



**THE STATE BAR INTER-OFFICE
OF CALIFORNIA COMMUNICATION**

DATE: October 22, 2003
TO: A. P. Diaz, Member, Board of Governors
FROM: Robert A. Hawley, Deputy Executive Director
SUBJECT: California Young Lawyers Association (CYLA)

INTRODUCTION

This responds to your request for historical information about the creation and authority of the California Young Lawyers Association (CYLA). I have assembled this from my preliminary review of the relevant statutory history and historical board minutes. I have not conducted an in- depth review of the files and other archived materials. Therefore, my statements below should not be taken as the definitive history. But they offer a good informal overview of CYLA's history and place in the institution.

HISTORICAL BACKGROUND

The State Bar's Conference of Barristers was created in 1965 by the State Bar's Board of Governors. It was governed by an Executive Council. The name was changed to the California Young Lawyers Association (CYLA) in 1977-78 when CYLA's membership on the State Bar's Board of Governors was effectuated through statutory amendment.

CYLA is a creature of Board action reflected in the Rules and Regulations of the State Bar of California, Article VIII. Like all sub-entities of the State Bar of California, its existence is totally dependent upon the action of the Board of Governors.

Unlike, the Sections, committees and other sub-entities of the State Bar, CYLA is a mandatory membership sub-entity. All qualified lawyers are mandated to belong to CYLA and receive this membership as part of the attorney licensing fee paid to the State Bar. As a result, CYLA is a general fund rather than a special fund sub-entity and benefits from the expenditure of mandatory licensing fees. However, as a mandatory membership and general fund sub-entity, CYLA is as limited in its use of mandatory licensing fees as is the State Bar of California. (See, *e.g.*, *Keller v. The State Bar of California* (1989) 47 Cal.3d 1152, 1161, (*rev'd* on other grounds *Keller v.*

The State Bar of California (1990) 496 U.S. 1, 110 S. Ct. 2228); *Brosterhous v. The State Bar of California* (1995) 12 Cal.4th 315, 321.)

In 1977-78, CYLA's representation on the State Bar's Board of Governors was formalized by the enactment of Business & Professions Code §6013.4. That section states that a member elected by the Board of Directors of CYLA will serve a one-year term on the Board of Governors. This was further facilitated by the adoption of Business & Professions Code Section 6013.1 in 1989. These statutes do not give CYLA any independent basis for its existence. CYLA is still entirely a creature of Board action under Article VIII of the Rules and Regulations. Sections 6013.4 and 6013.1 simply provide that to the extent CYLA exists, it is entitled to have direct representation on the Board of Governors through the one-year service of the CYLA board member selected for this purpose.

CYLA's presence on the State Bar Board of Governors occurred when then Governor Jerry Brown led the effort to reformulate the Board's membership. Between 1975 and 1979, then Governor Brown led a successful effort to diversify the Board of Governors by adding non-attorney (public) members who were appointed by the Governor and Legislature rather than elected by California attorneys. CYLA's representation on the Board was added by statutory amendment during this same period.

It was the 1977-78 addition of a CYLA member to the Board of Governors that precipitated the change in CYLA's name from the Conference of Barristers, the change of the Executive Council to the Board of Directors, and the election of the CYLA Board from among the mandatory membership of CYLA.

Attorney members of the State Bar's Board of Governors have to be elected. (Business & Professions Code Section 6013.5). Thus, the CYLA representative, as an attorney, has to be elected. Rather than having an at-large election for a qualified "young lawyer," CYLA sought and received the ability to have its own Board elected rather than appointed, then to elect from among CYLA's Board a representative to the State Bar's Board of Governors. Through this chain of elections, the CYLA representative is elected in conformity with statutory requirements.

THE GOVERNING AUTHORITIES

The State Bar of California is a public corporation created in the Judicial Branch of State government (Cal. Constitution Article VI, Section 9; Business & Professions Code §6001). All property of the State Bar is dedicated to public and governmental purposes in the Judicial Branch of State government. (Business & Professions Code §6008).

The State Bar may create through its Board of Governors, various sub-entity

committees, boards and commissions for various purposes, including CYLA. The State Bar's sub-entities have no legal existence independent of the State Bar and are subject to the ultimate control of the Board of Governors. The Rules and Regulations of the State Bar provide for the creation of CYLA in Article VIII.

Article IV of the Rules and Regulations provides that the sub-entities of the State Bar are subject to the supervision and control of the Board of Governors and have only such powers as have been conferred upon them by the Board of Governors. The powers of CYLA are defined in Article VIII and CYLA's bylaws and charter. Except by specific authorization of the Board of Governors, no sub-entity is authorized to act or speak on behalf of the State Bar with respect to any issue.

As no State Bar sub-entity has any legal existence or authority independent of the State Bar, no sub-entity may hold property or otherwise act separately from the State Bar. To the extent that a State Bar sub-entity creates or obtains any property (including voluntary funding), it is all held in the name of the State Bar for public purposes in the Judicial Branch of State government rather than by the entity itself. (Business & Professions Code § 6008).

The State Bar is ultimately governed by a Board of Governors, which is charged with the sole and exclusive executive functions of the State Bar. All power granted to the State Bar is exercised by action of the Board of Governors. (Business and Professions Code §6008.4, 6001, 6030.) In exercising the powers of the Board, Board members are public officials. The authority of the Board member is defined and limited by statute. The authority granted by statute is in the nature of a public trust. (*Chronicle Publishing Co. v. Superior Court* (1960) 54 Cal.2nd 548, 566; *Stanson v. Mott* (1976) 17 Cal.3rd 206, 213).

The State Bar, as a public corporation, and its sub-entities are created to perform public governmental functions. (*Keller v. the State Bar of California* (1989) 47 Cal.3rd 1152, 1162-63; *rev'd* on other grounds, *Keller v. the State Bar of California* (1990) 496 US 1, 110 S. Ct. 2228.)

As a part of its governmental functions, the State Bar is statutorily empowered to "aid in all matters pertaining to the advancement of the science and jurisprudence and the improvement of the administration of justice...." (Business and Professions Code §6001(a)). The State Bar is authorized to do "all acts necessary or expedient for the administration of its affairs and the attainment of its purposes." (Business and Professions Code § 6001(g); *Keller vs the State Bar of California*, 47 Cal 3rd at 1163.) Among the public purposes of the State Bar, in this regard, is the establishment by the Board of Governors of sub-entities open to members of the Bar which advise the Board of Governors in those areas. CYLA is such an entity.

Thus, those who serve the Board as members of the State Bar's various sub-entities, do so as public officials with the duty to the Board to exercise the authority granted them by the Board in conformity with the public's trust.

CONCLUSION

I trust the above is of some assistance to you.