

The State Bar of California

What Does It Do, How Does It Work?

What is the State Bar of California?

With nearly 180,000 members, the State Bar of California is by far the largest state bar in the country. The term “bar association” originated in the 18th century, recognizing the railing or “bar” in a courtroom, separating spectators from lawyers and the judge, who occupies the “bench.”

More than 140,000 State Bar members actively practice law in California, while the rest retain their licenses as inactive members. To practice law in California, applicants must pass the California Bar Examination and pay their annual membership fees to the State Bar of California.

California was one of the first states to unify its bar. A unified, or integrated bar, means simply that membership is mandatory for all attorneys who are licensed to practice law in the state. Today there are 34 states in the nation with unified bars.

For the past 75 years, the State Bar of California has shaped the development of the law, regulated the professional conduct of the state’s lawyers and provided greater access to the justice system for all citizens. Created by the state legislature in 1927, the State Bar is a public corporation within the judicial branch of government, serving as an arm of the California Supreme Court. All State Bar members are officers of the court. Over the years, the State Bar continually has responded to the demands of a changing society, educating and informing both its members and the public.

Who governs the State Bar?

The State Bar is governed by a 23-member Board of Governors. Fifteen are lawyers elected by members of the State Bar. A 16th lawyer is elected by the California Young Lawyers Association (CYLA) Board of Directors.

Since 1977, the State Bar has operated with increased involvement by the public. Beginning that year, six “public” or non-lawyer members were appointed to the Board of Governors – four by California’s governor, one by the state Senate Committee on Rules and one by the Speaker of the Assembly.

The 23rd member of the Board of Governors is the State Bar president, who is elected by the other board members to serve a fourth year as the bar’s chief officer.

How is the State Bar funded?

The bar's programs are financed primarily by fees paid by attorneys and applicants to the bar. In 2001, the bar's general fund budget as submitted to the state legislature was \$53.7 million, approximately 75 percent of which funded the bar's attorney disciplinary activities.

How are members admitted?

To practice law in California, State Bar applicants must pass a rigorous three-day examination, a test of their knowledge of the rules of professional conduct and a screening for moral character. The exam, considered one of the toughest in the nation, is administered by the Committee of Bar Examiners (CBE).

Who are the members?

California's attorneys are older, more diverse and working longer hours than they did 10 years ago, according to a survey released by the State Bar in 2001. Some of the survey highlights:

AGE — Nearly a quarter of the state's attorneys is over the age of 55 — up 10 percent from 10 years ago. The number of lawyers under 35 remained about the same, at 24 percent.

DIVERSITY — In 1991, attorneys in California were overwhelmingly white (91 percent) and male (74 percent). Today, 83 percent are white and 68 percent male. Minority attorneys make up 17 percent of the lawyer population, compared to 53.7 percent of the state's population in 2000.

WORKLOAD — Attorneys in private practice are more likely to work longer hours than those in the corporate world or employed by the government. The average work week rose from 44.4 hours per week 10 years ago to 47.2 hours by 2000.

GENDER — One out of five lawyers over 55 is female, but close to half of the lawyers under the age of 35 are women.

INCOME — Half of the state's lawyers earned less than \$100,000 a year. More than a third reported salaries in the \$50,000 - \$100,000 range, 24 percent in excess of \$150,000 and four percent more than \$300,000. Male lawyers still outearn their female colleagues.

PRO BONO — Private attorneys were more likely to perform pro bono service. Although the survey showed fewer attorneys donated free legal services in 2000, there was an increase in the actual number of pro bono hours they worked.

What is the attorney discipline system and how does it work?

The State Bar's discipline system is designed to protect the public, the courts and the profession from attorneys who violate ethical rules covering their professional conduct.

Consumers with complaints about an attorney may call the bar's toll-free number (1-800/843-9053). The Office of the Chief Trial Counsel, which is responsible for reviewing charges of lawyer misconduct, then investigates and prosecutes these complaints.

When a call is made to the attorney complaint number, a specially trained complaint analyst in the Office of Intake/Legal Advice receives the call and seeks to determine the nature of the allegation. If a possible violation of the bar's Rules of Professional Conduct seems to exist, a complaint form is sent to the caller and information gathering begins. In some cases, the bar has no jurisdiction, but seeks to refer the caller to an appropriate agency. In other cases, the bar, by intervening, successfully re-establishes a positive attorney/client relationship between the two parties.

If there is reason to proceed with a complaint, it is sent to the Office of Investigations where formal allegations of misconduct are pursued. At the end of an investigation – usually within six months – if it is concluded that the charges involve probable misconduct, the Office of Trials files formal charges and assumes responsibility for prosecuting them in State Bar Court.

The independent State Bar Court hears the charges and has the power to recommend that the California Supreme Court suspend or disbar those attorneys found to have committed acts of professional misconduct or convicted of serious crimes. For lesser offenses, public or private reprovations may be issued by the State Bar. Also, it can temporarily remove lawyers from the practice of law when they are deemed to pose a substantial threat of harm to clients or the public. Lawyers may seek review of State Bar Court actions in the California Supreme Court.

The State Bar also recommends that the Supreme Court accept lawyers' resignations with disciplinary charges pending and immediately places such lawyers on inactive status until their resignations take effect.

The State Bar of California is the only state bar in the nation with independent professional judges dedicated to ruling on attorney discipline cases. The State Bar Court conducts hearings and makes decisions and formal recommendations on disciplinary matters.

Since 1989, the court has used full-time judges appointed by the California Supreme

Court. The court is divided into two departments — a Hearing Department and a Review Department, headed by a presiding judge.

The Hearing Department is the trial level of the State Bar Court. Five full-time judicial positions are split between Los Angeles and San Francisco. The Supreme Court appoints two of the hearing judges, while the Governor, the Speaker of the Assembly and the Senate Committee on Rules appoints one hearing judge each.

The Review Department is the appellate level of the State Bar Court, consisting of the presiding judge, and two lawyer judges. All of the review judges are appointed by the Supreme Court.

What are other State Bar client assistance programs?

The Client Security Fund was created in 1972 to reimburse clients who lose money as a result of an attorney's dishonest conduct while acting as a lawyer. Administered by a seven-member commission, the CSF is funded by a \$35 (2002-03) annual assessment on all active bar members. The maximum reimbursement a client can receive from the fund is \$50,000.

The Mandatory Fee Arbitration Program arbitrates fee disputes between attorneys and their clients in an informal, out-of-court setting. Arbitration is mandatory for the attorney if requested by the client. Most fee arbitrations are heard by the 44 local bar programs approved by the State Bar. The State Bar arbitrates if there is not a local bar program or if a party does not believe that a fair hearing is possible through the local program.

Are there discipline prevention programs?

Yes. Maintaining the standards of the legal profession and ensuring the competent delivery of legal services are important priorities to the State Bar.

The State Bar's Ethics Hotline (1-800/2-ETHICS) enables attorneys to discuss ethical questions with trained staff members who will refer them to the appropriate rules, opinions and case law so an informed decision can be made.

With authorization from the State Bar, lawyers who commit minor misdeeds may attend the State Bar's Ethics School. In lieu of discipline proceedings, these members may pay a fee and attend eight hours of instruction about professional responsibility. The goal of the Ethics School Program is to re-train attorneys through education before they become chronic violators of ethics rules.

If attorneys experience problems with substance abuse or burnout, they can receive confidential assistance by calling the Lawyers Personal Assistance Program (1-800/341-

0572). Consultants to the program help attorneys and judges find counseling or a recovery program tailored to their needs. The State Bar also assists law firms throughout California develop individual substance abuse programs.

The Lawyers Assistance Program is a new program established to assist in the rehabilitation of attorneys who have problems with substance abuse or mental illness. The mission of the program is to protect the public by providing assistance prior to any complaint or client harm.

The program offers support and structure for attorneys recovering from these disorders. Experts provide consultation regarding rehabilitation and private support groups are offered to the attorneys in the program. Attorneys and family members may call the program's confidential phone line at 866/436-6644, for additional information.

Are California lawyers required to keep up their skills?

Yes. All California attorneys are now required to complete 25 hours of continuing legal education every three years. The State Bar is the first in the nation to require at least one of those hours cover the elimination of bias in the legal profession, and one of a handful of bars to require another hour on chemical dependency and alcohol abuse.

The State Bar offers educational programs through its 16 sections which focus on specialized fields of law. The bar's sections are: Antitrust & Trade Regulation; Business Law; Criminal Law; Environmental Law; Estate Planning Trust & Probate Law; Family Law; General Practice; Intellectual Property Law; International Law; Labor & Employment Law; Law Practice Management; Litigation; Public Law; Real Property Law; Taxation; and Workers' Compensation.

In 1992, the State Bar inaugurated a comprehensive weekend — the Section Education Institute, exclusively devoted to fulfilling MCLE education requirements. The institute — developed and presented by the State Bar's 16 sections — offers two institutes each year — one in the spring and the other in the fall; one in northern California and the other in the southern part of the state. Approved educational activities also are offered at the bar's Annual Meeting and other conferences throughout the year.

What is the public education campaign?

As part of its consumer education efforts, the State Bar produces numerous easy-to-understand pamphlets about everyday legal problems often encountered by the public. Several of these pamphlets are available in other languages. Consumers may obtain free copies on subjects such as divorce and custody, auto accidents and finding a lawyer, by sending the request with one self-addressed, stamped envelope for each pamphlet to: State Bar Pamphlets, 180 Howard St., San Francisco, CA 94105. Pamphlets are also on the State Bar's web site, www.calbar.ca.gov and can be reviewed in most public libraries

throughout the state.

Attorneys can order multiple copies of the pamphlets for use in their offices. Orders of 100 copies of a single pamphlet are \$40.

In addition to consumer education pamphlets, on its web site the State Bar also provides the public with a fill-in-the blank statutory will form so that Californians with simple estates can prepare their own wills. The will is easy to execute and legally binding.

How does the bar communicate with the public?

To keep the public informed about the bar, the legal profession and substantive developments in the law, the bar's Office of Media & Information issues e-briefs, news releases, conducts press conferences and produces background papers and public service announcements. The staff also assists reporters who want to learn more about State Bar issues and programs.

How do I obtain information about lawyers?

Information on any attorney in the state of California can be obtained on the bar's web site, www.calbar.ca.gov. In addition, information can be obtained through the Offices of Membership Records & Certification. All members of the State Bar, their addresses, telephone numbers, birth dates, educational backgrounds and any records of public discipline are on file and are considered public record. More general questions about the profession should be directed to the bar's Office of Media & Information Services (415/538-2283) or the American Bar Association (312/988-5000).

Does the bar evaluate judicial candidates?

Yes. State law requires California's governor to submit the name of each person nominated for a judgeship to the bar's Commission on Judicial Nominees Evaluation. The commission reviews the qualifications of each nominee and then makes a confidential recommendation to the governor.

What role does the bar play in providing legal services?

The term "pro bono" derives from "pro bono publico," a Latin phrase meaning "for the public good." To help State Bar members fulfill their professional obligation to provide legal service to indigent persons — which is reflected in the bar's stated goal of each member contributing 50 pro bono hours per year — the Office of Legal Services, Access & Fairness Programs helps local bar associations, legal service organizations and other groups develop pro bono programs and train lawyers to provide free and low-cost legal services to people who cannot afford to pay for counsel.

The Legal Services Trust Fund program was established by the Legislature in the early 1980s to provide money to help fund civil legal services for indigent Californians. The program is funded by interest-bearing demand trust accounts held by attorneys for their clients. In the past 18 years, more than \$230 million has been distributed to legal services programs serving the poor statewide.

Does the bar certify other services?

The bar's Board of Legal Specialization certifies more than 3,600 attorneys as legal specialists in one of eight fields: appellate; criminal; probate; estate planning, trust and probate; family; immigration and naturalization; personal & small business bankruptcy; taxation; and workers' compensation. A directory of certified legal specialists in California, which is resource for consumers and lawyers who are seeking specialized legal advice, is available on the State Bar's web site, www.calbar.ca.gov.

In addition to legal specialists, the State Bar's Office of Certification is responsible for certification in six other areas:

- *Foreign Legal Consultants
- *Law Corporations
- *Limited Liability Partnerships
- *Minimum Continuing Legal Education
- *Practical Training of Law Students
- *Pro Hac Vice (out-of-state attorneys who appear in California courts on particular cases)

How can new attorneys get more involved in the State Bar?

Membership in the California Young Lawyers Association (CYLA) is automatic for members who are 36 or under or have practiced law for less than six years. Through its publications and programs, CYLA offers many opportunities for young members to get a good start in the profession.

How can members participate in shaping State Bar policy?

Lawyers are encouraged each year to apply for approximately 200 open positions on more than 40 bar committees where they can volunteer their special skills and expertise. These entities include State Bar section executive committees, groups such as the Committee on Women in the Law and the Ethnic Minority Relations Committee, as well as a variety of State Bar standing committees and special committees, boards and commissions.

What role does the bar play in legislation?

Each year the State Bar sponsors legislation which, following the 1989 U.S. Supreme Court decision in *Keller v. State Bar of California*, may pertain only to regulating the legal profession or improving the quality of legal services. These bills are drafted by the bar's sections or committees or by the Conference of Delegates, representing local, minority and speciality bar associations.

The bar also reviews other law-related bills through its committees and sections that specialize in various areas of the law. The views of these sections and committees and the Board of Governors are communicated to legislators by the bar's Office of Governmental Affairs.

At the close of each legislative session, the bar also publishes an Annual Legislative Summary to help members understand the new laws which have been enacted that year by the legislature.

What is the Foundation of the State Bar?

In 1990, the State Bar sponsored the creation of the Foundation of the State Bar, a separate entity which provides scholarships and funding to a variety of organizations throughout the state whose projects help achieve the Foundation's goals. As one of its primary missions, the Foundation of the State Bar advances the public's understanding of the legal system and the role of attorneys in it.

The Foundation, which is supported by individual and corporate donations, also champions access to our system of justice by all people, and works to foster confidence in the rule of law, the role of lawyers and the function of the judicial system.

Recent generous contributions have enabled it to provide funding for a wide range of projects such as "Kids & the Law" and "When You Become 18," that help educate and enlighten the public about their legal rights and responsibilities.

The Mission of the State Bar:

Preserve and improve our justice system in order to assure a free and just society under the law.

Goals of the State Bar:

- *Assure full and equal access of all persons, regardless of circumstances, to the legal system and the delivery of quality legal services.
- *Assure that every lawyer in California is ethical, competent and professional.
- *Improve the administration of justice.
- * Respond to the public's need for information about law, lawyers and the legal system.
- *Assure the full and equal opportunity of all persons for entry into and advancement in the legal profession.
- *Maximize the accessibility to the governance of the legal profession for all lawyers and thus assure such governance is reflective of the full diversity of the profession.
- *Provide benefits, programs and services which promote professional growth and enhance the quality of life of the members.
- *Assure effective management of State Bar resources and operations.