

ORGANIZATION OF THE LEGAL PROFESSION AND ADMISSION TO PRACTICE

*The Legal Profession in the United States**
American Bar Foundation

Organizations of the Legal Profession

State, Local, and National Associations

The legal profession in the United States is prolific of organizations. At the local level, there are bar associations in virtually every city and county of any size, and many communities have several. All together, there are some 1,700 local bar associations in this country, some having fewer than a dozen members; others, such as the New York County Lawyers' Association and the Chicago Bar Association, have thousands of members. Perhaps the best known local bar association is the Association of the Bar of the City of New York, whose headquarters on West 44th Street in New York City houses one of the outstanding law libraries of the United States.

Every state has a bar association. About one-third of the state associations are voluntary membership organizations, while the rest — a growing number — are "integrated" or "unified." (This means that all lawyers admitted to practice in the state are obliged to maintain membership in the bar association.) Membership and participation in state bar associations, both voluntary and integrated, have risen significantly over the last twenty years. More state bar associations are becoming integrated, and most of the remaining voluntary associations include in their

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memberships not only a substantial majority of the lawyers in the respective states, but also virtually all the lawyers who are recognized as leaders of the profession in those states.

All state bar associations and most local associations are general membership organizations in the sense that they are made up of lawyers in all types of legal practice. There are, however, many local organizations of lawyers with particular interests or concerns. In Chicago, for example, there are the Patent Law Association of Chicago, the Workmen's Compensation Lawyer's Association, the Bar Association of the Seventh Federal Circuit, the Catholic Lawyers Guild, the Cook County Bar Association (an organization of Negro lawyers), the Lithuanian-American Lawyers Association, and others.

In addition to general membership organizations, such as the American Bar Association, a similar range of particular interest organizations may be found at the national level. Examples are the American Judicature Society (devoted to improvement of the administration of justice in the courts), the Federal Bar Association (consisting chiefly of lawyers employed by the national government or engaged primarily in practice before U.S. government agencies), the American College of Trial Lawyers (an organization of trial lawyers), the American Trial Lawyers Association (trial lawyers representing mainly personal injury plaintiffs), the National Association of Women Lawyers, the Maritime Law Association of the United States, the American Society for International Law, the International Law Association, the National Bar Association (an organization of Negro lawyers), and many others.

State and local bar associations are typically governed by boards of directors elected by the membership. A president and other officers, who ordinarily serve one-year terms, are elected by the membership in some associations, by the board of directors in others. The business of bar associations is normally done through standing and special committees. A typical state bar association has standing committees on judicial administration, discipline and grievances, continuing legal education, and legal aid, among others, as well as an array of committees on special subject matter areas, such as corporation law, family law, and probate law. Local bar associations are similarly organized.

The American Bar Association

The principal national organization of lawyers is the American Bar Association. It is open on simple application to any lawyer who is in good standing in his state. Its present membership, about 200,000, constitutes nearly half of the entire legal profession and about two-thirds of the lawyers actually engaged in private law practice.

The American Bar Association is in some respects a federation of state and local bar associations. Its central institution, the House of Delegates, consists of representatives of the state bar associations and most of the large local associations; one representative from each state, elected by the individual members of the American Bar Association in that state (the "State Delegates"); and representatives from a variety of important special organizations of the legal profession, including the American Law Institute (a voluntary membership organization concerned chiefly with legal research and responsible for the well-known *Restatements* of the law), the Federal Bar Association, the Judge Advocates Association (military lawyers), the American Judicature Society, the National Conference of Bar Examiners, and yet other organizations. The remaining members of the House of Delegates are *ex officio* and include the Attorney General and the Deputy Attorney General of the United States, the Director of the Administrative Office of the United States Courts, the Solicitor General of the United States, the Chairman of the Conference of Chief Justices (an association of the chief justices of the supreme courts of the respective states), and others.

The House of Delegates, which meets twice annually, has legislative authority concerning the policy of the American Bar Association. The "State Delegates" nominate the President and other principal officers of the Association. They also nominate members of the Board of Governors, which is the executive committee of the Association. In recent years, the nomination of the President has become tantamount to election. The President serves a one-year term and, like all officers of the Association, receives no compensation as such.

Like its state counterparts, the American Bar Association acts through standing and special committees. In general, these

committees parallel those of the state bar associations. In addition, the American Bar Association has large subassociations, known as Sections, that are composed of lawyers who have special interests in particular areas of law. For example, there are Sections of Administrative Law, Antitrust Law, Criminal Law, Individual Rights and Responsibilities, and Taxation. The sections range in membership from several hundred to many thousands and provide the organization and the forums through which lawyers can involve themselves in areas of their particular concern. . . .

Admission to Practice

Admission to the practice of law is regulated by the states. In practically every state, admission carries with it a license to engage in all types of legal practice in that state without further formality. A few states require a period of apprenticeship as a condition of admission to practice, but neither these states nor any others recognize formal gradations in professional qualification.

Admission to practice in most states takes the form of admission to practice before the highest court of the state, which carries with it authorization to practice before all lesser tribunals as well. Establishing and applying the standards of admission is typically the responsibility of the supreme court of the state, but in most jurisdictions administrative responsibility for examination of applicants is delegated to a committee of bar examiners who prepare and administer the examinations for admission to the bar.

In most states an applicant for admission to the bar must have completed his formal education through at least three years of college. [Since most law schools require a college degree for admission, a college degree is in effect required for lawyers who obtain their legal education at such law schools.] . . . In addition, the applicant for admission to the bar normally must complete a three-year legal curriculum in a law school approved by the state, establish satisfactory proof that he is of good moral character, and successfully pass an examination administered by the bar examiners. The typical state bar examination is a written examination, usually lasting two or three days and consisting of

20 to 30 questions. The questions are usually in problem form, requiring the applicant to analyze a stated problem case and set forth the proposed solution and the law applicable to it. Bar examinations in many states have been criticized on the ground that they place a premium on repetition of legal formulas rather than on careful and penetrating analysis, but the sophistication of the examinations seems to have improved substantially in recent years. In any event, American bar examinations probably do not compare adversely with professional examinations elsewhere. In most states, about 68 percent of those taking the bar examination at any given time are able to pass it. The cumulative passing rate, however (giving allowance for repeaters), is probably above 90 percent — i.e., approximately nine out of ten applicants eventually pass the bar examination.

Admission to Other Courts

Admission to the bar of a state is by custom a sufficient condition for admission by formal motion to practice before the U.S. District Court sitting in that state. A lawyer who is admitted to practice in one of the states and who has been in practice for five years may be admitted on motion to appear before the Supreme Court of the United States. Lawyers admitted in one state may be given audience in the courts of another for the purposes of a particular case, but otherwise are not entitled to practice outside the state in which they have been admitted. Some lawyers are admitted to practice in more than one state. Many states have reciprocal arrangements making it possible for a lawyer who has been admitted to the bar of one state and who has moved his residence to another to become admitted locally without great difficulty. Most states expressly provide for admission of lawyers from common law countries other than the United States, but lawyers from civil law jurisdictions ordinarily are required to complete law school in the United States in order to qualify for admission. . . .

Professional Discipline

Professional regulation and discipline are under the authority of the individual states. The American Bar Association has promulgated Canons of Professional Ethics that have been used

as a model in most states. (These Canons have recently been replaced by a reformulated statement of ethical standards known as the Code of Professional Responsibility.) Nevertheless, the legally obligatory rules of professional conduct emanate from the states and are subject to some variation in terms and interpretation. There is considerable variation from state to state in some particulars, notably the degree of decorum expected in court, the proper limitations on the "solicitation" of clientele, and practices concerning the setting of fees. In general, however, there is a tendency toward uniformity, a tendency which will no doubt be promoted further by the increasing concern of the American Bar Association in matters of professional ethics.

Broadly speaking, disciplinary sanctions are imposed only for serious instances of professional misconduct, such as mishandling of clients' property and flagrant violation of the rules of professional decorum. Lesser breaches of decorum rarely evoke formal disciplinary action, though there is informal discipline in the form of expressed disapproval which carries its own practical penalties. Whatever the wisdom of the prevailing tendency toward leniency, there seems little doubt that it is explained by the loose organization of the American legal profession and the complex social variety of its membership.

When disciplinary proceedings are involved, they typically commence by the lodging of a complaint with the appropriate bar association or court. A preliminary informal investigation is conducted by a grievance committee of the state or local bar association. Most complaints are resolved at this stage, either by adjustment of the dispute or by dismissal of the charges as unfounded. If the charges are of greater consequence, a formal hearing is held before the bar committee, evidence taken, and a disposition recommended. Sanctions include reprimand, suspension, or disbarment. The committee's recommendation is submitted to the appropriate court, typically the supreme court of the state, which is solely authorized to impose sanctions. If the court concurs in the recommendation, which it does usually but not invariably, it imposes sanctions. Precise information is not available as to the number of disciplinary proceedings annually, but it is certainly small in relation to the number of lawyers. Although there has been increasing attention to the problem of

discipline of lawyers, including a recent study of the problem by a Special Committee of the American Bar Association, the number of disbarments and forced resignations is probably still less than 150 per year. . . .