

MEMORANDUM

TO: Chief Justice Mary Fairhurst and Dory Nicpon
FROM: Felicia Craick and David Moon, Law Clerks
DATE: May 20, 2019
RE: Bar Structures

You have asked us to research different bar structures across the country. Specifically, you asked us to (1) define the terms “mandatory,” “integrated,” and “voluntary;” (2) look at three states with two separate bar associations; and (3) prepare summaries of representative bar associations that use different models. From talking to Paula Littlewood’s contact in Michigan, we have learned that each organization may be unique and that there may not be a representative example of each model. However, we have prepared summaries for the states you have requested: Washington, California, Virginia, Illinois, Nebraska, and Michigan.

We should also make clear that all of this information is gathered from what is publicly available, primarily from bar association and state supreme court websites. Given the recent concerns about the constitutionality of traditional bar associations, it is possible that some of the information on these websites is outdated.

I. DEFINITIONS

There appear to be two main types of bar associations: mandatory and voluntary. In a mandatory model, all attorneys must be members of the bar association. In a voluntary model, attorneys usually must pay licensing fees to the state supreme court, but can choose whether or not to join the bar association. Some mandatory bar associations are also integrated. An integrated bar combines regulatory elements (e.g., licensing, discipline, MCLE compliance monitoring) and associational elements (e.g., educational programming, legislative advocacy) into one organization.

II. TWO BAR STATES

There are three states with a “two bar” model: Virginia, West Virginia, and North Carolina. Each of these states has two separate organizations serving attorneys—a mandatory “state bar” and a voluntary “bar association.”

The mandatory organizations generally handle at least attorney discipline, if not also licensing, diversity and inclusion, access to justice, and committees and commissions. The mandatory bars of Virginia and West Virginia also appear to have associational components. The voluntary organizations generally have sections of attorneys in similar types of practice or stages of their careers, if not also charitable foundations, continuing legal education programs, and legislative advocacy.

The voluntary organizations in these states are all purely associational and are not involved in discipline or regulation. But the mandatory organizations in Virginia and West Virginia also have some associational components. For example, the Virginia State Bar enforces the Rules of Professional Conduct, regulates MCLE completion, promotes access to justice, and advances diversity and inclusion. But both the Virginia Bar Association and the Virginia State Bar have sections and committees. The difference between these types of sections may be the degree to which they engage in direct legislative advocacy, with only the voluntary Virginia Bar Association lobbying the legislature directly. Neither of these organizations handle licensing. Instead, a third organization licenses attorneys—the Virginia Board of Bar Examiners (an agency of the Virginia Supreme Court)—and a fourth manages complaints against judges—the Judicial Inquiry and Review Commission (a constitutionally created entity). The state bar and the bar association do work together in some areas, including to run the Committee on Alternative Dispute Resolution, the Virginia Law Foundation charitable organization, and the Virginia Law Foundation Committee on Continuing Legal Education.

Similarly, the West Virginia Bar Association is a small organization with 7 divisions, presumably run as sections. But the West Virginia State Bar also has 31 groups for different areas of law, called committees. It is unclear what the difference is between the committees under the state bar and the divisions under the bar association. As in Virginia, the Board of Bar Examiners is a different entity under the West Virginia judiciary.

However, North Carolina seems to have a clearer division of functions between the mandatory and voluntary organizations. The mandatory North Carolina State Bar, which is a legislatively created government agency, does not have the same association components as the state bars of Virginia and West Virginia. The voluntary North Carolina Bar Association runs 31 sections, a variety of divisions and committees, and hosts CLEs. The mandatory state bar, on the other hand, handles lawyer discipline, adopts the code of ethics for lawyers, counsels lawyers on how to follow the Rules of Professional Conduct, resolves fee disputes between

lawyers and clients, prevents the practice of law by people who are not licensed, compensates clients who were the victims of lawyer theft, and works to advance the administration of justice. The state bar also hosts CLEs and certifies attorneys as specialists in different areas of law so that they may advertise themselves as such under the Rules of Professional Conduct. In order to become a specialist, an attorney must be a licensed North Carolina attorney in good standing, have substantial involvement in the specialty field for the past five years, have completed a minimum number of CLE credit hours in that field over the past three years, have satisfactory peer reviews, and pass a six hour examination in the specialty field. Once an attorney has become a specialist, they are given access to a media kit of promotional items, are listed in the specialization directory, have a profile available online, and receive a monthly newsletter of the specialist program. The state bar states that this certification brings identification and camaraderie with others committed to the same field, so it may function like a section in this respect. Attorneys can be certified as specialists in 14 fields: Appellate Practice; Bankruptcy Law; Criminal Law; Elder Law; Estate Planning and Probate Law; Family Law; Immigration Law; Juvenile Delinquency Law; Privacy and Information Security Law; Real Property Law; Social Security Law; Trademark Law; Utilities Law; and Workers' Compensation Law. At least 10 of these specialties also have sections in the North Carolina Bar Association. Like the other two states, a different organization handles licensing. North Carolina also has separate Supreme Court Commissions. The relationship between the supreme courts of these states and each committee, board, or commission is not entirely clear from their websites.

On the next page, we will provide summaries of each of the states you asked us to look at.

Washington (mandatory, integrated model)

III. SUMMARIES OF STATES: EXAMPLES OF DIFFERENT STRUCTURES

A. **Washington** (mandatory, integrated model)

<i>Name of Organization:</i>	Washington State Bar Association
<i>Nature of the Association:</i>	Mandatory
<i>Year of Establishment:</i>	1888
<i>Present Size:</i>	40,189 (32,415 active)
<i>Structure of Leadership:</i>	Board of Governors
<i>Regulatory Functions:</i>	Administers everything from admissions and licensing, to discipline, to CLE regulation
<i>Sections:</i>	Yes – 29 of them
<i>Diversity and Inclusion:</i>	Diversity Department
<i>Access to Justice:</i>	Separate Access to Justice Board reports to the Bar and the Court
<i>Lobbying and Keller:</i>	Can take a <i>Keller</i> deduction and lobbies the legislature

The **Washington State Bar Association** (WSBA) is a mandatory, integrated organization. It was founded as a voluntary organization in 1888, but became mandatory in 1933 under the State Bar Act. The WSBA has 40,189 total members, 32,415 of whom are active.¹ All licensed attorneys are members of the WSBA.

The WSBA is governed by a Board of Governors. The Board consists of the president, president-elect, immediate past president, members elected from each Congressional District, and three at-large positions. The Board of Governors elects the president-elect of the Bar and selects the executive director.

The WSBA administers the bar, provides record-keeping and licensing functions, administers the professional discipline system, and provides CLE, networking opportunities, and other educational and member services.

There are 29 sections: Administrative Law; Alternative Dispute Resolution; Animal Law; Antitrust, Consumer Protection and Unfair Business Practices; Business Law; Cannabis Law; Civil Rights Law; Construction; Corporate Counsel; Creditor Debtor Rights; Criminal Law; Elder Law; Environmental and Land Use Law; Family Law;

¹ In 2017, the American Bar Association (ABA) reported that there were 25,786 active resident attorneys in Washington State.

Washington (mandatory, integrated model)

Health Law; Indian Law; Intellectual Property; International Practice; Juvenile Law; Labor and Employment Law; Legal Assistance to Military Personnel; Lesbian, Gay, Bisexual, Transgender Law; Litigation; Pro Bono; Real Property Probate and Trust; Senior Lawyers; Solo and Small Practice; Taxation; and World Peace Through Law.

The WSBA has created 10 committees: Committee on Professional Ethics, Continuing Legal Education Committee, Council on Public Defense, Court Rules & Procedures Committee, Editorial Advisory Committee, Judicial Recommendation Committee, Legislative Review Committee, Pro Bono and Public Service Committee, Washington Young Lawyers Committee, and WSBA Diversity Committee. The WSBA also runs regulatory boards and panels, which were created by court rule. These are: Adjunct Disciplinary Counsel, Board of Bar Examiners, Character and Fitness Board, Client Protection Board, and Law Clerk Board. Finally, the WSBA administers Supreme Court boards and panels. These are: Disciplinary Board, Disciplinary Selection Panel, Limited License Legal Technician Board, Limited Practice Board, Mandatory Continuing Legal Education Board, and Practice of Law Board.

The following commissions and boards operate under the Supreme Court: Washington Court Reports Commission, Gender and Justice Commission, Commission on Children in Foster Care, Interpreter Commission, Minority and Justice Commission, Board for Judicial Administration, Access to Justice Board, and Certified Professional Guardian Board.

The WSBA has a diversity department which runs programs such as the Experience Exchange breakfast, WSBA community networking events, free CLEs through the Legal Lunchbox program, the Beyond the Dialogue community discussions which support understanding and connecting of diversity related issues to the work of legal professionals, 1L diversity fellowships, and a reception for students in the Academic Resource Center at Seattle University School of Law, which serves promising students who are disadvantaged or have disabilities.

The WSBA's website provides links to agencies who assist with referrals. It also administers the Access to Justice Board, which operates under the Supreme Court.

Finally, the WSBA has a legislative program, which reviews internal legislative proposals and makes recommendations for sponsorship or support to the WSBA Board of Governors. This role is limited by court rule, but includes both seeking passage of bar-request legislation and also providing input on legislation introduced by others.

California (recently revised model)

C. California (recently revised model)

<i>Name of Organization:</i>	California Lawyers Association	State Bar of California
<i>Nature of the Association:</i>	Voluntary	Mandatory
<i>Year of Establishment:</i>	2018	1927
<i>Present Size:</i>	Approximately 100,000	More than 266,000 (190,000 active)
<i>Structure of Leadership:</i>	Board of Directors	Board of Trustees
<i>Regulatory Functions:</i>	None	Licenses attorneys and regulates the profession and practice of law in California, disciplines attorneys who violate rules and laws, and administers the bar exam
<i>Sections:</i>	Yes – 16 of them	No
<i>Diversity and Inclusion:</i>	No specific role	Council on Access and Fairness
<i>Access to Justice:</i>	No specific role	Commission on Access to Justice
<i>Lobbying and Keller:</i>	No apparent <i>Keller</i> deduction. Has a legislative program and sections can originate legislation	Has a <i>Keller</i> deduction. Has a legislative program which monitors legislative activity and represents and advocates for the State Bar on legislative, policy, and budget matters before the legislature and governor.

The **California Lawyers Association** (CLA) is a voluntary organization created in 2018 when the sections split off from the rest of the bar. It has approximately 100,000 members. In 2017, the ABA reported that California had 168,746 active resident attorneys, meaning that approximately 60 percent of active resident attorneys are members of this voluntary organization. However, because the CLA is simply the sections that used to be part of the mandatory bar and sections members of the mandatory bar automatically became members of the CLA in 2018 when the split occurred, it is unclear whether the CLA will retain this percentage of membership going forward.

California (recently revised model)

The CLA is governed by a Board of Directors with one representative from each section. The sections are split into two equally numbered groups. The incumbent Board elects the representatives, electing the representatives of each section in group 1 in even-number years and the representatives of each section in group 2 in odd-numbered years. The corporate officers are also elected by the Board. The Chair, Vice Chair, Secretary, and Treasurer are elected from among the incumbent representatives. The President, Vice President, Executive Director, and Chief Financial Officer cannot serve concurrently as representatives. The Chair, Vice Chair, Secretary, and Treasurer are elected annually and the President and Vice President are elected every two years in odd-numbered years.

The CLA is focused on creating a community for lawyers in the same practice area by hosting educational programs, publications, and events. There are 16 sections, each governed by an executive committee of appointed members: Antitrust, UCL and Privacy; Business Law; Criminal Law; Environmental Law; Family Law; Intellectual Property Law; International Law; Labor and Employment Law; Law Practice Management and Technology; Litigation; Public Law; Real Property Law; Solo and Small Firm; Taxation; Trusts and Estates; and Workers' Compensation Law. The CLA also houses the California Young Lawyers Association for members within their first 8 years of practice.

The organization as a whole does not appear to have specific diversity programming or access to justice goals, other than what the sections choose to do on their own.

The CLA can directly communicate with the legislature and runs a legislative program that can lobby for legislation that the sections originate. The CLA also recommends positions on pending legislation and comments on administrative regulations and court rules.

The **State Bar of California** (SBC) is a mandatory organization created in 1927. It assumed its current form in 2018 after the sections split off from the rest of the bar. It has more than 266,000 total members, 190,000 of which are active.

It is governed by a 13 member Board of Trustees. The Board is comprised of five attorneys appointed by the California Supreme Court, who serve four-year terms; two attorneys appointed by the Legislature, one by the Senate Committee on Rules and one by the Speaker of the Assembly; and six non-attorney members, four appointed by the Governor, one by the Senate Committee on Rules and one by the Speaker of the Assembly.

California (recently revised model)

The SBC licenses attorneys and regulates the profession and practice of law in California, disciplines attorneys who violate rules and laws, administers the California Bar Exam, advances access to justice, and promotes diversity and inclusion in the legal system.

The SBC runs 13 committees and commissions: California Attorney Practice Analysis Working Group, California Board of Legal Specialization, California Commission on Access to Justice, Client Security Fund Commission, Committee of Bar Examiners, Council on Access and Fairness, Commission for the Revision of the Rules of Professional Conduct, Commission on Judicial Nominees Evaluation, Committee on Professional Responsibility and Conduct, Lawyer Assistance Program Oversight Committee, Legal Services Trust Fund Commission, Legal Specialization Advisory Law Commissions, Malpractice Insurance Working Group, and Task Force on Access Through Innovation of Legal Services.

The California Supreme Court runs a Commission on the Future of California's Court System. This commission reports to the Chief Justice of the California Supreme Court. The Chief Justice also sits on a Commission on Judicial Appointments that vets judicial candidates. Independently, there is a Commission on Judicial Performance that handles complaints against judges.

A Council on Access and Fairness (COAF) supports the SBC's diversity and inclusion goals, which include: pipeline to the legal profession, retention and career advancement, and judicial diversity. COAF consists of judges, lawyers, and laypersons from diverse practice settings and constituencies. The SBC focuses on diversity in race, ethnicity, gender, gender identity, disability, sexual orientation, and veteran status. All attorneys are asked to fill out a demographic survey. The Commission of Judicial Nominees Evaluation also prepares yearly demographic reports on the candidates it has reviewed for appointment by the governor.

The Commission on Access to Justice is comprised of lawyers and judges, as well as academic, business, labor, and community leaders. The commission helped establish a \$10 million Equal Access Fund for civil legal services for low-income individuals.

California (recently revised model)

Finally, the SBC has a legislative program in charge of monitoring legislative activity and representing and advocating for the SBC on legislative, policy and budget matters. The SBC focuses on laws designed to enhance the ethical and competent practice of law, the ability to effectively license and regulate lawyers and provide fair, just, and appropriate discipline of attorneys, and promote access to justice.

Virginia (two bar model)

C. **Virginia** (two bar model)

<i>Name of Organization:</i>	Virginia Bar Association	Virginia State Bar
<i>Nature of the Association:</i>	Voluntary	Mandatory
<i>Year of Establishment:</i>	1888	1938
<i>Present Size:</i>	Approximately 4,700	Approximately 51,000 total members (32,000 active)
<i>Structure of Leadership:</i>	Board of Governors	Bicameral - Counsel and Executive Committee
<i>Regulatory Functions:</i>	None	Enforces rules and regulations of the profession, disciplines lawyers, and regulates MCLE completion. Does not license attorneys or assess complaints against judges
<i>Sections:</i>	Yes – 19 of them	Yes – 20 of them
<i>Diversity and Inclusion:</i>	No specific program	Diversity Conference
<i>Access to Justice:</i>	No specific program	Access to Legal Services Committee
<i>Lobbying and Keller:</i>	No apparent <i>Keller</i> deduction. Publishes a list of legislative proposals and lobbies for them.	No apparent <i>Keller</i> deduction. Unclear what lobbying it does, if any.

The **Virginia Bar Association** (VBA) is a voluntary organization. It was formed in 1888 and currently consists of approximately 4,700 attorneys. In 2017, the ABA reported that there were 24,249 active resident attorneys in Virginia. Hence, roughly 19 percent of active resident Virginia attorneys have chosen to join the voluntary bar organization.

The VBA is governed by a Board of Governors. The Governors are elected to three year terms. There is an executive committee and members from the different divisions, different regions of the state, and at-large members. They elect a chair from among themselves. The chair must be elected, not appointed, and cannot be one of the four officers. The Board may appoint four representatives to one-year

Virginia (two bar model)

terms to represent the judiciary, the state's law schools, lawyer-legislators, and government attorneys.

The VBA's main purpose appears to be associational. It states that it aims to improve the law by promoting legislative changes, expand attorney proficiency through continuing education, serve the community and increase access to justice, and provide opportunities for attorneys to engage with their colleagues through sections and divisions. It is not involved in discipline or licensing. It also created an insurance agency, the Virginia Barristers Alliance, Inc., which is a wholly owned subsidiary of the VBA.

There are 19 sections of the VBA: Administrative Law; Appellate Practice; Bankruptcy; Business Law; Civil Litigation; Construction and Public Contracts Law; Corporate Counsel; Criminal Law; Domestic Relations; Elder Law and Special Needs; Environment, Natural Resources, and Energy; Health Law; Intellectual Property and Information Technology Law; Joint Alternative Dispute Resolution Committee (of the VBA and VSB); Judicial; Labor and Employment; Real Estate; Taxation; Transportation; and Wills, Trusts and Estates. These sections serve as a way to connect practitioners, propose statutory changes to the law, present at statewide meetings, hold CLEs, and host conferences and seminars about practice trends.

The VBA also has 7 committees: Commission on the Needs of Children; Federal Judgeships/Eastern District; Federal Judgeships/Western District; Judiciary Committee; Nominations to Virginia Commissions and Appellate Courts; Committee on Special Issues of National and State Importance; and Virginia Family Law Coalition. Committee chairs are appointed by the president of the VBA. Committee members also are appointed by the president on recommendation of the committee chair. There are also 2 divisions: the Law Practice Management Division and the Young Lawyers Division. All members belong to the Law Practice Management Division. The Young Lawyers Division encompasses lawyers age 37 and younger, or in their first three years of practice regardless of age. The organization also runs a charitable foundation and solicits sponsorships.

The VBA does not appear to have specific organizations devoted to diversity, although it has stated that it wishes to promote diversity and has previously hosted a diversity job fair. The VBA sponsors charitable works, such as by holding food drives, by providing information to the community about how laws affect special education services in the community, and by publishing a guide to the administration of a decedent's estate. The sections and divisions engage in some access to justice

Virginia (two bar model)

efforts on their own. For example, the Young Lawyers Division coordinates lawyer volunteers to provide pro bono legal advice over the telephone on certain evenings.

The VBA engages in legislative advocacy on a broad range of proposals, such as advocating for funding more judgeships and for increasing the threshold for grand larceny. The sections and committees discuss proposals they receive from membership and other bar organizations and make suggestions to the Board of Governors. The VBA also holds debates for candidates for statewide office.

The **Virginia State Bar** (VSB) is a mandatory organization. It is an administrative agency of the Supreme Court of Virginia. It was created in 1938 and has approximately 51,000 total members, approximately 32,000 of whom are active.

The VSB has a bicameral governance structure comprised of a council and an executive committee, whose members are elected or appointed from each judicial circuit. The bar council is an 81-person body, consisting of 65 lawyers elected from the 31 judicial circuits, as well as nine at-large members appointed by the Supreme Court of Virginia, four conference chairs, and three officers.

The duties of the organization are to enforce rules and regulations of the profession, discipline lawyers, regulate MCLE completion, promote access to legal services, and advance diversity and inclusion in the legal profession. The court system in Virginia also has three other judicial branch agencies. These are the Judicial Inquiry and Review Commission, which investigates complaints against judges, the Virginia Board of Bar Examiners, which administers the bar and ascertains the qualifications of applicants, and the Virginia Criminal Sentencing Commission, which is in charge of the sentencing guidelines.

The VSB has 20 sections: Administrative Law; Antitrust, Franchise, and Trade Regulation; Bankruptcy Law; Business Law; Construction Law and Public Contracts; Corporate Counsel; Criminal Law; Education of Lawyers; Environmental Law; Family Law; General Practice; Health Law; Intellectual Property Law; International Practice; Litigation; Local Government Law; Military Law; Real Property; Taxation; and Trusts and Estates. These sections bring communities of lawyers together and allow them to communicate with the VSB. The sections sponsor legal education programs for their members, host conferences, and publish newsletters. The family law section reportedly provides information to the Virginia Legislature on request, but it appears as though the sections do not engage in direct legislative advocacy.

Virginia (two bar model)

The VSB has standing committees on Budget and Finance, Lawyer Discipline, Legal Ethics, and Professionalism; special committees on Access to Legal Services, Bench - Bar Relations, Better Annual Meeting, Future of Law Practice, Judicial Candidate Evaluation, Lawyer Insurance, Lawyer Referral, Resolution of Fee Disputes, Technology and the Practice of Law; and works with the VBA on the Joint Committee on Alternative Dispute Resolution, the Virginia Law Foundation, and the Virginia Law Foundation Committee on CLE. The VSB also has three boards: Clients' Protection Fund, Disciplinary Board, and Mandatory Continuing Legal Education. Finally, the organization has 17 disciplinary committees who review bar complaints from their own jurisdictions and determine whether there is sufficient evidence of a violation of the Rules of Professional Conduct and, if so, what the appropriate disposition on the complaint is.

The Virginia Supreme Court administers organizations such as the Judicial Ethics Advisory Committee, Judicial Performance Evaluation, and Judicial Settlement Conference (a form of alternative dispute resolution). The court has also previously had commissions and studies done on mental health law reform, judicial boundary realignment, pandemic flu preparedness, lawyer well-being, and judicial workload.

The VSB has a Diversity Conference that was established in 2010 to bring together members interested in promoting diversity and inclusion in the legal profession. This conference sponsors deserving law students to attend the VSB's annual meeting, holds a diversity golf tournament, sponsors a pre-law institutes, helps run a students' day at the capitol, contributes to a bench-bar dinner, has met with representatives of the Black Land Trust, and publishes a newsletter.

The VSB has a webpage collecting resources on access to justice matters as well as a special committee on Access to Legal Services. This committee promotes pro bono services by Virginia lawyers and encourages contributions from law school faculty and students, lay mediators, court reporters, interpreters, tax accountants, paralegals, and members of related professions. The VSB works with the judiciary, voluntary bar associations, the Public Defender Commission, and the licensed legal aid societies to help local groups identify and address areas of emerging need, redundancies, or gaps in service or information.

The VSB does have a legislative policy director, but because the VSB is a state agency, it does not appear to engage in legislative advocacy. It is unclear what the policy director does.

Illinois (voluntary model)

D. Illinois (voluntary model)

<i>Name of Organization:</i>	Illinois State Bar Association
<i>Nature of the Association:</i>	Voluntary
<i>Year of Establishment:</i>	1877
<i>Present Size:</i>	28,000
<i>Structure of Leadership:</i>	Bicameral – Board of Governors and Assembly (both elected)
<i>Regulatory Functions:</i>	None
<i>Sections:</i>	Yes – 42 of them
<i>Diversity and Inclusion:</i>	Diversity Leadership Council
<i>Access to Justice:</i>	Illinois Bar Foundation
<i>Lobbying and Keller:</i>	Drafts and supports state legislation important to the profession and the public; adopts positions on federal legislation that affects the legal profession and the administration of justice

The **Illinois State Bar Association** (ISBA) is a voluntary organization. It was founded in 1877 and currently has approximately 28,000 members. In 2017, the ABA reported that there were 62,782 active resident attorneys. Hence, roughly 45 percent of active resident Illinois attorneys have chosen to join the voluntary bar organization.

ISBA governance is bicameral. An elected, 203 member Assembly is the supreme policy making body of the ISBA. An elected, 27 member Board of Governors oversees ISBA operations and management, subject to the policies set by the Assembly.

The ISBA offers free and paid CLE programming, practice handbooks, a trade publication, a blog, free legal research through Fastcase, and other networking and educational opportunities.

There are 42 sections. In addition to sponsoring CLE programs and publishing newsletters, the sections review proposed legislation that may affect their members' practice area. The drafting and supporting of legislation is overseen by a Legislative Affairs Department that consists of a director and two administrative assistants.

Illinois (voluntary model)

The ISBA also owns the ISBA Mutual Insurance Company, a professional liability insurance company that operates alongside private insurers for the benefit of ISBA members.

Regulatory functions are carried out by commissions and committees of the Illinois Supreme Court. Principal among these is the Illinois Attorney Registration and Disciplinary Commission (IARDC), which includes both lawyer and nonlawyer members. The IARDC administers lawyer registration and collects mandatory fees, oversees attorney discipline, and administers a client protection program. The mandatory fees include line item allocations for the Lawyers Trust Fund, the Lawyers Assistance Program, the Commission on Professionalism, and the Client Protection Program. Other relevant supreme court commissions include the Board of Admissions to the Bar (which oversees the process of admitting law school graduates to the practice of law), the Committee on Character and Fitness, the Committee on Professional Responsibility, the Minimum Continuing Legal Education Board, and the Supreme Court Commission on Professionalism. The court also appoints the board of directors for the Lawyers' Assistance Program.

Both the ISBA and the Illinois Supreme Court are involved in diversity and inclusion efforts. The ISBA's Diversity Leadership Council serves as an umbrella to coordinate, support, acknowledge, and evaluate ISBA diversity and inclusion efforts. The IARDC has a diversity and inclusion initiative. Similarly, both the ISBA and the Illinois Supreme Court administer access to justice programs. The ISBA includes a charitable arm, the Illinois Bar Foundation, which administers access to justice grants, fellowships, and funds. The Illinois Supreme Court Commission on Access to Justice works with courts, nonprofits, the private bar, and other stakeholders to expand access to justice for unrepresented and vulnerable litigants.

There is also an Illinois Institute for Continuing Legal Education that offers comprehensive CLE programming and practice handbooks. This was originally created by the ISBA, but is now an independent, not-for-profit 501(c)(3) corporation.

Nebraska (hybrid model)

E. Nebraska (hybrid model)

<i>Name of Organization:</i>	Nebraska State Bar Association
<i>Nature of the Association:</i>	Hybrid
<i>Year of Establishment:</i>	Founded as a voluntary bar in 1899; integrated by order of the Nebraska Supreme Court in 1937; restructured by order of the court in 2014
<i>Present Size:</i>	12,300
<i>Structure of Leadership:</i>	Bicameral – House of Delegates (elected & ex-officio) and Executive Council (elected)
<i>Regulatory Functions:</i>	None
<i>Sections:</i>	Yes – 33 of them
<i>Diversity and Inclusion:</i>	No specific program
<i>Access to Justice:</i>	Nebraska Lawyers Foundation
<i>Lobbying and Keller:</i>	Engages in legislative advocacy; offers <i>Keller</i> deduction

The **Nebraska State Bar Association** (NSBA) is a “hybrid” bar organization. By court rule, the NSBA consists of all persons who are admitted to practice law in the state, subject to compliance with requirements for membership (payment of dues, MCLE compliance, etc.). The Nebraska Supreme Court collects mandatory dues. Attorneys may choose to pay additional voluntary dues directly to the NSBA. We have been unable to determine what percentage of NSBA members elect to pay voluntary dues.

For most of the twentieth century, the NSBA was an integrated bar association. On December 6, 2013, the Nebraska Supreme Court ruled that the NSBA had 25 days to transition from a mandatory bar to a voluntary one. The court took over regulatory functions and mandatory dues assessment, and the current hybrid structure resulted. The structural change resulted in a reduction of staff size from 19 (in 2013) to 13 (presently), and a 25 percent budget reduction (as of 2017). There are currently approximately 12,300 members of the NSBA. In 2017, the ABA reported that there were 5,545 resident active attorneys in Nebraska.

NSBA governance is bicameral. A 104 member House of Delegates (House) determines the policies and objectives of the NSBA. The House has 97 elected and 7 ex-officio members. A smaller, elected Executive Council (Council) serves as the

Nebraska (hybrid model)

administrative and executive organ of the NSBA. NSBA members may serve in elected positions without paying the NSBA's voluntary dues. As a result, it is possible for a member of the NSBA government to make decisions about the policies, activities, and benefits available to voluntary-dues-paying members, even if that person has not personally paid voluntary dues.

For its voluntary dues-paying members, the NSBA offers free and discounted CLE programming; a trade publication; for-purchase deskbooks; access to an online library of legal forms, publications, seminar materials, and videos; free legal research through Casemaker; and other networking and educational opportunities.

The NSBA operates a legislative program that monitors proposed legislation and engages in legislative advocacy. Members may opt to take a *Keller* deduction from their voluntary dues if they do not wish to support lobbying activities. The NSBA takes official positions on proposed legislation through the House and Council. Once again, note that it is possible for a House or Council member who has not paid voluntary dues (or has taken a *Keller* deduction from their voluntary dues) to influence the NSBA's legislative activities.

Regulatory functions are carried out by the Attorney Services Division (ASD) of the Nebraska Supreme Court. In addition to collecting mandatory dues, the ASD includes the Nebraska State Bar Commission (which oversees admissions), the office of Counsel for Discipline (which investigates and prosecutes disciplinary proceedings), and the MCLE Commission (which monitors MCLE compliance).

The NSBA oversees the Nebraska Lawyers Foundation, which solicits donations to fund a volunteer lawyers project, a lawyers assistance program, a rural practice initiative, an LSAT prep scholarship for historically underrepresented students, and other programs. The Nebraska Supreme Court appoints members to an Access to Justice Commission that is unaffiliated with the NSBA.

Michigan (mandatory, nonintegrated model)

F. Michigan (mandatory, nonintegrated model)

<i>Name of Organization:</i>	State Bar of Michigan
<i>Nature of the Association:</i>	Mandatory
<i>Year of Establishment:</i>	1935 (Representative Assembly was added in 1971)
<i>Present Size:</i>	40,000
<i>Structure of Leadership:</i>	Bicameral – Board of Commissioners (elected/appointed) and Representative Assembly (elected)
<i>Regulatory Functions:</i>	None (but does undertake character and fitness review)
<i>Sections:</i>	Yes – 44 of them
<i>Diversity and Inclusion:</i>	Diversity and Inclusion Advisory Committee
<i>Access to Justice:</i>	Access to Justice Campaign
<i>Lobbying and Keller:</i>	Mandatory bar dues may only fund ideological activity reasonably related to regulation of the profession; voluntary section dues may fund other ideological activity

The **State Bar of Michigan** (SBM) is a mandatory bar association. The SBM was created in 1935 by the promulgation of rules by the Michigan Supreme Court. The SBM is a public body corporate and has approximately 40,000 members.²

SBM governance is bicameral. A 150 member Representative Assembly (Assembly) is the final policy-making body of the SBM. The Assembly consists of 142 elected representatives and 8 representatives from the Board of Commissioners (Board). The 31 member Board implements policies adopted by the Assembly and establishes policy between Assembly meetings not inconsistent with prior Assembly action. The Board consists of 20 elected members, 5 members appointed by the Michigan Supreme Court, and 6 ex-officio members. The Board appoints an Executive Director who oversees the staff and day-to-day operations of the SBM.

The SBM offers a trade publication, a podcast, an ethics helpline for attorneys, a lawyer referral service for members of the public, and other networking and educational opportunities. Along with Michigan law schools, the SBM cosponsors

² In 2017, the ABA reported that Michigan had 35,236 active resident attorneys.

Michigan (mandatory, nonintegrated model)

the Institute of Continuing Legal Education, the primary provider of CLE content in Michigan. There is no MCLE requirement for Michigan attorneys.

The SBM monitors proposed legislation, court rules, and administrative orders. In response to *Keller*, the Michigan Supreme Court issued an administrative order that prohibits the SBM from using mandatory dues “to fund the activities of an ideological nature that are not reasonably related to: (A) the regulation and discipline of attorneys; (B) the improvement of the functioning of the courts; (C) the availability of legal services to society; (D) the regulation of attorney trust accounts; and (E) the regulation of the legal profession, including the education, the ethics, the competency, and the integrity of the profession.” Admin. Order 2004-01. The SBM does adopt and sometimes directly advocate for positions regarding policies that are reasonably related to these subjects. The order also permits use of mandatory dues “review and analyze pending legislation” and “provide content-neutral technical assistance to legislators.” *Id.* Finally, the order exempts sections of the SBM that are funded by voluntary dues, which can and do engage in ideological activities (e.g., legislative advocacy) that are unrelated to the above enumerated categories. *Id.*

The admissions process is administered by the State Board of Law Examiners (BLE), an entity created by the Michigan legislature. BLE members are nominated by the state supreme court and appointed by the governor. The SBM undertakes character and fitness investigations and makes recommendations to the BLE.

The Michigan Supreme Court oversees attorney discipline through an Attorney Grievance Commission (which investigates and prosecutes discipline cases) and an Attorney Discipline Board (which adjudicates trial-level disciplinary proceedings).

The SBM has a Diversity and Inclusion Advisory Committee that may include non-SBM members. The SBM also runs an access to justice campaign that solicits contributions to fund civil legal aid programs.