

**BOARD OF BAR COMMISSIONERS
February 22, 2019 MEETING MINUTES
State Bar Center, Albuquerque, NM**

MEMBERS PRESENT:	Erin M. Atkins Aja N. Brooks Ernestina R. Cruz Gerald G. Dixon Judge Kevin L. Fitzwater (ret.) Parker B. Folse Mick I. R. Gutierrez Jared G. Kallunki David P. Lutz Carla C. Martinez	Clara Moran Wesley O. Pool (phone) Susan E. Page Lynette Rocheleau Sonia R. Russo Joseph F. Sawyer Benjamin I. Sherman Constance G. Tatham (phone) Carolyn A. Wolf
MEMBERS ABSENT:	Joshua A. Allison Elizabeth J. Travis	
STAFF PRESENT:	Kris Becker Evann Kleinschmidt David Powell	Stormy Ralstin Richard Spinello
OTHERS PRESENT:	Bobbie Batley Ian Bezpalko Stefan Chacon	Liz McGrath Rosalyn Nguyen

I. CALL TO ORDER

A. Welcome and Introductions

President Dixon welcomed everyone and introductions were made.

B. Approval of December 13, 2018 Meeting Minutes

Commissioner Gutierrez made a motion to approve the December 13, 2018 meeting minutes as submitted; the motion was seconded and it passed.

C. Swearing-in of New Commissioners

Senior Justice Barbara J. Vigil attended the meeting to swear-in the new commissioners as follows:

Parker B. Folse, Sixth Bar Commissioner District
Susan E. Page, 2019 Senior Lawyers Division Delegate
Lynette Rocheleau, 2019 Paralegal Division Liaison
Sonia R. Russo, 2019 Young Lawyers Division Chair

II. STRATEGIC PLANNING

A. Bar Commissioner Districts Annual Events

President Dixon reported that the State Bar cosponsored an event in Las Cruces in November. It was noted that members commented, "it was the first time the State Bar came to Las Cruces." While bar commissioners represent districts statewide, in an effort to provide more outreach, \$500 will be allocated

to each bar commissioner district to plan an event. We will continue to budget for this outreach effort annually. Member Services Program Manager Breanna Henley will assist with the coordination of these events and will provide commissioners with a calendar of the events already scheduled for the year.

B. Supreme Court Board / Committee / Commission Liaison Rule Discussion

Executive Director Richard Spinello reported that we have had discussions with Chief Justice Nakamura about giving liaisons voting authority. The Board discussed the fact that each board, committee and commission operates differently with some allowing full participation by liaisons and some not allowing them to vote. Commissioner Sawyer suggested splitting them up into the ones where we need representation and ones where we don't. President Dixon suggested referring it to the Policy and Bylaws Committee for further scrutiny and to consider what interests liaisons are or should be serving. Following discussion, Commissioner Kallunki made a motion to refer it to the Policy and Bylaws Committee; the motion was seconded and it passed. Executive Director Richard Spinello noted that the Supreme Court cut back staffing on the committees and we're not under any deadline.

C. Bar Bulletin Transition Update

Director of Communications Evann Kleinschmidt reported that the *Bar Bulletin* is now an every other week publication, and we haven't received any complaints from members about the new schedule. Commissioner Atkins reported that she received negative feedback at a local bar luncheon in her district about the every other week schedule and going electronic from members and asked how she should handle the comments. Ms. Kleinschmidt asked for commissioners to provide feedback to her and to let members know they can contact her directly or provide written comments, and she will be happy to talk with them and respond. President Dixon suggested encouraging members to communicate what is difficult for them and offer trainings for members in their area. Commissioner Wolf suggested a free CLE to highlight the changes. We need to do more outreach and the specific feedback will be important. We will ask Chief Justice Nakamura if we can do a presentation for the Court and at the Conclave. We will be looking at the format and redesign next year.

III. ACTION ITEMS

A. Member Association Software Evaluation Proposal from Lighthouse

Director of Finance David Powell reported that we budgeted \$60,000 this year for a consultant to research and vet our software and combine the various databases. We talked with association software providers last year and our current IT provider Lighthouse Solutions has the capability to handle this since they know our organization. They submitted a proposal, which includes assisting us with building an RFP and with the search, but they will not bid on the project or make a recommendation. They provide support from an IT environment and not the application side. He went through the five phases of the proposal. It includes 400 hours at \$150 per hour for a total of \$60,000. We will come back to the Board with three finalists and a recommendation. The Board discussed how to prevent Lighthouse from going over budget. Staff will add a provision in the contract for amendments and change orders and will tell them not to exceed \$60,000. Staff will also monitor and meet with them periodically to ensure that we stay within budget.

B. Committee on Diversity / Committee on Women Survey Proposals and Committees' Recommendation

Executive Director Richard Spinello reported that two proposals from Latino Decisions and Research & Polling were included in the materials, as well as the Committee on Diversity and Committee on Women's recommendation of Latino Decisions. He noted that staff's recommendation is in line with the committees' recommendation based on the updated proposal. There have been changes to both proposals since they were submitted to the Board at the August meeting. Chief Justice Nakamura expressed concerns over possible bias and a stated agenda with Latino Decisions. The committee addressed the concerns with Latino Decisions and the committee felt that they will present an objective analysis. Latino Decisions will do both types of focus groups. Research and Polling only does in-person

focus groups. Latino Decisions will also obtain age demographics. Commissioner Page recommended including aging questions as most lawyers don't have a retirement plan and to also list the vendor name as American Decisions and use that name for all branding purposes, pursuant to the company's suggestion. The Board discussed offering incentives to increase participation. Commissioner Page stated that the SLD will provide some incentives, and Commissioner Russo will check the YLD budget to see if they have funds for incentives as well. Commissioner Kallunki made a motion to accept the committees' and staff's recommendation to accept the bid from Latino Decisions, which will use the name American Decisions, in the amount of \$61,000; the motion was seconded and it passed.

C. Bench & Bar Directory Proposals

Director of Communications Evann Kleinschmidt reported that two proposals were received for printing the Bench & Bar Directory from Aiken Printing Co. and Starline Printing Company, LLP. Aiken Printing is located in Albuquerque but will outsource some or all of the job to a partner printing company in Arizona and ship the directories to a mailing company in Albuquerque. They have been in business for more than 75 years and had excellent references. Staff recommends the quote from Aiken Printing in the amount of \$59,823. Commissioner Page made a motion to accept the recommendation to proceed with the proposal from Aiken Printing Co.; the motion was seconded and it passed.

IV. COMMITTEE REPORTS

A. Finance Committee Report

The Finance Committee met prior to the Board meeting, and Secretary-Treasurer Carla Martinez reported on the committee's discussion and recommendations regarding the following:

1. Approved the December 13, 2018 Meeting Minutes as submitted;
2. Accepted the 2018 Year-End State Bar Financials;
3. First Meeting Requirements:
 - a. Reviewed the Finance Committee Mission;
 - b. Approved the annual recurring electronic payments schedule; and
 - c. Recommended approval of an intercompany payment for the shared costs of the organizations in the amount of \$125,000 from the Bar Foundation to the State Bar; Commissioner Martinez made a motion to approve the recommendation and the motion passed;
4. Received a request for a contribution of \$1,000 from Cottonwood Classical Preparatory School for their We the People Team to travel to Washington, D.C. for the National Finals and recommended approval; Commissioner Martinez made a motion to approve the recommendation and the motion passed;
5. Received the 2018 year-end financials for the Client Protection Fund, Access to Justice and Judges and Lawyers Assistance Program;
6. Received a 2019 licensing update; there are currently 594 active members and 461 inactive members outstanding; and
7. Reported that the auditors have started their fieldwork on the audit and anticipate it will be completed in April; they will present the audit to the Finance Committee at the May meeting.

B. Executive Committee Report

President Dixon reported on the following Executive Committee meetings:

1. The committee met on January 28 to discuss the government shutdown and approved waiving the late fee for government attorneys. The committee requested the Policy and Bylaws Committee to draft a policy formalizing the existing unwritten policy and delegate the authority to the executive director to waive late fees.
2. The committee met again on February 13th to review and approve the meeting agendas.

C. Policy and Bylaws Committee Report and Recommendations

The Policy and Bylaws Committee met on February 11, and Chair Carolyn Wolf reported on the committee's discussion and recommendations as follows:

1. Recommended approval of the Health Law Section's request to amend its bylaws to change the composition to 11 members and add up to two immediate past chair members; Commissioner Wolf made a motion to approve the request and the motion passed.
2. Recommended approval of amendments to the Editorial Policy to correct a staff title and remove weekly for the *Bar Bulletin*. Commissioner Wolf made a motion to approve the amendments and the motion passed.
3. Pursuant to the Executive Committee's request for the Policy and Bylaws Committee to draft a policy for the executive director to waive late payment penalty fees, the committee recommended approval of the draft policy which was included in the materials. Commissioner Wolf made a motion to approve the policy and the motion passed.

D. Regulatory Committee Report

The Regulatory Committee met on January 31 and in Chair Liz Travis' absence, Commissioner Gutierrez reported on the meeting. The committee met with Jan Gilman-Tepper who was the former chair of the Family Law Specialist Committee. Ms. Gilman-Tepper offered to assist the committee and chair a legal specialization exploratory committee. There are 105 specialists out of the entire membership, and we need to do some research and compare and contrast programs and conduct a cost analysis first. The committee requested input from the Board to determine if anyone was opposed to the committee proceeding; no opposition was expressed. In response to the survey sent out to the current specialists, 75 respondents expressed interest in having a program. We need to increase participation to make it more worthwhile and create an environment where it's important to members in New Mexico. We also need to look at limiting the specialty practice areas so that resources aren't spread too thin. The committee isn't ready to make a recommendation at this time, but will have a recommendation at the May meeting.

E. Annual Awards Committee Report and Recommendations

The Annual Awards Committee met on January 30, and Chair Erin Atkins reported on the committee's recommendations, including allowing two awards to be presented for the Justice Pamela Minzner Professionalism Award to an attorney and a judge if the committee feels both are deserving of the award. The committee also recommended allowing State Bar staff to receive an award but not sitting Board members. The committee also recommended that an individual could only receive one award and that individuals could be nominated for more than one award category. Commissioner Atkins made a motion to approve the recommendations and the motion passed.

V. INFORMATIONAL ITEMS

A. ATJ Commission Update

ATJ Commission Co-Chair Liz McGrath reported she met with President Dixon, Executive Director Richard Spinello, Judge Nash and Judge Singleton last month and wanted to come back to the Board to provide an update on the justice for all initiative. She reported that access to civil justice is being recognized on a national level and each state was asked to develop a strategic action plan for 100 percent participation. The Commission had several meetings to work on and develop the 16 components of the plan. New Mexico is ahead in many areas with language services being one of them. They are integrating community based services around the state and want to get everyone involved in rolling it out and get the community participating in telling them what they need, and they are also working with the local pro bono committees. The other piece of the initiative is reaching moderate income people as well and ensuring that everyone has access to legal needs. They anticipate having the final Strategic Plan ready in June.

B. Health Law Section Update

Health Law Section Chair Rosalyn Nguyen and Past Chair Stefan Chacon attended the meeting to provide an update on the section's activities. The section meets monthly via teleconference with one in-person meeting per year. They sent a member and a law student to a conference. They are doing a Legislative update on health law on April 25 and their annual Health Law Symposium in the fall. They are also doing outreach initiatives and mixers. They asked the Board to consider creating a new Legal Specialization Program and they volunteered to assist with creating a program for the State Bar. They feel strongly that a Legal Health Law Certification gives credibility to their practice. They have a lot of out-of-state competition, and specialists would benefit from marketing.

Mr. Chacon reported that they had a successful Health Law Symposium last year and were looking forward to using the revenue for scholarships and other worthwhile projects, but there is concern that all of the revenues went to the Bar Foundation. He noted that the Foundation supports causes but it was disappointing that the section did not earn any of the funds for contributing to the program. President Dixon stated that there needs to be a dialogue about revenue sharing, and we will report back to the section once the Board has had an opportunity to discuss the issue.

C. President Report

President Dixon reported on the following:

1. 2019 Meeting Dates—May 17, August 1 (Hotel Albuquerque in conjunction with the Annual Meeting; Finance will meet on July 31), October 25 (**NEW DATE**), and December 11 (Supreme Court, Santa Fe); he noted that the October date was moved to accommodate the retreat which will be held September 26-28.
2. The 2019 Internal Committees roster was included in the materials. President Dixon reported that Robert Lara moved to Las Cruces, so his position was vacated pursuant to the rule which specifies that commissioners serve in the district where their principal place of practice is located. A notice will be published in the *Bar Bulletin* for the vacancy. Commissioner Wolf made a motion to authorize the Executive Committee to make the appointment to fill the vacancy prior to the May Board meeting; the motion was seconded and it passed. The Board asked that all of the applicants be sent to them for comment prior to the Executive Committee meeting.
3. The 2019 Supreme Court Boards, Committees and Commissions Liaisons roster was included in the materials. Robert Lara was also the liaison to the Uniform Jury Instructions—Civil Committee, so that position is now also vacant, and President Dixon asked commissioners to let him know if they are interested in serving on that committee.
4. Judicial Nominating Commissions—a letter was included in the materials from Commissioner Brooks as President of the NM Black Lawyers Association expressing disappointment in the lack of African American representation in the ranks of Appellate Judges in New Mexico recently. President Dixon reported on his role and the process of the balancing committee and everything that goes into consideration when making appointments to the Judicial Nominating Commissions. Commissioner Brooks noted that they need to keep diversity in their minds when making appointments.
5. President Dixon reported that he and Executive Director Richard Spinello met with ATJ Commission Co-chairs Judge Nash and Liz McGrath to discuss EAJ merging with the State Bar.
6. Planning for the 2019 Annual Meeting is well underway and registration will be opening in early May.
7. The 2019 CLE Trip will be to Cuba through Cuba Cultural Travel and is scheduled for Veterans Day weekend, November 8-12. He conducted a site visit there last week and found it to be a fascinating place to visit; he encouraged commissioners to attend. A notice will be published in the *Bar Bulletin* next month and deposits are due July 8.
8. The ATJ Fund Grant Commission requested an appointment be made to the Commission to replace Judge Timothy Aldrich who has never attended a meeting. Commissioner Wolf made a motion to delegate authority to the Executive Committee to appoint his replacement; the motion was seconded and it passed. The Board asked for all applicants

for this position be sent to them as well for comment prior to the Executive Committee meeting; the motion was seconded and it passed.

D. President-Elect Report

President-Elect Tina Cruz reported on the following:

1. A discussion was held last year with Chief Justice Nakamura about getting more judges at the Annual Meeting and the possibility of holding the Judicial Conclave in conjunction with the Annual Meeting. She indicated that she is supportive of collaborating on the joint conferences and asked Senior Justice Barbara Vigil to meet with the Judicial Education Center and State Bar. President Cruz, Executive Director Richard Spinello and Kris Becker met with Senior Justice Vigil and JEC Director John Newell last month and were requested to meet with the full Court this week. They are willing to collaborate with us and we have already set the dates for June 17-20, 2020 in Santa Fe.
2. The Board Retreat has been scheduled and it will be held in the Taos Ski Valley, September 26-28.
3. She and Executive Director Richard Spinello attended the State of the Judiciary last month.

E. Executive Director Report / State Bar Newsletter

The State Bar Newsletter was included in the materials for the Board's information. Executive Director Richard Spinello noted that the newsletter will be done quarterly from now on. He provided a mandatory bar update and reported that they received good information from the survey of other state bars; he will be talking with bar leaders more about it at the Western States Bar Conference next month.

F. Section and Committee Annual Reports

Pursuant to the State Bar Bylaws, all standing committees and sections are required to present annual reports to the Board. If a section or standing committee does not submit an annual report by December 31, it will be placed on the sunset list for the following year. All of the sections and committees submitted annual reports, and the reports are posted on the State Bar's Website at the below links:

<http://www.nmbar.org/NmbarDocs/AboutUs/Sections/SectionReports18.pdf>

<http://www.nmbar.org/NmbarDocs/AboutUs/Committees/CommitteeReports18.pdf>

G. Bar Commissioner Division / District / Supreme Court Liaison Reports

1. Senior Lawyers Division

SLD Delegate Susan Page reported that the SLD Board made various committee appointments, including the oral history project and rural area outreach. The Board is focusing on finding seasoned attorneys and judges to interview and conducting outreach to senior lawyers throughout the state. They established a Retirement Task Force which is focused on helping lawyers transitioning into retirement navigate the difficulties of leaving the practice.

2. Young Lawyers Division

YLD Chair Sonia Russo reported that the Division held their Mock Interview Program at the law school this month, and they had a lot of volunteers. The Division is helping the law school with the changes and transition in their career services department. They will be holding a Home Safe Home Pro Bono Fair with a program on Domestic Violence in March and will be assisting JLAP with their mocktail bar after the bar exam and holding a reception after the swearing-in ceremony in April.

3. Paralegal Division

Lynette Rocheleau reported that the Division held its first meeting in January and they have a CLE scheduled in April.

4. Bar Commissioner Districts / Supreme Court Board, Committee, Commission Liaison Reports

Commissioner Brooks reported that they held their annual Black History Event at the Bar Center this month with an inaugural Race and the Law Conference and presented the annual Asante Awards to Tommy and Angela Jewell.

Bobbie Batley, the Board's Delegate to the ABA House of Delegates, reported that she is a former chair of the ABA Family Law Section but had never served as an ABA Delegate. She attended the State Bar-sponsored dinner at the ABA Midyear Meeting and found it very helpful to meet other ABA leaders from New Mexico. She informed the Board that she will send ABA resolutions to the Board before they are voted on and resolutions that passed after the ABA Annual Meeting.

VI. OTHER BUSINESS

A. New Business / Adjourn

General Counsel Stormy Ralstin reported that a member who is serving in the Peace Corps in Botswana through 2020 requested a dues waiver. Ms. Ralstin sent a letter to her and suggested that she go inactive, but she hasn't heard back from her yet. Commissioner Page made a motion to grant her the fee waiver; the motion was seconded. Commissioner Fitzwater requested a friendly amendment to waive the bar dues and if she chooses to go inactive, we allow her to do that; the friendly amendment was accepted and the motion passed.

There being no new business, Commissioner Pool made a motion to adjourn the meeting at 3:09 p.m.; the motion was seconded and it passed.

VI. PARKING LOT (issues for future planning and discussion)

A. Client Protection Fund Commission Recommendation Regarding a Mandatory Fee Arbitration Program for Lawyer / Client Fee Disputes