Box 1654
New Bern, North Carolina 28563-1654

TO: ALL MEMBERS OF THE 3B JUDICIAL DISTRICT BAR

RE: **NOMINATIONS FOR DISTRICT COURT JUDGE**

DATE: January 19, 2012

All active members of the 3B Judicial District Bar, as reflected on the official records of the North Carolina State Bar, are requested to take notice that a meeting for nominations for District Court Judge will be held at 5:30 p.m. on **Monday, February 6, 2012** in the **Superior Court room, Courtroom Number 1, Craven County Courthouse, 302 Broad Street, New Bern, North Carolina, 28560**. This serves as formal notice of the meeting. Pursuant to .1013 of the Bylaws for the District Bar of the 3B Judicial District and N.C.G.S. § 7A-142, we will select by secret written ballot three nominees to fill one vacant seat for District Court Judge, vacated by Judge Jerry F. Waddell. These three names will then be submitted to Governor Beverly Eaves Perdue for appointment of one individual to fill the vacant seat.

1. Location of Meeting. The meeting will be held in the **Superior Court room, Courtroom Number 1, Craven County Courthouse, 302 Broad Street, New Bern, North Carolina, 28560** on **Monday, February 6, 2012** at 5:30 p.m.

2. Candidates. Any active member of the 3B Judicial District Bar who wishes to be a candidate for this judicial seat must notify me of his/her intention in writing not less than **five (5) days** before the meeting, or, **Wednesday, February 1, 2012** by the close of business. *Late notifications will not be accepted, and write-ins are prohibited.* Notification should be mailed to the attention of Ashley Baxter Curry, President; 3B Judicial District Bar; c/o Stubbs & Perdue, P.A.; Post Office Box 1654; New Bern, North Carolina; 28563-1654, or hand delivered to the attention of Ashley Baxter Curry, President; 3B Judicial District Bar; c/o Stubbs & Perdue, P.A.; 310 Craven Street; New Bern, North Carolina; 28560.

3. Speeches by Candidates. Beginning at approximately 5:45 p.m., each candidate will be allowed two minutes to address the members present. To accommodate our members' varying schedules, voting will be allowed before, during and following the speeches. We encourage you, however, to listen to the candidates' presentations.

4. Voting. Each active member of the 3B Judicial District Bar shall be entitled to vote for up to three candidates. *Cumulative voting and absentee ballots are prohibited.* Ballots marked for more than three candidates or with more than one vote per candidate will be disqualified. Voting shall be limited to those attorneys licensed to practice in North Carolina who are resident members in good standing of the 3B Judicial District Bar and in attendance at the meeting. Voting shall be by secret written ballot. Voting will begin at 5:30 p.m., and will continue until 7:00 p.m., or as soon as all candidates have made their speeches. The ballots shall be counted and the nominees announced immediately after voting closes. *In the event of a tie for first place, there will be an immediate run-off, so please remain in the courtroom.* The names of the nominees will also be posted on 3B Judicial District Bar's Facebook and LinkedIn pages.

5. Results of the Election. Following the meeting, I will transmit to Governor Perdue the names of the three candidates receiving the highest number of votes along with the number of votes received by each. In the event of a tie for third place, the names of those candidates involved in the tie shall be transmitted to the Governor together with the names of the two candidates receiving the highest number of votes. Within sixty (60) days after the district bar submits the nominations for a vacancy, the Governor shall appoint to fill the vacancy. If the Governor fails to appoint a district bar nominee within 60 days, the district bar nominee who received the highest number of votes from the district bar shall fill the vacancy. If the district bar fails to submit nominations within 30 days from the date the vacancy occurs, the Governor may appoint to fill the vacancy without waiting for nominations.

6. State and Federal Law. It shall be solely the responsibility of any nominee who is currently an elected official or who has filed or intends to file for candidacy seeking an elected office to ensure that said nominee is in compliance with Federal and North Carolina State law, including but not limited to N.C.G.S. §§ 163-323(e), 163-328(d), and N.C. Const. art. VI sec. 9 as well as any and all applicable State and Federal election statutes and regulations.

January 29, 2013

VIA E-MAIL
ORIGINAL VIA U.S. MAIL

Mr. Robert Stephens
General Counsel
Office of the Governor
20301 Mail Service Center
Raleigh, NC 27699-0301

RE: District Judge Vacancy
_____ Judicial District Bar

Dear Robert:

As President of Judicial District Bar _____, I respectfully wish to report to Governor McCrory the names of the three (3) nominees receiving the highest number of votes to fill the vacancy occasioned by the retirement of _____, District Court Judge for Judicial District _____. Such votes have been calculated pursuant to secret, written ballots obtained from the members of Judicial District Bar _____ present at a Special Meeting conducted for this specific purpose.

The nominees are as follows:

Nominee 1: Name (votes)
Nominee 2: Name (votes)
Nominee 3: Name (votes)

It is our intent to hereby comply with and satisfy the requirements of N.C.G.S. §7A-142, the Bylaws of Judicial District Bar _____, and any other applicable law. If Governor McCrory feels for any reason that we have not so complied, or if Governor McCrory has any other questions or concerns with respect to this matter, please contact me immediately so we can address any issues prior to _____, 2013, which is the date thirty (30) days from the date the District Court vacancy arose.

Thank you for your attention to this matter. We look forward to receiving the Governor's appointment to fill this vacancy.

Sincerely,

Name
President, _____ Judicial District Bar

WAKE BAR Flyer

Wake County Bar Association
Est. 1925

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Vol. XXXII, Number 11

November 2006

NOTICE OF ELECTION

To All Members of the Tenth Judicial District Bar

The officers of the Tenth Judicial District Bar and Wake County Bar Association hereby give notice pursuant to Article XII of the By-Laws of the North Carolina State Bar:

1. That the annual election of Officers and Directors will be held on Tuesday, December 5, 2006, at the North Raleigh Hilton, 8416 Wake Forest Road in Raleigh at 12:15 p.m. Lunch will be served and the cost of lunch will be borne by the Tenth Judicial District Bar at no additional cost to members. The election is for the purpose of choosing Officers and Directors for both the Tenth Judicial District Bar and the Wake County Bar Association along with Tenth Judicial District Bar Councilors.
2. The following Officers will be elected: President-Elect
3. The following Directors will be elected: 10 Directors (2-year term)
4. The following District Bar Councilors to the N.C. State Bar will be elected: 5 Councilors (3-year term)
5. The following Badger-Iredell Foundation members will be elected by the Wake County Bar Association: 2 Foundation Members

President-Elect (*elect one*)

John I. Mabe, Jr.
Robert W. Sumner

Board of Directors (*elect ten*)

Asa L. Bell, Jr.
Christopher W. Brooks
Stephanie J. Brown
G. Bryan Collins, Jr.
Thomas H. Davis, Jr.
Anthony E. Flanagan
Charles T. Franols
Robert W. Glatz
Jennifer T. Gottsegen
Thomas C. Klipatrick
Brian D. Meacham
Eric P. Stevens
M. Gray Styers, Jr.
Mark S. Thomas
James O. Thornton
Lorlon M. (Lori) Vitale
Martha K. Walston
William D. Webb
Katherine B. Wilkerson
Brian M. Williams

Tenth Judicial District Bar Councilors

Currently serving members (*elect two*)
Victor J. Boone - (eligible for one additional three-year term)
M. Keith Kapp - (eligible for one additional three-year term)

Newly nominated candidates for an initial three-year term (*elect three*)

John N. (Niek) Fountain
Richard T. Gammon
Staci T. Meyer
John M. Silverstein
Cynthia L. (Cindy) Wittmer
Harriet F. Worley

Badger-Iredell Foundation

WOBA Members voting (*elect two*):
John N. (Niek) Fountain
Fred P. Parker III

See biographical information about each candidate on pages 14-16.

November Meeting

The November meeting of the Wake County Bar Association will be held on Nov. 7, 2006, at the Woman's Club. Lunch will be served at 12:15 and the meeting will begin promptly at 12:30 p.m.

The program will include the presentation of the Chief Justice Joseph Branch Professionalism Award. The award recognizes the highest standards of professionalism among Wake County lawyers. E.D. (Ed) Gaskins, Jr., 2004 recipient of the award, will make the presentation to this year's recipient Carlyn Poole.

Also, Bill Bystrynski, Endowment Scholarship Award and Oversight Committee chair, will present two Endowment scholarship awards to Sohair Ahmadi and Christy MacPherson. (See related article, page 12.)

The Woman's Club is located on Woman's Club Drive (off Glenwood Avenue just inside the I-440 beltline.) Please note that parking is very limited. No parking is allowed in the surrounding private parking lots.

CARPPOOLING IS HIGHLY RECOMMENDED.

Special
Annual Report
and
Election
Issue



OFFICIAL BALLOT
North Carolina State Bar Council Election

Please read carefully. Return this ballot by mail or hand deliver. Do not duplicate.

Date: October 23, 2006

To: All Active Members of the Mecklenburg County Bar

From: Anthony T. Lathrop, Mecklenburg County Bar President

Pursuant to 27 N.C.A.C. 1A, Section .0800 of the Rules of the North Carolina State Bar, we are holding an election by mail to fill six vacancies in the office of State Bar Councilors. Two of the seats are currently held by J. Michael Booe and Edward T. Hinson, Jr., who are not eligible for re-election. Incumbents, Nelson M. Casstevens, Jr., Ronald L. Gibson and Mark W. Merritt are eligible for and seeking re-election. Judy Thompson is not seeking re-election.

A previous notice stated that any member wishing to nominate a candidate for the office of State Bar Councilor must submit that nomination in writing for consideration. The names shown below are those nominated and now submitted to you for voting.

You are requested to return the ballot with (up to) six preferences indicated. Any ballot indicating more than six choices will not be considered. You may cast only one vote per name for up to six nominees.

Please mail this ballot or hand deliver to: N.C. STATE BAR COUNCIL ELECTION, 438 QUEENS ROAD, CHARLOTTE, NC 28207. All ballots must be received by Monday, November 6, 2006. Tabulations will begin at 5:00 pm that same day.

North Carolina State Bar Council Election

This is a numbered ballot. Only an original numbered ballot will be counted.

➔ YOU MAY VOTE FOR SIX (6) OF THE FOLLOWING:

_____ David N. Allen
_____ Robert J. Bernhardt
_____ Robert N. Burris
_____ Nelson M. Casstevens, Jr.
_____ Catherine M. El-Khoury
_____ Ronald L. Gibson

_____ F. Fincher Jarrell
_____ Mark W. Merritt
_____ Selin T. Nassi
_____ Kevin M. Profit
_____ Daniel Powers Roberts



The North Carolina State Bar

OFFICE OF THE SECRETARY
L. Thomas Lunsford II
208 Fayetteville Street Mall
PO Box 25908
Raleigh, North Carolina 27611-5908
Telephone: 919/828-4620
Fax: 919/821-9168

April 29, 2010

Mr. Douglas J. Brocker, President
10th Judicial District Bar
PO Box 3686
Cary, NC 27519-3686

Re: Defense of Local District Bar Grievance Committee Members

Dear Doug:

I write in response to your letter of November 12, 2009, in which you raised three questions regarding service upon a duly constituted District Bar Grievance Committee. At its meeting on April 16, 2010, the Council adopted a policy that is responsive to two of your questions. A copy is enclosed for your information. As you will see, the State Bar has resolved to provide a defense where a member of a duly constituted District Bar Grievance Committee is sued for actions taken within the course and scope of his or her official responsibilities. The State Bar will also provide representation in order to enable the district bar to resist subpoenas and other legal process intended or tending to elicit confidential information.

We would also have you know that it is our opinion that a member of a duly constituted local Grievance Committee would have qualified immunity for non-malicious actions taken within the course and scope of his or her official duties on the committee.

Thank you very much for the inquiry and for your patience. We hope that the actions taken and explained in this letter are sufficiently responsive to your concerns.

Very truly yours,

L. Thomas Lunsford II
Executive Director

DEFENSE OF DISTRICT BAR GRIEVANCE COMMITTEE MEMBERS

It shall be the policy of the North Carolina State Bar to provide a defense against any legal claim against any member of a duly constituted district bar grievance committee where it appears that the matters at issue occurred during the course and within the scope of the defendants official duties. It shall further be the policy of the North Carolina State Bar to provide representation to any representative of a duly constituted district bar grievance committee for the purpose of resisting any legal process, such as a subpoena, seeking confidential information relating to the investigation of any grievance or claim of disability.

Memo to District Bars:
From: Alice Mine and Martha Fletcher

RE: Retention Schedule for the Records of Your Judicial District Bar.

As a state agency, the North Carolina State Bar must comply with the provisions regarding records retention in Chapters 121 (Archives and History) and 132 (Public Records) of the General Statutes. These laws mandate that public records be retained and then disposed of in accordance with a schedule approved by and on record with the Archives and Records Section of the North Carolina Division of Historical Resources.

As subdivisions of the North Carolina State Bar, district bars must comply with the applicable record retention item (Item 3241) from the State Bar's approved record retention schedule which appears at the bottom of this page. Please note that the item includes judicial district bar records in the hands of the State Bar as well as those in the possession of the officers and/or staff of the various judicial district bars.

Please review the description of district bar documents in Item 3241 and let us know if additional documents should be included. Currently the retention schedule allows a judicial district bar to destroy records "in office" when their administrative value has ended. We have been notified that we must soon revise the retention schedule to designate a specific retention period prior to record destruction. We anticipate that we will ask for a one-year time period. If you believe that the time period should be longer, please let us know. Note that the retention schedule does not require the State Bar or district bars to destroy records but it allows destruction as long as the retention time period is observed.

Please send your inquiries and comments to Martha Fletcher who manages record retention for the State Bar. Martha can be reached at 919/828-4620 or mfletcher@ncbar.gov.

ITEM 3241. DISTRICT BAR FILE.

Records concerning district bars. File includes bylaws, committee and officer lists, correspondence, invitations, meeting notices, requests for opinions, reports, and other related records.

DISPOSITION INSTRUCTIONS: Destroy in office when administrative value ends.

RULES OF MEMBERSHIP AND GOVERNANCE
OF
THE NORTH CAROLINA CONFERENCE OF BAR PRESIDENTS

ARTICLE I

Organization

Section 1. NAME. This organization shall be known as The North Carolina Conference of Bar Presidents.

Section 2. LEGAL STATUS. This organization shall exist as an independent conference of bar presidents.

Section 3. PURPOSE. This organization is created to render appropriate service to the public and the District and Local bars for improving and preserving the administration of justice and for consultation and interchange of information and ideas among presidents and other representatives of District and Local Bar Organizations, with a view to educating and informing the past, present and future presidents of those organizations in:

- (1) the duties, opportunities and activities of presidents of such organizations;
- (2) the new and developing problems, opportunities and activities of such organizations;
- (3) the ways in which the objectives and purposes of such organizations

can be promoted and their activities enhanced;

(4) the evaluation of local concerns and the creation and sharing of opportunities relating to professional needs of lawyers through coordination and communication among District bars and Local bars and between District and Local bars and The North Carolina State Bar and The North Carolina Bar Association; and

(5) the development of the cordial relationship and spirit of common understanding among the mandatory and voluntary bar organizations for the benefit of the legal system and the profession, and the assurance of a closer coordination of the bar activities of state and local organizations.

Section 4. OFFICE AND MAILING ADDRESS. The office and mailing address of the organization shall be at the offices of The North Carolina State Bar, 208 Fayetteville Street Mall, Raleigh, North Carolina, and the mailing address shall be The North Carolina Conference of Bar Presidents, The North Carolina State Bar, Post Office Box 25908, Raleigh, North Carolina 27611.

ARTICLE II

Members

Section 1. MEMBERSHIP. The membership of the organization shall consist of:

(a) Voting Members: the president, president-elect (or vice president), and immediate past presidents of all mandatory District Bars and voluntary City and County Bars; and members of the Executive Committee; and

(b) Affiliate Members: such other members whose affiliation is approved, upon application, by the Conference including, but not limited to, the presidents of the North Carolina Defense Lawyers Association, North Carolina Association of Black Lawyers, North Carolina Association of Women Attorneys, (including local chapters); North Carolina Academy of Trial Lawyers, North Carolina State Bar and the North Carolina Bar Association. Affiliate members shall not be entitled to vote.

Section 2. ANNUAL MEETING. The annual meeting of the voting members shall be held at such time, date and place as shall be designated by the Executive Committee. The annual meeting may be held in conjunction with the North Carolina Bar Association Bar Leadership Institute or a meeting of The North Carolina State Bar. The purpose of the annual meeting shall be to:

- (a) elect members of the Executive Committee;
- (b) receive reports of activities of the Conference;
- (c) sponsor a general session for the purpose of informing and educating members of the organization; and
- (d) transacting such other business as may come before the meeting.

Section 3. OTHER MEETINGS. Additional meetings may be held upon the written call of the Executive Committee. The place, date, time and purpose of such additional meetings shall be stated in the written call thereof.

Section 4. NOTICE OF MEETINGS. Notice of each meeting of the members shall be given by regular mail to each member of the Conference at his or her address as appears in the records of the Conference, at least thirty (30) days before the date fixed for the meeting.

Section 5. CHAIR. At all meetings of the members, the Chair of the Executive Committee shall preside.

Section 6. QUORUM. There shall be no minimum number of voting members necessary to constitute a quorum at any meeting of the members, and the affirmative vote of a majority of the voting members present at any meeting of the members shall be the act of the Conference.

ARTICLE III

Executive Committee

Section 1. EXECUTIVE COMMITTEE. The affairs of the Conference shall be managed by an Executive Committee, which is referred to herein as the "Executive Committee," which is composed of fourteen voting members: three (3) from each Judicial Division, one at-large, and the immediate past Chair as an ex officio member.

Section 2. ELECTION AND TERM OF EXECUTIVE COMMITTEE.

(a) The Executive Committee shall be elected by the voting members of the Conference at the annual meeting of the Conference. Each member of the Executive Committee shall hold office for three (3) years or until a successor is elected, provided, however, in order to provide for staggered three-year terms of members of the Executive Committee, the Executive Committee shall be elected at the 1992 annual meeting of the Conference as follows:

(1) each present member of the Executive Committee shall serve the term for which elected;

(2) one member shall be elected from each Judicial Division for a term of two years; and

(3) one member shall be elected from each Judicial Division for a term of three years.

(b) The following may serve on the Executive Committee: anyone who is a voting member at the time of election; anyone who has been a voting member within the five years immediately preceding election; and anyone who has previously served on the Executive Committee.

(c) A member may serve multiple terms on the Executive Committee.

(d) The current chair of the Local Bar Services Committee of the North Carolina Bar Association, or the chair's appointee, shall be an ex officio member of the Executive Committee.

Section 3. CHAIR AND CHAIR-ELECT.

(a) The Chair of the Executive Committee shall serve a one-year term.

(b) The Executive Committee shall meet immediately after each annual election and shall elect a Chair-Elect by affirmative vote of a majority of the members of the Committee. The Chair-Elect shall serve a one-year term concurrent with the term of the Chair. At the expiration of the term of the Chair, the Chair-Elect shall succeed to the position of the Chair.

(c) In the event of a vacancy for any reason in the office of the Chair, the Chair-Elect shall assume the duties of the Chair and shall complete the

unexpired term and be eligible to succeed to the office of Chair for an additional one-year term.

Section 4. QUORUM. At all meetings of the Executive Committee, those members in attendance, after reasonable and appropriate notice has been given of the meeting, shall constitute a quorum for the transaction of business. The action of the Executive Committee shall be by vote of a majority of the Committee members in attendance at a meeting.

Section 5. VACANCIES. Any vacancy in the Executive Committee may be filled by the Executive Committee, and a member elected to fill a vacancy shall be elected for the unexpired term of his predecessor in office.

Section 6. POWERS. The Executive Committee shall have the power and authority to carry on the affairs of the Conference in the intervals between meetings of the members of the Conference and in doing so may elect to appoint all necessary representatives of committees to carry on the affairs of the Conference.

ARTICLE IV

Financial Affairs and Contracts

Section 1. PROPERTY AND FINANCIAL SUPPORT. The Conference shall own no property, monies or securities, shall have no fiscal year, and the expenses of the Conference may be paid by The North Carolina State Bar and/or The North Carolina Bar Association.

Section 2. CONTRACTS. The Conference, the members of the Conference, the Executive Committee, and any representative or committee appointed by the Executive Committee shall have no power to enter into any contract or incur any

debt.

ARTICLE V

Changes in Rules

Section 1. CHANGES IN RULES. These rules may be amended, added to, repealed in whole or in part, or other or new rules may be adopted in lieu thereof by the affirmative vote of two-thirds of the voting members present at any annual or special meeting of the members.

SEEKING DISTINGUISHED SERVICE AWARD NOMINATIONS

The John B. McMillan Distinguished Service Award program honors current and retired members of the North Carolina State Bar throughout the state who have demonstrated exemplary service to the legal profession. Such service may be evidenced by a commitment to the principles and goals stated in the Preamble to the Rules of Professional Conduct, for example: furthering the public's understanding of and confidence in the rule of law and the justice system; working to strengthen legal education; providing civic leadership to ensure equal access to our system of justice for all those who, because of economic or social barriers, cannot afford or secure adequate legal counsel; seeking to improve the administration of justice and the quality of services rendered by the legal profession; promoting diversity and diverse participation within the legal profession; providing professional services at no fee or a reduced fee to persons of limited means or to public service or charitable groups or organizations; encouraging and counseling peers by providing advice and mentoring; and fostering civility among members of the bar.

Awards will be presented in recipients' districts, usually at a meeting of the district bar. The State Bar Councilor from the recipient's district will participate in introducing the recipient and presenting the certificate. Recipients of the Distinguished Service Award will also be recognized in the State Bar Journal and honored at the State Bar's annual meeting in Raleigh. Members of the bar are encouraged to nominate colleagues who have demonstrated outstanding service to the profession. As president of your district bar, please encourage members of your district to nominate worthy individuals. Please note that sitting judges and current State Bar Councilors are not eligible for the award. The nomination form that follows is available on the State Bar's website, www.ncbar.gov, and nominations are reviewed quarterly. Please direct questions to Peter Bolac at the State Bar office in Raleigh, (919) 828-4620.

THE JOHN B. McMILLAN DISTINGUISHED SERVICE AWARD

The North Carolina State Bar Distinguished Service Award Committee requests nominations for Distinguished Service Awards. Recipients must have demonstrated exemplary service to the profession, which may be evidenced by a commitment to the principles and goals stated in the Preamble to the Rules of Professional Conduct, for example:

- Cultivating knowledge of the law beyond its use for clients, employing that knowledge in reform of the law, and working to strengthen legal education.
- Furthering the public's understanding of and confidence in the rule of law and the justice system.
- Devoting professional time and resources and providing civic leadership to ensure equal access to our system of justice for all those who, because of economic or social barriers, cannot afford or secure adequate legal counsel.
- Aiding the legal profession by helping the bar regulate itself in the public interest and by seeking to improve the administration of justice and the quality of services rendered by the legal profession.
- Providing professional services at no fee or a reduced fee to persons of limited means or to public service or charitable groups or organizations, by service in activities for improving the law, society, the legal system or the legal profession, and providing financial support for organizations that provide legal services to persons of limited means.
- Treating opposing counsel with courtesy and respect; encouraging and counseling peers by providing advice and mentoring; and fostering civility among members of the bar.
- Promoting diversity and diverse participation within the legal profession.

NOTE: Sitting judges and current State Bar Councilors are not eligible for the John B. McMillan Distinguished Service Award.

Nominations are reviewed quarterly by the DSA Committee.

Nominee's Name: _____

Business Address: _____

In the space below, describe the nominee's activities which demonstrate commitment to the principles and goals described in the Preamble. Please attach separate pages if needed for additional comments.
