



Board of Commissioners

Agenda and Materials

November 19, 2021

**STATE BAR OF MICHIGAN
BOARD OF COMMISSIONERS
FRIDAY, NOVEMBER 19, 2021
VIRTUAL MEETING
9:30 A.M.
AGENDA**

State Bar of Michigan Statement of Purpose

“...The State Bar of Michigan shall aid in promoting improvements in the administration of justice and advancements in jurisprudence, in improving relations between the legal profession and the public, and in promoting the interests of the legal profession in this state.”

Rule 1 of the Supreme Court Rules Concerning the State Bar of Michigan

- I. Call to Order.....Dana M. Warnez President

CONSENT AGENDA

- II. **Minutes**
A. September 17, 2021 Board of Commissioners meetings** (both)
B. September 8, 2021 Executive Committee meeting*
C. October 5, 2021 Executive Committee meeting*
- III. **President’s Activities**.....Dana M. Warnez, President
A. Recent Activities*
- IV. **Executive Director’s Activities**.....Janet K. Welch, Executive Director
A. Recent Activities*
- V. **Finance**..... Lisa J. Hamameh, Chairperson
A. FY 2021 Draft Financial Reports through September 30, 2021*
B. Financial Safety Margin Calculation*
- VI. **Professional Standards** Joseph P. McGill, Chairperson
A. District Character and Fitness Committee Appointments*
B. Client Protection Fund Claims*
C. Unauthorized Practice of Law Claims**

PRESENTATION

- VII. **Proposed Amendments of Rule 1.109 of the Michigan Court Rules****..... MiFile Team
State Court Administrative Office

LEADERSHIP REPORTS

- VIII. **President's and Executive Director's Report** Dana M. Warnez, President
Janet K. Welch, Executive Director
- A. Work Group Reports
- 1) Executive Director's Search
- 2) Governance
- 3) Sections
- B. Michigan Supreme Court Questions about Proposed Fee Increase
- IX. **Representative Assembly Report** Nicholas Ohanesian, Chairperson
- X. **Young Lawyers Section Report** Kristina Bilowus, Chairperson

COMMISSIONER COMMITTEES

- XI. **Finance**..... Lisa J. Hamameh, Chairperson
- A. Financial Report
- XII. **Audit** Lisa J. Hamameh, Chairperson
- XIII. **Professional Standards** Joseph P. McGill, Chairperson
- A. Proposed Pro Hac Vice Rule Amendments*
- XIV. **Communications and Member Services** Daniel D. Quick, Chairperson
- XV. **Public Policy**..... James W. Heath, Chairperson
- A. Court Rules**
- B. Legislation**

FOR THE GOOD OF THE PUBLIC AND THE PROFESSION

- XVI. **Comments or questions from Commissioners**
- XVII. **Comments or questions from the public**
- XVIII. **Adjournment**

*Materials included with agenda.

**Materials delivered or to be delivered under separate cover or handed out.

State Bar of Michigan
Executive Committee Virtual Meeting
Wednesday, September 8, 2021
4:00 p.m.

Call to Order: President Buchanan called the meeting to order at 4:00 p.m.

Members Present: President Robert J. Buchanan; President-Elect Dana Warnez; Vice President James W. Heath; Secretary Daniel D. Quick; Treasurer Joseph P. McGill; Representative Assembly Chair Chelsea M. Rebeck; Representative Assembly Vice Chair Nicholas M. Ohanesian; and Commissioners Erika L. Butler, Lisa J. Hamameh, and Thomas H. Howlett

Members Absent:

State Bar Staff Present: Janet Welch, Executive Director; Margaret Bossenbery, Executive Coordinator; Nancy Brown, Assistant Executive Director; Peter Cunningham, Assistant Executive Director; and Kathryn Hennessey, General Counsel

Minutes from the August 17, 2021, Executive Committee Meeting

A motion was offered to approve the minutes from the August 17, 2021, Executive Committee meeting. The motion was seconded and approved.

President and Executive Director's Report

Cert petition, *Taylor v Barnes*

Ms. Welch and Ms. Hennessey provided the members with an update on *Taylor v Barnes*.

Proposed supplemental comment on Lesson Learned, Open Courts

A motion was offered and seconded to support sending a letter to the Michigan Supreme Court offering the bar's support and help in crafting statewide standards applicable to courtrooms in the post-pandemic environment. The motion was seconded and approved.

Member complaint re: Senior Lawyers Section pre-dissolution process

Ms. Welch asked Mr. Day to report on the email received from a District H member unhappy with the pre-dissolution process for the Senior Lawyers Section. Mr. Day will coordinate a time when he and Ms. Butler can contact the member.

Operations, Structure, and Governance — report and recommendations

Mr. Quick distributed a memo from the Operations, Structure, and Governance Special Committee describing the proposed recommendations from the committee to the Executive Committee for its review and comments. He stated that the committee is ready to move forward with socializing the concepts in the memo with the Board and RA but asked for input from the committee as to a timeline.

Mr. Buchanan asked for status reports from the additional BOC work groups:

- Ms. Warnez reported that she received copies of the applications received for the Executive Director position by the consultant, that she will distribute those to the Executive Director Search Work Group members, and that a meeting will be scheduled sometime next week to determine how to proceed.
- Mr. Howlett reported that the Strategic Planning Committee met in August, reviewed data received from the June retreat and those recommendations will be presented to the full Board at its September meeting.
- Ms. Butler reported that the Commissioner Sections Work Group will have its first meeting during the last week of September. She asked Ms. Warnez to appoint all board members who volunteered at the June meeting to the work group and any new board members who are interested.

Representative Assembly (RA)

Ms. Rebeck stated there was nothing new to report since the last EC meeting.

Juror Orientation Video — Implicit Bias

Ms. Warnez reported that a committee has been working on incorporating a section into the current jury orientation video on implicit bias. Feedback has been received from two SBM committees and SBM staff for comments. A motion was offered to endorse the positions of the two committees and approve the proposed script. The motion was seconded and approved.

September 17, 2021, Board Meetings Agendas

A motion was offered to approve the agendas for both September 17, 2021 Board meetings. The motion was seconded and approved.

Other

There was none.

Adjournment

The meeting was adjourned at 5:20 p.m.

State Bar of Michigan
Executive Committee Virtual Meeting
Tuesday, October 5, 2021
4:00 p.m.

Call to Order: President Warnez called the meeting to order at 4:00 p.m.

Members Present: President Dana M. Warnez; President-Elect James W. Heath; Vice President Daniel D. Quick; Secretary Joseph P. McGill; Treasurer Lisa J. Hamameh; Representative Assembly Chair Nicholas M. Ohanesian; Representative Assembly Vice Chair Gerrow D. Mason; and Commissioners Erika L. Butler, Suzanne C. Larsen, and Hon. David A. Perkins

Members Absent:

State Bar Staff Present: Janet Welch, Executive Director; Margaret Bossenbery, Executive Coordinator; Nancy Brown, Assistant Executive Director; Peter Cunningham, Assistant Executive Director; and Kathryn Hennessey, General Counsel

Minutes from the September 8, 2021, Executive Committee Meeting

A motion was offered to approve the minutes from the September 8, 2021, Executive Committee meeting. The motion was seconded and approved.

President and Executive Director's Report

Ms. Warnez welcomed the Executive Committee members and thanked everyone in advance for work in the upcoming year.

Cert petition, *Taylor v Barnes*

Ms. Welch asked Ms. Hennessey to update the members regarding litigation. Ms. Hennessey stated that on Monday the United State Supreme Court denied cert for the two cases from Oregon. While it is difficult to predict what the Supreme Court will do in the future, this could indicate that it will be less likely to grant the petition for cert in the Taylor case.

Ms. Hennessey stated that the deadline for the SBM response to the *Taylor v Barnes* petition has been extended until December and said this allows ample time to respond to all the amicus briefs that are expected.

Member Request for an Exemption to UK Solicitor Examination

Ms. Welch informed the committee that the State Bar received a request from a member working in London who wants to waive the examination to become a solicitor in the UK. Ms. Welch described the Solicitors Regulation Authority's (SRA) waiver process, which includes several pages of questions about the licensing process in the jurisdiction where the applicant received their law license and did not include a reciprocity component.

Ms. Welch and Ms. Hennessey have been working on this issue internally with Ms. Maribeth Graff, Executive Director of the Board of Law Examiners.

Ms. Welch stated that no action is requested at this time, but she wanted to bring the topic before the EC and may welcome a recommendation from the board at a future meeting.

MSC Consideration of fee increase proposal

Ms. Welch stated that she has learned that the State Bar's fee increase request is on the agenda of the next Michigan Supreme Court Administrative meeting. Because of that news, SBM is gathering resources to be ready to swing into action depending how and when the Court publishes the request for comments. Mr. Cunningham described the communications strategy, which will ensure that factual information is easily available to inform members and to respond to their comments.

Ms. Welch reported there is a strong possibility that the Court will consider an increase to the Attorney Discipline System (ADS) portion of the licensing fee when it considers the SBM request. In response to a question, Mr. Cunningham stated that the last ADS fee increase was three years ago, that increases to the ADS portion are not tied to the SBM request, and that the communications team is prepared to respond to questions or comments that may arise about this separate potential increase.

Interim Administrator Program

Ms. Welch stated the Interim Administrator Program was an item on the Michigan Supreme Court Administrative Public Hearing last week. She stated that Ms. Chandler was in attendance to explain the program and respond to questions. After the hearing, Ms. Boomer, administrative counsel to the Supreme Court, contacted Ms. Welch about a couple of concerns that remain.

Representative Assembly (RA)

Mr. Ohanesian stated that at the September RA Justice Bernstein addressed the members and responded to questions, the Unsung Hero Award was given to Ms. Coleman, and the Michael Franck Award to Ms. Jennifer Grieco. He reported that not all proposals presented were adopted, but the meeting was productive.

Ms. Ohanesian reported that he, along the other RA officers, were working on populating the membership of the RA committees.

MSUFCU Credit Card Aggregate Limit Increase and Line of Credit (LOC) Renewal

A motion was offered to support an increase in the MSUFCU business credit card limit from \$175,000 to \$225,000. The motion was supported and approved.

A motion was offered to support the request to renew the MSUFCU \$500,000 line of credit (LOC). The motion was seconded and approved

ADM File 2020-17

ADM File No. 2020-08: Rescission of Administrative Order Nos. 2020-1, 2020-6, 2020-9, 2020-13, 2020-14, 2020-19, and 2020-21 and Amendments of Rules 2.002, 2.107, 2.305, 2.407, 2.506, 2.621, 3.904, 6.006, 6.106, 6.425, 8.110, 9.112, 9.115, and 9.221 of the Michigan Court Rules and Administrative Order No. 2020-17

These amendments largely reflect the substantive provisions of the remaining administrative orders adopted by the Court during the COVID-19 pandemic. Many of the orders have been rescinded or expired by their own terms. In this order, the Court rescinds all remaining active administrative orders entered during the pandemic except for the order regarding procedures specific to landlord/tenant actions (AO No. 2020-17, which is slightly modified as shown above to reflect the rescissions) and

the order establishing a wholly online procedure for those taking the Michigan Bar Examination in July 2021 (AO No. 2021-2). Moving the substance of these provisions into a court rule amendment format returns the Court's procedure to the typical court rule revision procedure.

The intent of these amendments is to retain the existing practices courts have been operating under for an interim period while inviting public comment. The Court also anticipates comments in response to the reports of two groups of volunteers organized by the State Court Administrative Office (the Lessons Learned Committee and the Task Force on Open Courts, Media, and Privacy). Within the next several months, it is anticipated that the Court will consider further proposals for refinements of these and other new proposals to guide courts going forward.

Mr. Heath described the provisions of ADM 2020-17 to the committee members indicating that comments were sent to the Court by Ms. Welch last month. He stated that a motion is needed to allow committee positions to be sent to the Court.

A motion was made, supported, and approved.

Other

Ms. Warnez reminded the committee members about their invitation to the Macomb County President's reception taking place the following week.

Adjournment

The meeting was adjourned at 4:57 p.m.

President Dana M. Warnez
President's Activities
September 17 through November 19, 2021

Date	Event	Location
	Numerous calls with Elizabeth Derrico, Consultant for Executive Director Search	Virtual
September 22	Michigan State Bar Foundation (MSBF) Reception	Virtual
September 27	Sections Working Group meeting	Virtual
September 28	Board of Commissioners (BOC) Officers meeting	Virtual
September 30	Executive Directors Search Working Group meeting	Virtual
October 4	Meeting with Executive Director (ED) Janet Welch and Marge Bossenbery	Virtual
October 5	Executive Directors Search Working Group meeting	Virtual
October 5	Executive Committee meeting	Virtual
October 8	Alternative Dispute Resolution Section Annual Meeting	Virtual
October 11	Michigan Lawyer Well Being meeting	Virtual
October 11	Meeting with ED Janet Welch and Representative Assembly (RA) Chair, Nick Ohanesian	Virtual
October 12	Macomb County Bar Association, Foundation, and Women Lawyers Presidential Reception	Armada MI
October 18 - 21	Great Rivers Bar Leaders Conference	Williamsburg, VA
October 25	MSBF Grant Committee meeting	Virtual
October 25	Sections Working Group meeting	Virtual
October 27	Meeting with Darin Day and Marge Bossenbery	Virtual
October 27	ABA Leadership Chat with Eric Cooperstein and ED Janet Welch	Virtual
October 29	Access to Justice Thank You Event	Virtual

Date	Event	Location
November 3 & 5	Executive Director Search Working Group Interviews of Candidates	Virtual
November 8	Law School Deans Committee meeting	Virtual
November 9	Executive Committee meeting	Virtual
November 11	Executive Directors Search Working Group meeting	Virtual
November 12	Meeting with Elizabeth Derrico, Consultant for Executive Director Search	Virtual
November 15	Michigan Lawyer Well Being meeting	Virtual
November 17	MSBF Trustee meeting	Virtual
November 19	Board meeting	Virtual

Executive Director Janet K. Welch
Executive Director Activities
September 19 through November 19, 2021

Date	Event
September 20	Meeting with Attorney Charlie Quigg of Warner Norcross and Kathryn Hennessey
September 20	ABA Center for Innovation – New member brown bag
September 22	MSC Public Administrative Hearing
September 22	All Staff meeting
September 22	Michigan State Bar Foundation Annual Meeting and Reception
September 23	Meeting with Attorney Charlie Quigg of Warner Norcross, Attorney John Bursch of Bursch Law, and Kathryn Hennessey
September 27	Meeting with Commissioner Erika Butler
September 27	Sections Work Group meeting
September 28	Board of Commissioners (BOC) Officers meeting
September 28	Representative Assembly (RA) Committee membership meeting
September 29	Attorney Discipline System meeting
September 29	ABA- ATJC Monthly Staff Calls
September 30	JFAC Executive Committee meeting
October 1	Meeting with Maribeth Graff, Executive Director, Board of Law Examiners, and Kathryn Hennessey
October 1	JFAC Technology and Data Sharing Committee meeting
October 4	Meeting with Paula Frederick, General Counsel, State Bar of Georgia
October 4	Meeting with President Dana Warnez, and Marge Bossenbery
October 4	JFAC Technology and Data Sharing Committee meeting
October 5	Executive Director Search Working Group meeting
October 5	Executive Committee meeting
October 6	Meeting with Oregon State Bar CEO Helen Hirschbiel
October 8	Meeting with Chris Buerger, NLADA General Counsel
October 11	Michigan Lawyer Well Being Task Force meeting
October 11	Meeting with BOC President, Dana Warnez and RA Chair, Nick Ohanesian
October 13	International Working Group - Transition after Pandemic Restrictions
October 13	Meeting with John Runyon, Chair of the Michigan Bar Journal Committee

Date	Event
October 14	Cloudlaw and Affiliate Bar meeting
October 14	JFAC Executive Committee meeting
October 14	Meeting with Josh Doyle, Executive Director, Florida State Bar
October 15	Trial Court Performance Committee meeting
October 15	JFAC Technology and Data Sharing Committee meeting
October 15	Meeting with Terry Hill, Division Director, Florida State Bar
October 18 – 21	Great Rivers Bar Leaders Conference – Williamsburg VA
October 22	Meeting with former Dean Daniel Rodriguez, Northwestern School of Law
October 25	Sections Working Group meeting
October 25	JFAC Training: Effective Research Through Interviewing End-Users and Other Stakeholders
October 26	ICLE Executive Committee meeting
October 27	Monthly meeting with ADS and Kathryn Hennessey
October 27	ABA Leadership Chat for the Bar Leader Magazine, with ABA writer, Eric Cooperstein, and President Dana Warnez
October 27	JFAC staffing and work plan discussion
October 28	Michigan Historical Society Annual Meeting and Luncheon in Detroit
October 28	JFAC Executive Committee meeting
October 28	JFAC Workgroup Chairs Committee meeting
October 29	Access to Justice Thank You Event
October 29	Meeting with Soh-Yeon Lee - CA Bar Association Office of Professional Competence
November 1 – 5	IILACE Conference - Copenhagen
November 7	Meeting with President, Dana Warnez
November 8	Law School Deans Committee meeting
November 8	Meeting with President Dana Warnez and Marge Bossenbery
November 9	Executive Committee meeting
November 9	Albion College Dinner/Lecture
November 10	Meeting with Ms. Derrico, Consultant, ED Search Work Group
November 11	JFAC Executive Committee meeting
November 11	JFAC Regulatory Practice Reform Committee meeting

Date	Event
November 12	JFAC Delivery Committee Meeting
November 15	Michigan Lawyer Well Being Task Force meeting
November 15	Meetings with JFAC Regulatory and Practice Reform Work Group meeting
November 16	All Staff meeting
November 16	Legal Futures Innovation Conference
November 16	Professional Standards Committee meeting
November 16	2021 Meeting of California Bar Leaders Conference
November 17	Audit Committee meeting
November 17	Finance Committee meeting
November 18	Public Policy Committee meeting
November 18	ABA Select Committee meeting
November 18	JFAC Workgroup Chairs Committee meeting
November 18	JFAC Executive Committee meeting
November 19	Board of Commissioners meeting
November 19	JFAC - Technology and Data Sharing Committee

State Bar of Michigan Financial Results Summary

For the Twelve Months Ended September 30, 2021

Fiscal Year 2021

Administrative Fund - Summary of Results as of September 30, 2021

Operating Revenues	\$9,174,003
Operating Expenses	<u>\$9,829,605</u>
Operating Loss	(\$655,601)
Non-Operating Income	<u>\$885,809</u>
Change in Net Position	<u><u>\$230,207</u></u>
Net Position, October 1, 2020	\$11,571,907
Net Position, September 30, 2021	<u><u>\$11,802,114</u></u>

As of September 30, 2021, Net Position excluding Retiree Healthcare Trust was \$8,451,906, a decrease of \$730,745 since the beginning of the year. However, the decrease was **favorable** to budget by **\$1,354,802**.

YTD Operating Revenue variance - \$38,113 favorable to budget (0.4%):

Operating revenue was higher primarily due to higher License Fees, Dues, and Related revenue (\$123,197 or 1.6% favorable to budget) with late fees being the main driver of the increase. Other Operating Revenues were lower (\$85,084 or 5.7% unfavorable to budget) due to lower revenues in C&F due to lower bar exam applications, loss of some advertising revenues, and cancellation of BLF/UMLI and Annual Meeting events.

YTD Operating Expense variance - \$1,349,297 favorable to budget (12.1%):

Salaries and Employee Benefits/ Payroll Taxes – \$461,490, favorable (6.4%)

- Under budget in salaries and benefits due to vacancies and health care.

Non-Labor Operating Expenses - \$887,807, favorable (22.6%)

- Legal - \$63,835, favorable (33.3%) – Under budget in all teams due to lower travel and meeting expenses, and lower expenses for external counsel.
- Public and Bar Services - \$248,557, favorable (24.2%) – Under budget primarily due to Outreach, LJAP, Diversity and cancellation of BLF/UMLI, Annual Meeting, and 50 Year Celebration.
- Operations and Policy - \$575,415, favorable (21.2%) – Under budget primarily in Bar Journal, Digital, General Communications, RA, Executive Office, BOC, Financial Services, and Facilities.

YTD Non-Operating Revenue Budget Variance - \$791,809 favorable to budget:

- Operating investment income is unfavorable to budget by \$23,815 (25.3%) due to lower interest rates.
- Retiree Health Care Trust net investment income is favorable by \$824,417 due to investment gain (this amount is not budgeted).
- Loss on disposal of an asset \$8,793 (this amount is not budgeted).

Cash and Investment Balance

As of September 30, 2021, the cash and investment balance in the State Bar Admin Fund (net of “*due to Sections, Client Protection Fund, and Retiree Health Care Trust*”) was \$7,671,884, an increase of \$186,472 from the beginning of the year due to collection of FY 2022 license fees.

SBM Retiree Health Care Trust

As of September 30, 2021, the SBM Retiree Health Care Trust investments were \$4,730,914, an increase of \$881,750 since the beginning of the year and consisted of trust income of \$843,857, SBM contributions of \$57,333 and paid advisor fees of \$19,440.

Capital Budget

As of September 30, 2021, YTD capital expenditures totaled \$361,995 which is under the annual capital budget by \$43,005 due to delays in some capital projects, e.g. replacement of the copiers/scanners.

Client Protection Fund

The Net Position of the Client Protection Fund as of September 30, 2021, totaled \$1,834,119, an increase of \$198,401 from the beginning of the year. Claims expenses totaled \$338,293, including \$241,237 in approved claims awaiting signed subrogation agreements. The change in the accounting policy for claim recoveries from accrual to cash basis resulted in a one-time adjustment of \$24,728 to Claims Recoveries in FY 2021 and \$217,066 adjustment to the

opening fund balance as of October 1, 2020. The change in timing of recording claims expenses from receipt of the signed subrogation agreement to when the Board approves the claims for payment resulted in a one-time adjustment of \$178,925 to the opening fund balance as of October 1, 2020.

SBM Membership

As of September 30, 2021, the active, inactive and emeritus membership in good standing totaled 46,523 attorneys, a net increase of 203 attorneys since the beginning of the year; the number of paying attorneys decreased by 149. A total of 873 new attorneys have joined the SBM since the beginning of the year.

**STATE BAR OF MICHIGAN
ADMINISTRATIVE FUND**

Unaudited and For Internal Use Only

**FINANCIAL REPORTS
September 30, 2021**

FY 2021

Note: License fee revenue is recognized and budgeted as earned each month throughout the year.

State Bar of Michigan
Statement of Net Position
Administrative Fund
For the Twelve Months Ending September 30, 2021

	8/31/2021	9/30/2021	Increase (Decrease)	%	Beginning of FY 2021 10/1/20
ASSETS AND DEFERRED OUTFLOWS					
Cash	\$1,884,607	\$4,696,954	\$2,812,347	149.2%	\$2,555,783
Investments	7,879,540	5,979,540	(1,900,000)	(24.1%)	7,593,526
Accounts Receivable	27,428	73,941	46,513	169.6%	256,921
Due from ADS	-	-	-	-	75,128
Due from (to) CPF	(495)	(21,276)	(20,781)	4197.9%	(44,159)
Due to Sections	(3,247,681)	(2,983,335)	264,346	(8.1%)	(2,619,740)
Prepaid Expenses	314,786	466,629	151,843	48.2%	352,958
Capital Assets	3,375,568	3,343,587	(31,981)	(0.9%)	3,555,659
SBM Retiree Health Care Trust	4,898,816	4,730,914	(167,902)	(3.4%)	3,849,164
Total Assets	\$15,132,569	\$16,286,954	\$1,154,385	7.6%	\$15,575,240
Deferred outflows of resources related to pensions	36,627	38,551	1,924	5.3%	36,627
Deferred outflows of resources related to OPEB	448,630	779,487	330,857	73.7%	448,630
Total Deferred outflows of resources	485,257	818,038	332,781	68.6%	485,257
Total Assets and Deferred Outflows of Resources	\$15,617,826	\$17,104,992	\$1,487,166	9.5%	\$16,060,497
LIABILITIES, DERERRED INFLOWS AND NET POSITION					
Liabilities					
Accounts Payable	\$115	\$270,693	\$270,578	235285.2%	\$280,767
Accrued Expenses	543,613	629,109	85,496	15.7%	559,657
Deferred Revenue	658,782	1,840,416	1,181,633	179.4%	1,360,196
Net Pension Liability	364,363	402,467	38,104	10.5%	364,363
Net OPEB Liability	1,581,433	1,381,131	(200,302)	(12.7%)	1,581,433
Total Liabilities	3,148,307	4,523,816	1,375,509	43.7%	4,146,416
Deferred Inflows of resources related to pensions	15,069	-	(15,069)	(100.0%)	15,069
Deferred Inflows of resources related to OPEB	327,105	779,062	451,957	138.2%	327,105
Total Deferred inflows of resources	342,174	779,062	436,888	127.7%	342,174
Total Liabilities and Deferred Inflows	3,490,481	5,302,878	1,812,397	51.9%	4,488,590
Net Assets					
Invested in Capital Assets, Net of Related Debt	3,375,568	3,343,587	(31,981)	(0.9%)	3,555,659
Restricted for Retiree Health Care Trust	3,438,908	3,350,208	(88,700)	(2.6%)	2,389,256
Unrestricted	5,312,869	5,108,319	(204,550)	(3.9%)	5,626,992
Total Net Position	12,127,345	11,802,114	(325,231)	(2.7%)	11,571,907
Total Liabilities, Deferred Inflows and Net Position	\$15,617,826	\$17,104,992	\$1,487,166	9.5%	\$16,060,497
Net Position <u>excluding</u> the impacts of retiree health care	\$8,688,437	\$8,451,906	(\$236,531)	(2.7%)	\$9,182,651

Note: Cash and investments actually available to the State Bar Administrative Fund, after deduction of the "Due to Sections" and "Due to CPF" and not including the "Retiree Health Care Trust" is \$7,671,884 (see below)

CASH AND INVESTMENT BALANCES

Cash (including CD's and Money Market)	\$1,884,607	\$4,696,954	\$2,812,347	149.2%	\$2,555,783
Investments	7,879,540	5,979,540	(1,900,000)	(24.1%)	7,593,528
Total Available Cash and Investments	9,764,147	10,676,495	912,347	9.3%	10,149,310
Less:					
Due to Sections	3,247,681	2,983,335	(264,346)	(8.1%)	2,619,740
Due to CPF	495	21,276	20,781	4197.9%	44,159
Due to Sections and CPF	3,248,176	3,004,611	(243,565)	(7.5%)	2,663,899
Net Administrative Fund Cash and Investment Balance	6,515,971	7,671,884	1,155,912	17.7%	7,485,412

State Bar of Michigan
Statement of Revenue, Expense and Net Assets
For the Twelve Months Ending September 30, 2021

YTD FY 2021 Increase (Decrease) in Net Position Summary

	Actual YTD	Budget YTD	Variance	Percentage	Prior Year Actual YTD	Variance	Percentage
Operating Revenue							
- License Fees, Dues & Related	7,764,197	7,641,000	123,197	1.6%	7,732,165	32,032	0.4%
- All Other Op Revenue	1,409,806	1,494,890	(85,084)	(5.7%)	1,390,416	19,390	1.4%
Total Operating Revenue	9,174,003	9,135,890	38,113	0.4%	9,122,581	51,422	0.6%
Operating Expenses							
- Labor-related Operating Expenses							
Salaries	5,089,955	5,330,899	(240,944)	(4.5%)	5,281,014	(191,059)	(3.6%)
Benefits and PR Taxes	1,694,812	1,915,358	(220,546)	(11.5%)	1,776,148	(81,336)	(4.6%)
Total Labor-related Operating Expenses	6,784,767	7,246,257	(461,490)	(6.4%)	7,057,162	(272,395)	(3.9%)
- Non-labor Operating Expenses							
Legal	128,085	191,920	(63,835)	(33.3%)	183,249	(55,164)	(30.1%)
Public and Bar Services	778,523	1,027,080	(248,557)	(24.2%)	746,721	31,802	4.3%
Operations and Policy	2,138,230	2,713,645	(575,415)	(21.2%)	2,281,207	(142,977)	(6.3%)
Total Non-labor Operating Expenses	3,044,838	3,932,645	(887,807)	(22.6%)	3,211,177	(166,339)	(5.2%)
Total Operating Expenses	9,829,605	11,178,902	(1,349,297)	(12.1%)	10,268,339	(438,734)	(4.3%)
Operating Income (Loss)	(655,602)	(2,043,012)	1,387,410	(67.9%)	(1,145,758)	490,156	(42.8%)
Non-operating Revenue (Expenses)							
Investment Income	70,185	94,000	(23,815)	(25.3%)	199,067	(128,882)	(64.7%)
Investment Income - Ret HC Trust	824,417	-	824,417	N/A	318,948	505,469	N/A
Loss on Disposal of Capital Asset	(8,793)	-	(8,793)	N/A	(17,570)	8,777	(50.0%)
Net Non-operating Revenue (Expenses)	885,809	94,000	791,809	842%	500,445	385,364	77%
Increase (Decrease) in Net Position	230,207	(1,949,012)	2,179,219	N/A	(645,313)	875,520	N/A
Net Position - Beginning the Year	11,571,907	11,571,907	-	0.0%	12,217,220	(645,313)	(5.3%)
Net Position - Year-to-Date	11,802,114	9,622,895	2,179,219	22.6%	11,571,907	230,207	2.0%
Increase (Decrease) in Net Position Excluding Ret HC Trust Inv. Income	(594,210)	(1,949,012)	1,354,802	(69.5%)	(964,261)	370,051	(38.4%)

State Bar of Michigan
Statement of Revenue, Expense, and Net Assets
Administrative Fund
For the Twelve Months Ending September 30, 2021

	Actual YTD	Budget YTD	Variance	Percentage	Actual to Budget Variances
Revenue					
Legal					
Ethics	\$7,325	\$6,700	\$625	9.33%	
Character & Fitness	312,885	358,625	(45,740)	(12.75%)	Lower number of bar exam applicants
Legal Total	320,210	365,325	(45,115)	(12.35%)	
Public and Bar Services					
Annual Meeting	-	31,000	(31,000)	(100.00%)	No event due to COVID
Lawyer Services	213,887	204,650	9,237	4.51%	Lower partner program revenue for some programs
Bar Leadership Forum	-	11,725	(11,725)	(100.00%)	No event due to COVID
Upper Michigan Legal Institute	-	12,500	(12,500)	(100.00%)	No event due to COVID
50 Year Honoree Celebration	-	2,350	(2,350)	(100.00%)	No event due to COVID
Practice Management Resource Center	1,375	1,000	375	37.50%	Higher online seminar revenue
Lawyer Referral Service	137,775	140,000	(2,225)	(1.59%)	Higher percentage fees offset by lower administrative fee
LJAP	51,876	51,990	(114)	(0.22%)	Lower due to no seminar revenue Fy 2021
Public and Bar Services Total	404,913	455,215	(50,302)	(11.05%)	
Operations and Policy					
License Fees	7,764,197	7,641,000	123,197	1.61%	Higher late fees, slightly higher license fees, delinquent dues, and reinstatement fees
Other Revenue	372,742	364,900	7,842	2.15%	Higher pro Hac Vice fees offset by lower CPF fees
Bar Journal Directory	13,914	32,750	(18,836)	(57.51%)	No print directory resulting in lower advertising revenue
Bar Journal	151,511	148,400	3,111	2.10%	Higher advertising revenue
Print and Design	48,944	54,300	(5,356)	(9.86%)	Slightly lower printing revenue
e-Journal	26,913	25,000	1,913	7.65%	Slightly higher advertising revenue
Digital	70,659	49,000	21,659	44.20%	Higher Career Center revenue offset by lower revenue from sections
Operations and Policy Total	8,448,880	8,315,350	133,530	1.61%	
Non-Operating Revenue					
Investment Income - SBM Operations	70,185	94,000	(23,815)	(25.34%)	Lower interest rates
Investment Income - Ret HC Trust	824,417	-	824,417	0.00%	
Total Non-Operating Revenue	894,602	94,000	800,602	851.70%	
Total Revenue	10,068,605	9,229,890	838,715	9.09%	

	Actual YTD	Prior Year YTD	Variance	Percentage	Actual to Prior Year Variances
Revenue					
Legal					
Ethics	\$7,325	\$6,090	\$1,235	20.28%	Higher seminar revenue FY 21
Character & Fitness	312,885	325,940	(13,055)	(4.01%)	Lower number of applicants offset by higher late registration fees
Legal Total	320,210	332,030	(11,820)	(3.56%)	
Public and Bar Services					
Annual Meeting	-	-	-	0.00%	
Lawyer Services	213,887	195,734	18,153	9.27%	Higher COGs, Avis, and LawPay revenue offset by loss of Staples revenue
Bar Leadership Forum	-	946	(946)	(100.00%)	
Upper Michigan Legal Institute	-	597	(597)	(100.00%)	
50 Year Honoree Celebration	-	-	-	0.00%	
Practice Management Resource Center	1,375	530	845	159.43%	
Lawyer Referral Service	137,775	127,560	10,215	8.01%	Services were impacted in FY20 due to COVID
LJAP	51,876	41,315	10,561	25.56%	Higher monitoring fees revenue
Public and Bar Services Total	404,913	366,682	38,231	10.43%	
Operations and Policy					
License Fees	7,764,197	7,732,165	32,032	0.41%	Primarily higher late fees, reinstatement fees and delinquent dues offset by lower license fees and affiliate dues collected
Other Revenue	372,742	380,059	(7,317)	(1.93%)	Lower Pro Hac Vice and CPF fees, offset by higher ADS fees and MSBF rent due to CPI increase
Bar Journal Directory	13,914	39,645	(25,731)	(64.90%)	Printed Directory discontinued in FY 21 resulting in lower advertising revenue
Bar Journal	151,511	146,149	5,362	3.67%	High advertising revenue offset by lower royalties revenue
Print and Design	48,944	50,219	(1,275)	(2.54%)	
e-Journal	26,913	24,022	2,891	12.03%	Higher display advertising net of lower classified advertising revenue
Digital	70,659	51,610	19,049	36.91%	Higher Career Center revenue
Operations and Policy Total	8,448,880	8,423,869	25,011	0.30%	
Non-Operating Revenue					
Investment Income - SBM Operations	70,185	199,067	(128,882)	(64.74%)	Lower interest rates and investment balances
Investment Income - Ret HC Trust	824,417	318,946	505,471	158.48%	
Total Non-Operating Revenue	894,602	518,013	376,589	72.70%	
Total Revenue	10,068,605	9,640,594	428,011	4.44%	

State Bar of Michigan
Statement of Revenue, Expense and Net Assets
Administrative Fund
For the Twelve Months Ending September 30, 2021

Expense	Actual YTD	Budget YTD	Variance	Percentage	Actual to Budget Variances
Legal					
Ethics	\$2,124	\$7,005	(\$4,881)	(69.68%)	Lower travel and meeting expenses
Client Protection Fund Dept	3,285	6,865	(3,580)	(52.15%)	Lower travel and meeting expenses
Interim Administrator Program	-	4,500	(4,500)	(100.00%)	Program not implemented in FY 21
Character & Fitness	49,705	52,000	(2,295)	(4.41%)	Lower transcripts, travel and meeting expenses
UPL	4,489	12,750	(8,261)	(64.79%)	Lower travel and outreach events expenses
General Counsel	27,268	55,800	(28,532)	(51.13%)	Lower external counsel expense
Human Resources	1,736,026	1,968,358	(232,332)	(11.80%)	Lower payroll tax and benefit expenses due to vacancies
Salaries	1,148,305	1,224,066	(75,761)	(6.19%)	Lower due to vacancies
Legal Total	2,971,202	3,331,344	(360,142)	(10.81%)	
Public and Bar Services					
Annual Meeting	4,124	56,400	(52,276)	(92.69%)	No event due to COVID
Lawyer Services	32,464	31,500	964	3.06%	Lower travel and meeting expenses offset by higher mail expenses
Bar Leadership Forum	-	33,000	(33,000)	(100.00%)	No event due to COVID
UMLI	-	28,900	(28,900)	(100.00%)	No event due to COVID
50 Yr. Golden Celebration	2,791	27,225	(24,434)	(89.75%)	No event due to COVID, only postage and recognition expenses
Practice Management Resource Center	3,041	5,455	(2,414)	(44.25%)	Lower seminar and meeting expenses
Lawyer Referral Service	6,692	7,750	(1,058)	(13.65%)	Lower local bar collaborative fees
Outreach	59,246	136,500	(77,254)	(56.60%)	Lower YLS and outreach expenses
Diversity	20,462	35,000	(14,538)	(41.54%)	Lower due to GM's sponsorship and lower travel and meeting expenses
LJAP	6,491	24,450	(17,959)	(73.45%)	Lower contractor, advertising, travel and meeting expenses
Technical Services	643,212	640,900	2,312	0.36%	Higher phone and software subscriptions expenses offset by lower equipment purchases lower repair and maintenance expenses
Salaries	1,814,327	1,875,536	(61,209)	(3.26%)	Lower due to vacancies
Total Public and Bar Services	2,592,850	2,902,616	(309,766)	(10.67%)	
Operations and Policy					
Administration	82,289	82,800	(511)	(0.62%)	Slightly higher insurance and Zoom expenses offset by lower office supplies expenses
Financial Services	924,756	960,295	(35,539)	(3.70%)	Lower depreciation, temporary staffing, bank service fees, and property taxes, offset by higher credit card processing fees and loss on disposal of assets.
Bar Journal Directory	1,650	6,000	(4,350)	(72.50%)	Printed directory was discontinued
Bar Journal	369,067	510,550	(141,483)	(27.71%)	Lower typesetting, paper, printing and mailing expenses
Print and Design	37,144	61,500	(24,356)	(39.60%)	Lower paper, equipment maintenance expense and supplies expenses
Digital	89,476	147,500	(58,024)	(39.34%)	Lower website maintenance and online member directory expenses
e-Journal	31,342	33,050	(1,708)	(5.17%)	Lower contractor expenses
General Communications	11,586	30,700	(19,114)	(62.26%)	Lower promotion of Bar and travel expense
Executive Office	29,255	60,200	(30,945)	(51.40%)	Lower contingency fund, balloting and travel expenses
Board of Commissioners	47,581	134,900	(87,319)	(64.73%)	Lower travel and meeting expenses
Representative Assembly	13,800	41,000	(27,200)	(66.34%)	Lower travel and meeting expenses
Governmental Relations	56,735	68,830	(12,095)	(17.57%)	Lower travel and meeting expenses
Research and Development	14,584	21,310	(6,726)	(31.56%)	Lower project expenses
Facilities Services	310,602	419,760	(109,158)	(26.00%)	Lower electric, HVAC, repair and maintenance, supplies and equipment, parking and postage expenses
Justice Initiatives	127,156	135,250	(8,094)	(5.98%)	Lower travel and meeting expenses
Salaries	2,127,323	2,231,297	(103,974)	(4.66%)	Lower due to vacancies
Operations and Policy Total	4,274,346	4,944,942	(670,596)	(13.56%)	
Total Expense	9,838,398	11,178,902	(1,340,504)	(11.99%)	
Increase (Decrease) in Net Assets	\$230,207	(\$1,949,012)	\$2,179,219	(111.81%)	

Expense	Actual YTD	Budget YTD	Variance	Percentage	Actual to Budget Variances
Human Resources Detail					
Payroll Taxes	375,308	406,789	(31,481)	(7.74%)	Lower salary expenses
Benefits	1,319,504	1,508,569	(189,065)	(12.53%)	Lower level health insurance plan selections and lower utilization due to vacancies, positive impact of the state of Michigan retiree healthcare allocation offset by higher pension expense allocation
Other Expenses	41,214	53,000	(11,786)	(22.24%)	Lower temporary staffing expenses and employee recognition expenses offset by higher recruiting fees
Total Human Resources	1,736,026	1,968,358	(232,332)	(11.80%)	
Financial Services Detail					
Depreciation	530,042	558,000	(27,958)	(5.01%)	Lower depreciation due to timing of capital projects
Other Expenses	394,714	402,295	(7,581)	(1.88%)	Lower temporary staffing, bank service fees, and property taxes, offset by higher credit card processing fees and loss on disposal of assets.
Total Financial Services	924,756	960,295	(35,539)	(3.70%)	
Salaries					
Legal	1,148,305	1,224,066	(75,761)	(6.19%)	
Public and Bar Services	1,814,327	1,875,536	(61,209)	(3.26%)	
Operations and Policy	2,127,323	2,231,297	(103,974)	(4.66%)	
Total Salaries Expense	5,089,955	5,330,899	(240,944)	(4.52%)	
Non-Labor Expense Summary					
Legal	128,085	191,920	(63,835)	(33.26%)	
Public and Bar Services	778,523	1,027,080	(248,557)	(24.20%)	
Operations and Policy	2,147,023	2,713,645	(566,622)	(20.88%)	
Total Non-Labor Expense	3,053,631	3,932,645	(879,014)	(22.35%)	

Expense	Actual YTD	Prior Year YTD	Variance	Percentage	Actual to Prior Year Variances
Legal					
Ethics	\$2,124	\$7,201	(\$5,077)	(70.50%)	Lower travel and meeting expenses
Client Protection Fund Dept	3,285	2,461	824	33.48%	Lower travel and meeting expenses
Interim Administrator Program	-	-	-	0.00%	
Character & Fitness	49,705	40,663	9,042	22.24%	Higher transcript expenses
UPL	4,489	15,704	(11,215)	(71.41%)	Lower books and research expenses
General Counsel	27,268	64,581	(37,313)	(57.78%)	Lower external counsel expense
Human Resources	1,736,026	1,828,787	(92,761)	(5.07%)	Lower payroll taxes and benefits expenses due to vacancies
Salaries	1,148,305	1,062,557	85,748	8.07%	Hiring for open positions, COLA 2%
Legal Total	2,971,202	3,021,954	(50,752)	(1.68%)	
Public and Bar Services					
Annual Meeting	4,124	21,186	(17,062)	(80.53%)	No annual meeting; non-refundable deposit was expensed in FY 20
Lawyer Services	32,464	77,518	(45,054)	(58.12%)	Bar cards and bar card postage moved to Administration in FY 21
Bar Leadership Forum	-	847	(847)	(100.00%)	No event due to COVID; FY 20 postage expense
UMLI	-	3,393	(3,393)	(100.00%)	No event due to COVID; FY 20 supplies and postage expense
50 Yr. Golden Celebration	2,791	1,643	1,148	69.87%	No event due to COVID; FY 20 recognition expense was lower
Practice Management Resource Center	3,041	5,118	(2,077)	(40.58%)	Lower seminar and travel expenses
Lawyer Referral Service	6,692	1,270	5,422	426.93%	Local Bar Collaborative expense higher FY 21
Outreach	59,246	41,716	17,530	42.02%	Higher Judicial Section and YLS expense FY 21
Diversity	20,462	5,919	14,543	245.70%	No events FY 20
LJAP	6,491	14,801	(8,310)	(56.14%)	Lower travel, training and advertising expenses
Technical Services	643,212	573,310	69,902	12.19%	Higher software expenses, new contract for data center maintenance, and higher managed services expenses offset by lower repairs and maintenance expenses.
Salaries	1,814,327	2,201,813	(387,486)	(17.60%)	Due to departures and open positions
Total Public and Bar Services	2,592,850	2,948,534	(355,684)	(12.06%)	
Operations and Policy					
Administration	82,289	31,454	50,835	161.62%	Bar cards and postage moved to this line in FY 21 and higher directors and officers insurance expenses
Financial Services	924,756	898,702	26,054	2.90%	Higher credit card processing fees offset by lower temporary staffing, property taxes, and loss on disposal of assets.
Bar Journal Directory	1,650	53,165	(51,515)	(96.90%)	Printed directory was discontinued
Bar Journal	369,067	440,712	(71,645)	(16.26%)	Lower paper and postage expenses
Print and Design	37,144	42,139	(4,995)	(11.85%)	Lower equipment maintenance expense
Digital	89,476	105,383	(15,907)	(15.09%)	Lower maintenance and subscription expenses
e-Journal	31,342	36,228	(4,886)	(13.49%)	Lower contractor expenses
General Communications	11,586	31,658	(20,072)	(63.40%)	Mock Trial moved to Outreach
Executive Office	29,255	59,943	(30,688)	(51.20%)	Lower travel, consulting and contingency expenses
Board of Commissioners	47,581	35,261	12,320	34.94%	Higher travel and meeting expenses offset by elimination of presidential firm support
Representative Assembly	13,800	788	13,012	1,651.27%	Higher travel and meeting expenses
Governmental Relations	56,735	57,300	(565)	(0.99%)	
Research and Development	14,584	29,773	(15,189)	(51.02%)	Economics of Law survey not conducted in FY 21, lower travel and meeting expenses
Facilities Services	310,602	343,908	(33,306)	(9.68%)	Lower water, electricity, HVAC, furniture, and parking, offset by higher cleaning expenses
Justice Initiatives	127,156	132,363	(5,207)	(3.93%)	Lower travel and meeting expenses
Salaries	2,127,323	2,016,644	110,679	5.49%	Changes in staffing
Operations and Policy Total	4,274,346	4,315,421	(41,075)	(0.95%)	
Total Expense	9,838,398	10,285,909	(447,511)	(4.35%)	
Increase (Decrease) in Net Assets	\$230,207	(\$645,314)	\$875,522	(135.67%)	

Expense	Actual YTD	Prior Year YTD	Variance	Percentage	Actual to Prior Year Variances
Human Resources Detail					
Payroll Taxes	375,308	389,009	(13,701)	(3.52%)	Less due to lower salary expenses
Benefits	1,319,504	1,387,139	(67,635)	(4.88%)	Lower due to utilization and vacancies
Other Expenses	41,214	52,639	(11,425)	(21.70%)	Lower temporary staffing and employee recognition expenses offset by higher recruiting fees
Total Human Resources	1,736,026	1,828,787	(92,761)	(5.07%)	
Financial Services Detail					
Depreciation	530,042	528,855	1,187	0.22%	Higher credit card processing fees offset by lower temporary staffing, property taxes, and loss on disposal of assets.
Other Expenses	394,714	369,847	24,867	6.72%	
Total Financial Services	924,756	898,702	26,054	2.90%	
Salaries					
Legal	1,148,305	1,062,557	85,748	8.07%	
Public and Bar Services	1,814,327	2,201,813	(387,486)	(17.60%)	
Operations and Policy	2,127,323	2,016,644	110,679	5.49%	
Total Salaries Expense	5,089,955	5,281,014	(191,059)	(3.62%)	
Non-Labor Expense Summary					
Legal	128,085	183,249	(55,164)	(30.10%)	
Public and Bar Services	778,523	746,721	31,802	4.26%	
Operations and Policy	2,147,023	2,298,777	(151,754)	(6.60%)	
Total Non-Labor Expense	3,053,631	3,228,747	(175,116)	(5.42%)	

State Bar of Michigan
Administrative Fund
FY 2021 Capital Expenditures vs Budget
For the Twelve Months Ending September 30, 2021

	YTD Actual	YTD Budget	YTD Variance	Notes and Variance Explanations
FACILITIES, FURNITURE & OFFICE EQUIPMENT				
Elevator Upgrade/Modernization	\$18,693	\$20,000	(\$1,307)	
Meeting room upgrades for virtual capabilities	-	20,000	(20,000)	In process
Replacement of Floor Copiers/Scanners	-	35,000	(35,000)	On hold
Total Facilities, Furniture & Office Equipment:	\$18,693	\$75,000	(\$56,307)	
INFORMATION TECHNOLOGY				
<u>IT Infrastructure:</u>				
Network Firewalls (2)	\$17,834	\$25,000	(\$7,166)	Installed in September 2021.
Data Center	133,267	125,000	8,267	Includes a three-year service contract for \$35,231.24.
<u>Application Software Development:</u>				
Receivership /Interim Administrator Program data portal	-	30,000	(30,000)	Pending MI Supreme Court program approval
E-commerce store	4,975	15,000	(10,025)	
E-commerce License Fee Portal	52,500	-	52,500	Not budgeted, offset by other projects
Firm Billing/Invoices for License Fees	-	10,000	(10,000)	
Firm Administration Application	-	10,000	(10,000)	
Unauthorized Practice of Law Portal	-	20,000	(20,000)	
Client Protection Fund Portal	2,500	30,000	(27,500)	
Website Functionality Enhancements	47,450	25,000	22,450	
Lawyer Referral Module Enhancements	34,775	40,000	(5,225)	
Volunteer Application Portal	2,500	-	2,500	Not budgeted, offset by other projects
Character & Fitness Hearings Module	40,000	-	40,000	Not budgeted, offset by other projects
MIFILE Court Database	7,500	-	7,500	Not budgeted, offset by other projects
Total Information Technology:	\$343,302	\$330,000	\$13,302	
Total Capital Budget:	\$361,995	\$405,000	(\$43,005)	

**STATE BAR OF MICHIGAN
CLIENT PROTECTION FUND**

Unaudited and For Internal Use Only

**FINANCIAL REPORTS
September 30, 2021**

FY 2021

Note: License fee revenue is recognized and budgeted as earned each month throughout the year.

State Bar Of Michigan
Client Protection Fund
Comparative Statement of Net Assets
For the Twelve Months Ending September 30, 2021

	8/31/2021	9/30/2021	Increase (Decrease)	%	Beginning of FY 2021 10/1/20	<i>Published FS</i> Beginning of FY 2021 10/1/20
Assets						
Cash-Checking	\$19,310	\$51,336	\$32,026	165.8%	\$121,712	\$121,712
Savings	2,068,333	2,134,669	66,336	3.2%	826,370	826,370
Investment	-	-	-	-	1,000,000	1,000,000
Accounts Receivable ¹⁾	-	-	-	-	-	217,066
Due From SBM	495	21,276	20,781	4197.9%	44,159	44,159
Accrued Interest Receivable	-	-	-	-	2,682	2,682
Total Assets	\$2,088,138	\$2,207,281	\$119,143	5.7%	\$1,994,923	\$2,211,989
Liabilities						
Accounts Payable	\$10,330	\$241,237	\$230,907	2235.3%	\$261,172	\$82,247
Deferred Revenue	63,970	131,925	67,955	106.2%	98,033	98,033
Total Liabilities	\$74,300	\$373,162	\$298,861	402.2%	\$359,205	\$180,280
Fund Balance						
Fund Balance at Beginning of Year	1,635,718	1,635,718	-	-	1,996,790	1,996,790
Accounting Adjustment - Change in Accounting Policy ^{1), 2)}	-	-	-	-	(211,100)	-
Adjusted Fund Balance at Beginning of Year	1,635,718	1,635,718	-	-	1,785,690	1,996,790
Net Income (Expense) Year to Date	378,120	198,401	(179,719)	(47.5%)	(149,972)	34,920
Total Fund Balance	2,013,838	1,834,119	(179,719)	(8.9%)	1,635,718	2,031,710
Total Liabilities and Fund Balance	\$2,088,138	\$2,207,281	\$119,142	5.7%	\$1,994,923	\$2,211,989

¹⁾ Effective August 31, 2021, CPF changed accounting for claims recoveries from accrual to cash basis which means that CPF no longer records expected recoveries and records income when payment is actually received. CPF also no longer records accounts receivable and allowance for doubtful accounts. The change in the accounting policy resulted in a \$24,728 adjustment to reverse Claims Recoveries accrued through August 31, 2021 and a \$217,066 cumulative adjustment to the FY 2021 beginning Fund Balance, to remove previously accrued receivables (FY 2020 amounts were \$57,191 and \$159,875 respectively). Presented FY 2021 and FY 2020 balances reflect retroactive application of this policy change to both periods.

²⁾ Effective October 1, 2020, CPF is recording claim expenses when claims are approved vs when signed subrogation agreements are received. As of September 30, 2021, CPF had \$241,237 claims approved that were awaiting signed subrogation agreements (FY 2020: \$178,925; FY 2019: \$51,225). Presented FY 2021 and FY 2020 balances reflect the retroactive application of this policy change to both periods.

Client Protection Fund
Statement of Revenue, Expenses, and Changes in Net Assets
For the Twelve Months Ending September 30, 2021

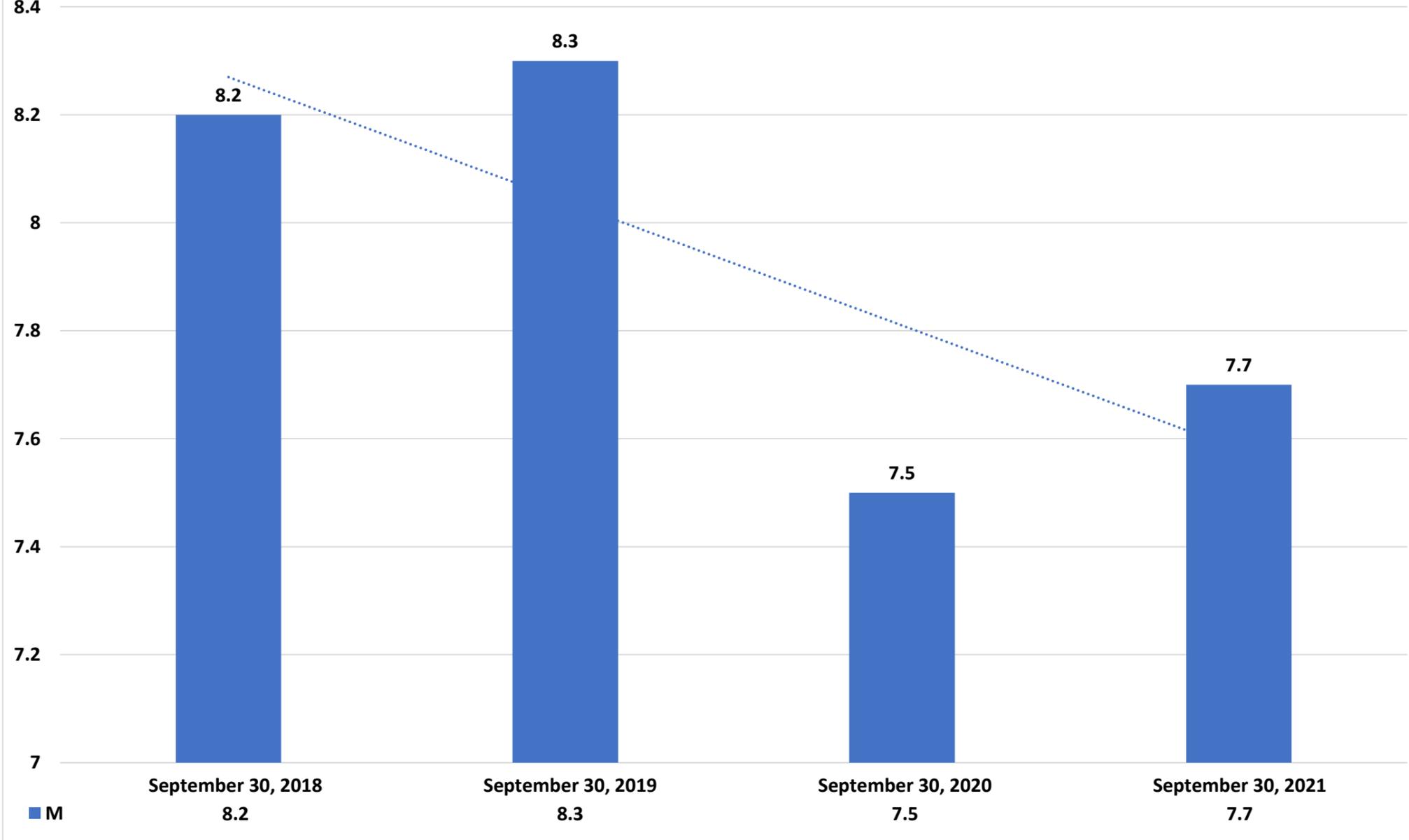
	2021 YTD	2020 YTD	<i>Published FS</i> 2020 YTD		
	<u> </u>	<u> </u>	<u> </u>		
Income:					
3-7-00-000-0005 Contributions Received	6,025	3,430	3,430		
3-7-00-000-0050 License Fees Assessment	645,566	645,814	645,814		
3-7-00-000-0051 Pro Hac Vice Fees	12,990	13,425	13,425		
3-7-00-000-0890 Claims Recovery / 0891 Claims Income ¹⁾	31,134	46,736	103,927	(57,191) revenue	57,191
Total Income	<u>695,715</u>	<u>709,405</u>	<u>766,596</u>		
Expenses:					
3-9-00-000-0200 Claims Payment ²⁾	338,293	703,860	576,159	127,701 expense	51,225
3-9-00-000-0910 Administrative Fee	162,439	171,626	171,626		
3-9-00-000-0994 Bank Service Charges	427	850	850		
Total Expenses	<u>501,159</u>	<u>876,336</u>	<u>748,635</u>		
Investment Income	3,845	16,959	16,959		
Increase/Decrease in Net Position	198,401	(149,972)	34,920		
Net Position, Beginning of Year	1,635,718	1,996,790	1,996,790		
Accounting Adjustment for Beg Fund Balance ³⁾	-	(211,100)	-		
Net Position, End of Year	<u>\$ 1,834,119</u>	<u>\$ 1,635,718</u>	<u>\$ 2,031,710</u>		

¹⁾ Represents claim recoveries and claim income collected on cash basis.

²⁾ Represents claim payments and claims approved, but not yet paid.

³⁾ Effective August 31, 2021, CPF records claim income when payment is received vs estimated claim recoveries. Effective October 1, 2020, CPF records claim expenses when claims are approved for payment vs when signed subrogation agreements are received. FY 2021 and FY 2020 balances are presented with application of these policy changes to both periods.

State Bar of Michigan Cash & Investments
Excluding Sections, Client Protection Fund and Retiree Health Care Trust
For the Twelve Months Ending September 30, 2021
\$7.7M



Note: The State Bar of Michigan has no bank debt outstanding

Summary of Cash and Investment Balances by Financial Institution

9/30/2021

Assets	Bank Rating	Financial Institution Summary	Interest Rates	Maturity	Fund Summary
		SBM Chase Checking \$ 302,246.14			Client Protection Fund \$ 2,186,005
		SBM Chase Credit Card \$ 206,371.75			
		SBM Chase E Checking \$ 26,355.00			State Bar Admin Fund \$ 10,676,495
		SBM Chase Payroll \$ -			(including Sections)
		SBM Chase Savings \$ 200,384.86	0.05%		Attorney Discipline System \$ 3,749,663
		ADS Chase Checking \$ 46,057.62			
		CPF Chase Checking \$ 51,336.04			SBM Retiree Health Care Trust \$ 4,730,914
		CPF Chase Savings \$ 97,549.58	0.05%		
\$3.4 Trillion	5 stars	** Chase Total \$ 930,300.99			ADB Retiree Health Care Trust \$ 1,388,730
		SBM Horizon Bank Money Market \$ 10,026.96	0.15%		AGC Retiree Health Care Trust \$ 4,614,950
\$6.1 Billion	5 stars	Horizon Bank Total \$ 10,026.96			Total \$ 27,346,757
		ADS Bank of America Petty Cash \$ 3,549.20	0.00%		
\$3 Trillion	5 stars	Bank of America Total \$ 3,549.20			
		SBM Fifth Third Commercial Now \$ 136,473.79	0.10% *		State Bar Admin Fund Summary
\$541 Billion	5 stars	Fifth Third Total \$ 136,473.79			Cash and Investments \$ 10,676,495
		Grand River Bank Money Market \$ 10,026.15	0.20%		Less:
\$465 Million	5 stars	Grand River Bank Total w/CD \$ 999,165.30			Due (to)/from Sections \$ (2,983,335)
		Sterling Bank \$ 355.83	0.10%		Due (to)/from CPF \$ (21,276)
		Sterling Bank Money Market \$ 10,044.07	0.09%		Due to Sections and CPF \$ (3,004,611)
\$3.5 Billion	3.5 stars	Sterling Bank Total \$ 10,399.90			Net Administrative Fund \$ 7,671,884
		Citizens Bank Checking \$ 10,000.00	0.00%		
\$187 Billion	5 stars	Citizens Bank Total \$ 10,000.00			SBM Average Weighted Yield: 0.39%
		MSUCU Savings \$ 56.09	0.00%		ADS Average Weighted Yield: 0.09%
		MSUCU Checking \$ 6,484.84	0.00%		CPF Average Weighted Yield: 0.10%
		MSU Credit Union Total \$ 6,540.93			
\$6.6 Billion	5 stars	MSU Credit Union Total w/CD \$ 2,001,292.41			Notes:
		LAFCU Savings \$ 5.00			- Average weighted yields exclude retiree health care trusts
\$927 Million	5 stars	LAFCU Total w/CD \$ 999,995.00			- All amounts are based on reconciled book balance and interest rates as of 09/30/21
		CASE Cr Un \$ 6.00			- CDARS when used are invested in multiple banks up to the FDIC limit for each bank
		CASE Cr Un Total w/CD \$ 1,000,006.00			- Funds held in bank accounts are FDIC insured up to \$250,000 per bank
		SBM Flagstar ICS Checking \$ 1,160,323.64	0.10%		- The SBM funds held with Charles Schwab in the Retiree Health Care Trusts are
		ADS Flagstar ICS Checking Account \$ 3,317,771.14	0.10%		invested in 76% equity securities, 22% in bonds and 2% in money market funds
		CPF Flagstar ICS Checking \$ 2,037,119.50	0.10%		- As of 09/30/21, the funds held by SBM attributable to ADS were \$382,285.22
		Flagstar Bank FDIC Insured \$ 6,515,214.28			- Bank Star rating from Bauer Financial.
\$31 Billion	4 stars	SBM Flagstar Savings \$ 3,000,079.32	0.15%		- Lockbox fees are offset by 0.10% (annual rate) on average monthly balance (*)
		\$ 3,000,079.32			- Actual unreconciled Chase balance per statements was \$817,249.82 (**)

Assets	Bank Rating	Financial Institution Summary	Interest Rates	Maturity	Fund Summary
\$465 Million	5 stars	SBM - Grand River Bank	\$ 253,527.69	0.55%	05/11/22
		SBM - Grand River Bank	\$ 245,611.46	0.50%	04/18/22
		SBM - Grand River Bank	\$ 245,000.00	0.60%	09/29/21
		SBM - Grand River Bank	\$ 245,000.00	0.85%	09/29/21
\$2.6 Billion	3.5 stars	SBM-CD First National Bank of America	\$ 245,659.68	0.80%	10/12/21
		SBM-CD First National Bank of America	\$ 250,000.00	0.80%	10/16/21
		SBM-CD First National Bank of America	\$ 250,000.00	0.80%	10/16/21
		SBM-CD First National Bank of America	\$ 250,000.00	0.80%	10/16/21
\$6.6 Billion	5 stars	SBM-CD MSU Credit Union	\$ 250,514.54	0.50%	10/28/21
		SBM-CD MSU Credit Union	\$ 250,514.54	0.50%	10/28/21
		SBM-CD MSU Credit Union	\$ 250,514.54	0.50%	10/28/21
		SBM-CD MSU Credit Union	\$ 250,514.54	0.50%	10/28/21
		SBM-CD MSU Credit Union	\$ 250,682.17	0.50%	11/21/21
		SBM-CD MSU Credit Union	\$ 250,682.17	0.50%	11/21/21
		SBM-CD MSU Credit Union	\$ 250,682.17	0.50%	11/21/21
		SBM-CD MSU Credit Union	\$ 250,682.17	0.50%	11/21/21
		SBM-CD MSU Credit Union	\$ 240,646.81	0.50%	09/20/21
		SBM - CD LAFCU	\$ 250,000.00	0.70%	04/23/22
\$927 Million	5 stars	SBM - CD LAFCU	\$ 250,000.00	0.70%	04/23/22
		SBM - CD LAFCU	\$ 250,000.00	0.70%	05/07/22
		SBM - CD LAFCU	\$ 249,990.00	0.70%	05/07/22
		SBM - Case Credit Union	\$ 250,000.00	0.40%	07/01/22
\$360 Million	5 stars	SBM - Case Credit Union	\$ 250,000.00	0.40%	07/01/22
		SBM - Case Credit Union	\$ 250,000.00	0.40%	07/01/22
		SBM - Case Credit Union	\$ 250,000.00	0.40%	07/01/22
		SBM - Case Credit Union	\$ 250,000.00	0.40%	07/01/22
		Bank CD Totals	\$ 5,979,540.31		
Total Cash & Investments (excluding Schwab)		\$ 16,612,162.83			
SBM - Charles Schwab (Ret HC Trust)		\$ 4,730,913.92		Mutual Funds	
ADB - Charles Schwab (Ret HC Trust)		\$ 1,388,729.95		Mutual Funds	
AGC - Charles Schwab (Ret HC Trust)		\$ 4,614,949.99		Mutual Funds	
Charles Schwab Totals		\$ 10,734,593.86			
Grand Total (including Schwab)		\$ 27,346,756.69			
Total amount of cash and investments (excluding Schwab) not FDIC insured		\$ 8,176,498.70	49.22%		

Assets & Ratings updated 10/8/2021

Monthly SBM Attorney and Affiliate Report - September 30, 2021

FY 2021

<u>Attorneys and Affiliates In Good Standing</u>	September 30 2014	September 30 2015	September 30 2016	September 30 2017	September 30 2018	September 30 2019	September 30 2020	September 30 2021	FY Increase (Decrease)
Active	41,093	41,608	41,921	42,100	42,342	42,506	42,401	42,393	(8)
Less than 50 yrs serv	40,036	40,490	40,725	40,833	40,973	41,036	40,559	40,504	(55)
50 yrs or greater	1,057	1,118	1,196	1,267	1,369	1,470	1,842	1,889	47
Voluntary Inactive	1,211	1,218	1,250	1,243	1,169	1,139	1,192	1,097	(95)
Less than 50 yrs serv	1,184	1,195	1,230	1,217	1,142	1,105	1,149	1,055	(94)
50 yrs or greater	27	23	20	26	27	34	43	42	(1)
Emeritus	1,552	1,678	1,841	1,973	2,204	2,447	2,727	3,033	306
Total Attorneys in Good Standing	43,856	44,504	45,012	45,316	45,715	46,092	46,320	46,523	203
Fees paying Attorneys (Active & Inactive less than 50 yrs of Serv)	41,220	41,685	41,955	42,050	42,115	42,141	41,708	41,559	(149)
Affiliates									
Legal Administrators	14	13	13	13	10	10	8	5	3
Legal Assistants	413	425	405	400	401	393	317	219	(98)
Total Affiliates in Good Standing	427	438	418	413	411	403	325	224	(95)
Total Attorneys and Former Attorneys in the Database									
	September 30 2014	September 30 2015	September 30 2016	September 30 2017	September 30 2018	September 30 2019	September 30 2020	September 30 2021	FY Increase (Decrease)
State Bar of Michigan Attorney and Affiliate Type									
Attorneys in Good Standing:									
ATA (Active)	41,093	41,608	41,921	42,100	42,342	42,506	42,401	42,393	(8)
ATVI (Voluntary Inactive)	1,211	1,218	1,250	1,243	1,169	1,139	1,192	1,097	(95)
ATE (Emeritus)	1,552	1,678	1,841	1,973	2,204	2,447	2,727	3,033	306
Total Attorneys in Good Standing	43,856	44,504	45,012	45,316	45,715	46,092	46,320	46,523	203
Attorneys Not in Good Standing:									
ATN (Suspended for Non-Payment of Dues)	5,427	5,578	5,743	5,888	6,072	6,246	6,416	6,472	56
ATDS (Discipline Suspension - Active)	407	415	418	430	439	440	445	449	4
ATDI (Discipline Suspension - Inactive)	12	11	18	19	19	24	25	25	0
ATDC (Discipline Suspension - Non-Payment of Court Costs)	1	3	3	16	15	16	16	14	(2)
ATNS (Discipline Suspension - Non-Payment of Other Costs)	83	92	99	94	95	98	100	102	2
ATS (Attorney Suspension - Other)*	1	1	1	0	1	1	2	0	(2)
ATR (Revoked)	521	517	534	562	583	596	613	623	10
ATU (Status Unknown - Last known status was inactive)**	2,088	2,076	2,074	2,070	2,070	2,070	2,070	2,070	0
Total Attorneys Not in Good Standing	8,540	8,693	8,890	9,079	9,294	9,491	9,687	9,755	68
Other:									
ATSC (Former special certificate)	136	140	145	152	155	157	158	164	6
ATW (Resigned)	1,429	1,483	1,539	1,612	1,689	1,798	1,907	2,036	129
ATX (Deceased)	8,127	8,445	8,720	9,042	9,287	9,524	9,793	10,260	467
Total Other	9,692	10,068	10,404	10,806	11,131	11,479	11,858	12,460	602
Total Attorneys in Database	62,088	63,265	64,306	65,201	66,140	67,062	67,865	68,738	873

* ATS is a new status added effective August 2012 - suspended by a court, administrative agency, or similar authority

** ATU is a new status added in 2010 to account for approximately 2,600 attorneys who were found not to be accounted for in the iMIS database
The last known status was inactive and many are likely deceased. We are researching these attorneys to determine a final disposition.

N/R - not reported

Notes: Through September 30, 2021 a total of 873 new attorneys joined SBM.

Financial Safety Margin Calculation - FY 2021

Calculated on October 1, 2021

The Financial Safety Margin ratio is very favorable at 103% (financial capability as a percentage of annual budgeted expenses) as of August 31 for FY 2021, compared to the 33% minimum safety margin required in the policy. See calculation below. The policy that provides the definition for this calculation is attached.

State Bar of Michigan Financial Safety Margin Calculation

Financial Capability as of August 31, 2021

+ Cash and CDARS/CD investments* Based on August 31, 2021 balances	\$6,515,971
+ 80% of market value of the building (estimate) Estimated based on last appraisal	\$5,069,545
- Debt	-
- Designated amounts	-
Total Financial Capability as of August 31, 2021	\$11,585,516

*Includes cash, CDARS and CDs at 100%.
Excludes Retiree Health Care Trust Account

FY 2022 Budgeted Expenses	\$11,241,540
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Total Financial Capability as a % of Budgeted Expenses	103%
Excluding the 80% of the value of the building	58%

State Bar of Michigan Financial Safety Margin Policy

The financial capability of the State Bar of Michigan's Administrative Fund shall be defined as: a) cash and short-term investments (less any amounts due to Sections or the Client Protection Fund), plus b) 80% of long term investments, plus c) available borrowing capacity (80% of the appraised value of the building) less related debt, minus d) any designated amounts (i.e. for retiree health care liability).

The financial capability as defined above shall be targeted to be no less than 33% of annual budgeted expenses in order to assure an adequate financial safety margin.

The financial safety margin will be calculated on August 31 of each year to ensure compliance with the policy. If the actual financial capability is calculated to be less than 33% of the projected budgeted expenses for the following year, the Treasurer shall inform the Board of Commissioners that there is not an adequate financial safety margin, and to consider possible budget adjustments.

Approved in April 2005

CONFIDENTIAL

November 4, 2021

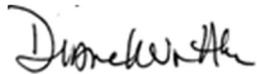
TO: Board of Commissioners

RE: District Character & Fitness Committee Appointments

I have received nominations for District Committee appointments from the following Commissioner Districts: A, B, C, D, E, F, G, H and I.

Attached are lists that show the nominations of new or reappointed members in the district, the term expiration for all members, and the information we were able to collect regarding the make-up of each committee. Ethnic designations are taken from membership records and reflect the category chosen by the member on their fees statement for the year 2021-2022. Discipline checks were done on all nominees on the date indicated and will be done again prior to the beginning of the year.

Sincerely,



Diane K. Van Aken
Character & Fitness Program Director

PROPOSED 2022 District Character Fitness Committee

District A

Commissioner: Suzanne C. Larsen

Chairperson: Alfred E. Feleppa, III

Appointment(s) Terminating December 31, 2021

Due to term limits, resignation, relocation outside of district, or other.

None

Member(s) Requesting Re-Appointment

January 2022 - December 2023

*Date of Discipline
Status Report*

P54906	Alfred E. Feleppa, III	Saint Ignace	10/28/2021
P81511	Amy L. Stikovich	Petoskey	10/28/2021

Member(s) Nominated

District Committee Appointment January 2022 - December 2023

*Date of Discipline
Status Report*

None

Mid-Term Member(s)

January 2021 - December 2022 - No Action Required

*Date of Discipline
Status Report*

P79099	Courtney E. Cadotte	Gaylord	10/28/2021
P31358	Nan E. Casey	Petoskey	10/28/2021
P30043	Marc T. Dedenbach	Grayling	10/28/2021
P32267	Christina L. DeMoore	Petoskey	10/28/2021
P69576	Brandon J. Evans	Marquette	10/28/2021
P60725	Jennifer J. France	Sault Sainte Marie	10/28/2021
P34150	Ann V. Hopcroft	Oscoda	10/28/2021
P31571	Robert W. Parker	Traverse City	10/28/2021
P30685	Kenneth C. Penokie	Escanaba	10/28/2021
P31194	Kenneth L. Tacoma	Cadillac	10/28/2021

PROPOSED 2022 District Character Fitness Committee

District B

Commissioner: Hon. B. Chris Christenson

Chairperson: Gregory T. Gibbs

Appointment(s) Terminating December 31, 2021

Due to term limits, resignation, relocation outside of district, or other.

P72652	Lori B. Selvidge
P75921	Melissa Janette Hoover

Member(s) Requesting Re-Appointment

January 2022 - December 2023

*Date of Discipline
Status Report*

P57729	Sandra K. Carlson	Flint	10/28/2021	1
P77000	Richard Hetherington	Flint	10/28/2021	1
P32998	L. David Lawson	Grand Blanc	10/28/2021	1
P71308	Alexandra Nassar	Flint	10/28/2021	1

Member(s) Nominated

District Committee Appointment January 2022 - December 2023

*Date of Discipline
Status Report*

P56161	Danielle N. Cusson	*transfer	Lapeer	10/28/2021	1
P23008	Michael W. Krellwitz		Grand Blanc	10/28/2021	1
P75369	Samantha J. Orvis		Grand Blanc	10/28/2021	1
P44779	Timothy R. Winship		Grand Blanc	10/28/2021	1

Mid-Term Member(s)

January 2021 - December 2022 - No Action Required

*Date of Discipline
Status Report*

P72303	Heather V. Burnash	Flint	10/28/2021	1
P71350	Nancy K. Chinonis	Flint	10/28/2021	1
P76097	Elias J. Fanous	Flint	10/28/2021	1
P26440	Gregory T. Gibbs	Flint	10/28/2021	1
P72061	Jonathan C. Poulos	Flint	10/28/2021	1
P81294	Christopher Stritmatter	Flint	10/28/2021	1
P61575	Beth R. Wickwire	Saginaw	10/28/2021	1

TOTAL 15

PROPOSED 2022 District Character Fitness Committee

District C

Commissioners: E. Thomas McCarthy, Thomas G. Sinas
Chairperson: Hon. George J. Quist

Appointment(s) Terminating (December 31, 2021)

Due to term limits, resignation, relocation outside of district, or other.

P80391 Kellen Anthony Dotson
P74252 Justin Matthew Present
P43884 Hon. George J. Quist

Member(s) Requesting Re-Appointment

January 2022 - December 2023

*Date of Discipline
Status Report*

P35699	Anne Bachle Fifer	Grand Rapids	10/28/2021
P49853	Jennifer Herrick Coles	Grand Rapids	10/28/2021
P71458	Sarah Jean Hartman	Grand Rapids	10/28/2021
P76649	Laura Monahan Joyce	Grand Rapids	10/28/2021
P64597	Blair T. Lachman	Grand Rapids	10/28/2021
P43773	Thomas P. Murray, Jr.	Grand Rapids	10/28/2021
P62665	Matthew T. Tompkins	Grand Rapids	10/28/2021
P60302	Timothy J. Waalkes	Grand Rapids	10/28/2021
P34473	Lawrence W. Wilson	Ada	10/28/2021
P78668	Thomas J. Worsfold	Grand Rapids	10/28/2021

Member(s) Nominated

District Committee Appointment January 2022 - December 2023

*Date of Discipline
Status Report*

P78256	Meredith Beidler	Grand Rapids	10/28/2021
P74894	Regina Berlin	Grandville	10/28/2021
P68216	Christina Elmore	Grand Rapids	10/28/2021
P44651	Aileen Leipprandt	Grand Rapids	10/28/2021

Chairperson Nominated

*Date of Discipline
Status Report*

P35699	Anne Bachle Fifer		10/28/2021
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Mid-Term Member(s)

January 2021 - December 2022 - No Action Required

*Date of Discipline
Status Report*

P40861	Christopher G. Hastings	Ada	10/28/2021
P79258	Daniel J. Hatch	Grand Rapids	10/28/2021
P75501	Charissa C. Huang	Grand Rapids	10/28/2021
P58831	Karen L. Moore	Harrison	10/28/2021
P53270	Jill S. Mulder	Ada	10/28/2021
P73332	Victoria A. Mullen	Grand Rapids	10/28/2021
P80766	Clay M. West	Grand Rapids	10/28/2021

PROPOSED 2022 District Character Fitness Committee

District D

Commissioner: Sherrree L. Detzler
Chairperson: Eric O. Lundquist, Jr.

Appointment(s) Terminating December 31, 2021

Due to term limits, resignation, relocation outside of district, or other.

P56790	<u>Eric O. Lundquist, Jr.</u>	P76029	<u>Saima Rehman Khalil</u>
P73254	<u>Alan Loncar</u>	P55577	<u>Mireille G. L. Phillips</u>

Member(s) Requesting Re-Appointment

January 2022 - December 2023

*Date of Discipline
Status Report*

P65756	<u>Dana C. Freers</u>	<u>Fraser</u>	<u>10/28/2021</u>	<u>1</u>
P79647	<u>Laura Polizzi</u>	<u>Mount Clemens</u>	<u>10/28/2021</u>	<u>1</u>
P63092	<u>Rebekah T. Sellers</u>	<u>Mount Clemens</u>	<u>10/28/2021</u>	<u>1</u>
P41121	<u>Lorrie J. Zahodnic</u>	<u>Clinton Township</u>	<u>10/28/2021</u>	<u>1</u>

Member(s) Nominated

District Committee Appointment January 2022 - December 2023

*Date of Discipline
Status Report*

P76542	<u>Robert T. Carollo, Jr</u>	<u>Clinton Township</u>	<u>10/28/2021</u>	<u>1</u>
P57177	<u>Tonya C. Goetz</u>	<u>Mount Clemens</u>	<u>10/28/2021</u>	<u>1</u>
P68892	<u>John R. Nizol</u>	<u>Mount Clemens</u>	<u>10/28/2021</u>	<u>1</u>
P69641	<u>Heidi T. Sharp</u>	<u>Clinton Township</u>	<u>10/28/2021</u>	<u>1</u>
P55825	<u>John R. Tatone</u>	<u>Utica</u>	<u>10/28/2021</u>	<u>1</u>

Chairperson Nominated

*Date of Discipline
Status Report*

P75898	<u>Goran Antovski</u>	<u>Mount Clemens</u>	<u>10/28/2021</u>
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Mid-Term Member(s)

January 2021 - December 2022 - No Action Required

*Date of Discipline
Status Report*

P75898	<u>Goran Antovski</u>	<u>Mount Clemens</u>	<u>10/28/2021</u>	<u>1</u>
P68736	<u>Jonathan C. Biernat</u>	<u>Mount Clemens</u>	<u>10/28/2021</u>	<u>1</u>
P73812	<u>Emily Ann Calabrese</u>	<u>Warren</u>	<u>10/28/2021</u>	<u>1</u>
P76740	<u>Adrian D. Cranford</u>	<u>Mount Clemens</u>	<u>10/28/2021</u>	<u>1</u>
P69749	<u>Hon. Alyia M. Hakim</u>	<u>Roseville</u>	<u>10/28/2021</u>	<u>1</u>
P60300	<u>Dawn A. Hoffmann</u>	<u>Saint Clair Shores</u>	<u>10/28/2021</u>	<u>1</u>
P23517	<u>R. Timothy Kohler</u>	<u>Clinton Township</u>	<u>10/28/2021</u>	<u>1</u>
P61759	<u>Hon. James M. Maceroni</u>	<u>Mount Clemens</u>	<u>10/28/2021</u>	<u>1</u>
P59065	<u>Gerrow D. Mason</u>	<u>Marysville</u>	<u>10/28/2021</u>	<u>1</u>
P73402	<u>Farrah C. Ramdayal</u>	<u>Clinton Township</u>	<u>10/28/2021</u>	<u>1</u>

TOTAL 19

PROPOSED 2022 District Character Fitness Committee

District E

Commissioners: Robert A. Easterly, Hon. Kristen D. Simmons

Chairperson: Ryan James Buck

Appointment(s) Terminating December 31, 2021

Due to term limits, resignation, relocation outside of district, or other.

P22954	John Roy Castillo	P75357	Sterlin Mesadieu
P57245	Michael S. Cheltenham	P31113	Kathleen M. Oemke
		P56161	Danielle N. Cusson

Member(s) Requesting Re-Appointment

January 2022 - December 2023

*Date of Discipline
Status Report*

P78391	Lucinia Alisyn Crawford	Lansing	10/28/2021
P81043	Robert A. Easterly	Lansing	10/28/2021
P81040	Emily Ann Jefferson	Lansing	10/28/2021
P41709	Richard J. Joppich	Okemos	10/28/2021
P69632	David J. Kunath	Okemos	10/28/2021

Member(s) Nominated

District Committee Appointment January 2022 - December 2023

*Date of Discipline
Status Report*

P49724	Laura M. Canfield	Fowlerville	10/28/2021
P84198	Ralph W. Carmichael	Lansing	10/28/2021
P76846	Gabrielle C. Lawrence	Lansing	10/28/2021
P55577	Mireille G. L. Phillips	*transfer Lansing	10/28/2021
P80350	Jason W. Werkema	*transfer Lansing	10/28/2021

Mid-Term Member(s)

January 2021 - December 2022 - No Action Required

*Date of Discipline
Status Report*

P75913	Katherine Jean Bennett	Lansing	10/28/2021
P72601	Joshua Adam Blanchard	Greenville	10/28/2021
P72080	Mary Alexis Bowen	Lansing	10/28/2021
P77807	Ryan James Buck	Lansing	10/28/2021
P74174	Emily Conway	Lansing	10/28/2021
P25532	Michael Brennan Farrell	East Lansing	10/28/2021
P71394	Erin E. Harrington	Lansing	10/28/2021
P59253	Coffiann U. Hawthorne	Lansing	10/28/2021
P39731	Daniel E. Manville	East Lansing	10/28/2021
P72136	Nicole Renee Matusko	Lansing	10/28/2021
P75354	Joshua Mark Pease	Lansing	10/28/2021
P72190	Linda Jeanetta Rawls	Lansing	10/28/2021
P58226	Jennifer A. Rosa	Lansing	10/28/2021
P76293	Hon. Kristen D. Simmons	Lansing	10/28/2021
P60247	Jennifer D. Warner	Haslett	10/28/2021

PROPOSED 2022 District Character Fitness Committee

District F

Commissioner: Danielle Mason Anderson

Chairperson: Michael C. Bingen

Appointment(s) Terminating December 31, 2021

Due to term limits, resignation, relocation outside of district, or other.

P78256	<u>Meredith Beidler</u>	P80350	<u>Jason W. Werkema</u>
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Member(s) Requesting Re-Appointment

January 2022 - December 2023

*Date of Discipline
Status Report*

P52978	<u>Kent A. Bieberich</u>	<u>Battle Creek</u>	<u>10/28/2021</u>
P36700	<u>Gregory W. Russell</u>	<u>Kalamazoo</u>	<u>10/28/2021</u>
P82315	<u>Kimberly Lynn Swinehart</u>	<u>Kalamazoo</u>	<u>10/28/2021</u>

Member(s) Nominated

District Committee Appointment January 2022 - December 2023

*Date of Discipline
Status Report*

P39274	<u>Carrick Craig</u>	<u>Kalamazoo</u>	<u>10/28/2021</u>
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Mid-Term Member(s)

January 2021 - December 2022 - No Action Required

*Date of Discipline
Status Report*

P63149	<u>Katherine K.M. Ambrose</u>	<u>Battle Creek</u>	<u>10/28/2021</u>
P30408	<u>Michael C. Bingen</u>	<u>Kalamazoo</u>	<u>10/28/2021</u>
P71194	<u>Matthew R. Conklin</u>	<u>Saint Joseph</u>	<u>10/28/2021</u>
P34466	<u>David P. Lucas</u>	<u>Battle Creek</u>	<u>10/28/2021</u>
P82578	<u>Benjamin M. Norg</u>	<u>Kalamazoo</u>	<u>10/28/2021</u>
P63915	<u>Sondra Gay Marie Nowak</u>	<u>Portage</u>	<u>10/28/2021</u>
P69385	<u>Timothy James Reed</u>	<u>Sturgis</u>	<u>10/28/2021</u>
P66004	<u>Sara A. Senica</u>	<u>Niles</u>	<u>10/28/2021</u>
P47287	<u>Mary Margaret-LaSata Spiegel</u>	<u>Saint Joseph</u>	<u>10/28/2021</u>
P77299	<u>Alicia Katherine Storm</u>	<u>Kalamazoo</u>	<u>10/28/2021</u>

PROPOSED 2022 District Character Fitness Committee

District G

Commissioner: Hon. Erane C. Washington

Chairperson: Elizabeth Vanessa Janovic

Appointment(s) Terminating December 31, 2021

Due to term limits, resignation, relocation outside of district, or other.

P53930	Angela L. Jackson	P74077	Jeffrey Thomas Landon
P55863	Thomas L. Kent	P64681	Terrence G. Quinn

Member(s) Requesting Re-Appointment

January 2022 - December 2023

*Date of Discipline
Status Report*

P54111	S. Joy Gaines	Ann Arbor	10/28/2021
P71456	Elizabeth Vanessa Janovic	Ann Arbor	10/28/2021
P73731	Ryan Lane Phillips	Jackson	10/28/2021
P40021	Thomas S. Piotrowski	Ypsilanti	10/28/2021

Member(s) Nominated

District Committee Appointment January 2022 - December 2023

*Date of Discipline
Status Report*

P40386	James A. Fink	Ann Arbor	10/28/2021
P28493	Mark A. Hopper	Ann Arbor	10/28/2021
P67570	Elizabeth A. Kitchen-Troop	Ann Arbor	10/28/2021
P74646	Katherine M. Sharkey	Ann Arbor	10/28/2021
P54839	Atallah T. Taweel	*transfer Ann Arbor	10/28/2021

Mid-Term Member(s)

January 2021 - December 2022 - No Action Required

*Date of Discipline
Status Report*

P71988	Kareem LaMount Johnson	Jackson	10/28/2021
P72723	Jennifer L. Lawrence	Ann Arbor	10/28/2021
P62695	Hon. Miriam A. Perry	Ann Arbor	10/28/2021
P37634	John A. Shea	Ann Arbor	10/28/2021

PROPOSED 2022 District Character Fitness Committee

District H

Commissioners: Aaron V. Burrell, Erika L. Butler, James W. Heath, Joseph P. McGill,
Hon. David A. Perkins, Mark Wisniewski

Chairperson: Nikkiya Tenell Branch

Appointment(s) Terminating December 31, 2021

Due to term limits, resignation, relocation outside of district, or other.

P71041	Marc A. Deldin	P69652	Eric W. Doeh
P40935	Connie M. Cessante	P73381	Robert Edgar Murkowski
		P54839	Atallah T. Taweel

Member(s) Requesting Re-Appointment

January 2022 - December 2023

*Date of Discipline
Status Report*

P51641	Jean-Vierre T. Adams	Detroit	10/28/2021
P75744	Brooke Lauren Archie	Detroit	10/28/2021
P80567	Jennifer Lynn Bentley	Detroit	10/28/2021
P58969	Blake S. Hatlem	Detroit	10/28/2021
P63506	Claire R. Mason Lee	Detroit	10/28/2021
P61087	Majed A. Moughni	Dearborn	10/28/2021
P81032	Jeffrey M. Mussin	Livonia	10/28/2021
P43737	Mark A. Wisniewski	Detroit	10/28/2021

Member(s) Nominated

District Committee Appointment January 2022 - December 2023

*Date of Discipline
Status Report*

P80514	Sean Michael Riopelle	*transfer Detroit	10/28/2021
P71481	Tiffany A. Boyd	Plymouth	10/28/2021
P56278	Delicia A. Coleman	Detroit	10/28/2021
P79887	David M. Cords	Detroit	10/28/2021
P75433	Mark T. Evely	Livonia	10/28/2021
P39624	John A. Hubbard	Plymouth	10/28/2021
P61343	Jeffrey F. Klein	Plymouth	10/28/2021
P70678	Shenique A. Moss	Detroit	10/28/2021
P77752	Lisa W. Timmons	Detroit	10/28/2021
P65472	Zana Tomich	Detroit	10/28/2021
P75309	Adam M. Wenner	Detroit	10/28/2021
P63046	Rita O. White	Canton	10/28/2021
P64900	Latoya M. Willis	Detroit	10/28/2021

PROPOSED 2022 District Character Fitness Committee

District H

Mid-Term Member(s)			<i>Date of Discipline Status Report</i>
<i>January 2021 - December 2022 - No Action Required</i>			
P75818	Zeina Baydoun	Dearborn	10/28/2021
P68844	Nikkiya Tenell Branch	Detroit	10/28/2021
P32428	John A. Cothorn	Belleville	10/28/2021
P74222	Elisa M. Gomez	Detroit	10/28/2021
P76838	Michael Ryan Jarnagin	Detroit	10/28/2021
P17557	John E. McSorley	Grosse Pointe	10/28/2021
P49527	Gabriela N. Nolen	Erie	10/28/2021
P44184	Meghan Kennedy Riordan	Detroit	10/28/2021
P50144	Linda M. Rooney	Livonia	10/28/2021
P73864	Adam Paul Sadowski	Detroit	10/28/2021
P53883	Hon. Regina Thomas	Detroit	10/28/2021
P41295	Sharon Clark Woodside	Detroit	10/28/2021

PROPOSED 2022 District Character Fitness Committee

District I

Commissioners: David C. Anderson, Hon. Kameshia D. Gant, Lisa J. Hamameh,
Thomas H. Howlett, Sara E. Kuchon, James W. Low, Daniel D. Quick

Chairperson: Stephen T. McKenney

Appointment(s) Terminating (December 31, 2021)

Due to term limits, resignation, relocation outside of district, or other.

P71738	Charise L. Anderson	P77566	Deanna Joy Kossaras
P37060	Ilana Ben-Ze'ev	P68544	Sarah Catherine Lindsey
P65404	Stephanie C. Blum	P76462	Grace Katherine Trueman
P63068	Douglas W. Eyre	P76675	Emily Warren
P14655	David L. Haron	P80514	Sean Michael Riopelle

Member(s) Requesting Re-Appointment

January 2022 - December 2023

*Date of Discipline
Status Report*

P68592	Julie H. Cotant	Southfield	10/28/2021
P54384	Salwa Jenna Dabaja	Franklin	10/28/2021
P66118	Corene C. Ford	Northville	10/28/2021
P30215	Stephen J. Harris	Bloomfield Hills	10/28/2021
P76396	Jeffrey Albert Hoard	Oak Park	10/28/2021
P61831	Sarah E. Kuchon	Troy	10/28/2021
P69730	Matthew S. LaBeau	Southfield	10/28/2021
P45664	Christopher E. McNeely	Rochester Hills	10/28/2021
P38939	G. Michael Meihn	Ferndale	10/28/2021
P74394	Victoria J. H. Orlewicz	Oak Park	10/28/2021
P73350	Jordan Daniel Paterra	Troy	10/28/2021
P77179	Brande Nicole Smith	Farmington Hills	10/28/2021
P68990	Joseph Wesley Uhl	Madison Heights	10/28/2021
P47001	James C. Warr	Southfield	10/28/2021
P68870	Danien C. Woodson	Southfield	10/28/2021

Member(s) Nominated

District Committee Appointment January 2022 - December 2023

*Date of Discipline
Status Report*

P74377	Scott M. Aaronson	Southfield	10/28/2021
P43871	Nancy A. Hensley	Troy	10/28/2021
P69798	Altinia L. Kandrevas	Southfield	10/28/2021
P57670	Armene Kaye	Highland	10/28/2021
P49298	Gary A. Kravitz	Southfield	10/28/2021
P73254	Alan Loncar *transfer	Rochester Hills	10/28/2021
P36111	Frank T. Mamat	Southfield	10/28/2021
P27388	Donald L. Payton	West Bloomfield	10/28/2021
P76913	Alexander Simpson, II	Southfield	10/28/2021
P84260	Joshua Stapp	Southfield	10/28/2021

PROPOSED 2022 District Character Fitness Committee

District I

Mid-Term Member(s)			<i>Date of Discipline Status Report</i>
<i>January 2021 - December 2022 - No Action Required</i>			
P71924	Jienelle Raye Alvarado	Beverly Hills	10/28/2021
P69623	Alexander A. Ayar	Bloomfield Hills	10/28/2021
P43947	Patricia S. Bordman	Birmingham	10/28/2021
P63857	Colleen H. Burke	Southfield	10/28/2021
P53481	Jeffrey Z. Dworin	West Bloomfield	10/28/2021
P79129	David James Eagles	Farmington Hills	10/28/2021
P73271	Michael Vincent Gallo	Troy	10/28/2021
P29652	Alan M. Gershel	West Bloomfield	10/28/2021
P72821	Nazneen S. Hasan	Bloomfield Hills	10/28/2021
P73789	Nadine R. Hatten	Troy	10/28/2021
P57576	Charesa D. Johnson	Southfield	10/28/2021
P41805	Thomas Kalas	Bingham Farms	10/28/2021
P69460	Serene K. Katranji	Bloomfield Hills	10/28/2021
P56172	Maureen H. Kinsella	Farmington Hills	10/28/2021
P46342	David J. Kramer	Novi	10/28/2021
P48742	Jason J. Liss	Farmington Hills	10/28/2021
P35634	John K. Maloney	Rochester	10/28/2021
P28082	Steven J. Matz	Southfield	10/28/2021
P65673	Stephen T. McKenney	Birmingham	10/28/2021
P29141	Edward D. Plato	Farmington Hills	10/28/2021
P78839	Lynn Bartkowiak Sholander	Southfield	10/28/2021
P72969	Matthew David Smith	Birmingham	10/28/2021
P76382	Eric Turnbull	Troy	10/28/2021
P73001	Mark Christopher Vanneste	Royal Oak	10/28/2021
P31240	David F. Zuppke	Royal Oak	10/28/2021

**Demographics for all Character & Fitness District Committees
as of January 1, 2022**

Years of SBM M'ship	All Districts	District A	District B	District C	District D	District E	District F	District G	District H	District I
≤5 yrs	5.9%	8.3%	7.1%	5.0%	0.0%	12.0%	13.3%	0.0%	8.8%	2.0%
≤10 yrs	17.8%	8.3%	21.4%	25.0%	20.0%	28.0%	13.3%	8.3%	20.6%	12.0%
≤15 yrs	20.8%	8.3%	28.6%	10.0%	20.0%	28.0%	13.3%	33.3%	11.8%	28.0%
≤20 yrs	13.4%	8.3%	7.1%	15.0%	20.0%	4.0%	20.0%	16.7%	17.6%	12.0%
≥21 yrs	42.1%	66.7%	35.7%	45.0%	40.0%	28.0%	40.0%	41.7%	41.2%	46.0%
Self Reported Gender	All Districts	District A	District B	District C	District D	District E	District F	District G	District H	District I
Male	51.0%	58.3%	57.1%	45.0%	45.0%	40.0%	53.3%	50.0%	44.1%	62.0%
Female	49.0%	41.7%	42.9%	55.0%	55.0%	60.0%	46.7%	50.0%	55.9%	38.0%
Self Reported Ethnicity	All Districts	District A	District B	District C	District D	District E	District F	District G	District H	District I
No Answer	26.2%	41.7%	14.3%	15.0%	25.0%	16.0%	33.3%	33.3%	32.4%	28.0%
Am Indian	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Asian/ Pacific Islander	0.5%	0.0%	0.0%	5.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
African	8.4%	0.0%	0.0%	0.0%	10.0%	16.0%	0.0%	8.3%	23.5%	4.0%
European	51.0%	50.0%	71.4%	65.0%	55.0%	56.0%	53.3%	50.0%	32.4%	48.0%
Hispanic / Latino	1.5%	0.0%	0.0%	5.0%	0.0%	0.0%	0.0%	0.0%	2.9%	2.0%
Multi Racial	0.5%	0.0%	0.0%	5.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Arab Origin	3.0%	0.0%	14.3%	0.0%	0.0%	0.0%	0.0%	0.0%	8.8%	2.0%
Other Ethnicity	5.4%	8.3%	0.0%	5.0%	5.0%	8.0%	0.0%	8.3%	0.0%	10.0%
Prefer Not to Answer	3.5%	0.0%	0.0%	0.0%	5.0%	4.0%	13.3%	0.0%	0.0%	6.0%
TOTAL MEMBERS	202	12	14	20	20	25	15	12	34	50

TO: Board of Commissioners
FROM: Professional Standards Committee
DATE: November 19, 2021, BOC Meeting
RE: Client Protection Fund Claims for Consent Agenda

Rule 15 of the Client Protection Fund Rules provides that “claims, proceedings and reports involving claims for reimbursement are confidential until the Board authorizes reimbursement to the claimant.” To protect CPF claim information as required in the Rule, and to avoid negative publicity about a lawyer subject to a claim, which has been denied and appealed, the CPF Report to the Board of Commissioners is designated “confidential.”

**CONSENT AGENDA
CLIENT PROTECTION FUND**

Claims recommended for payment:

Consent Agenda

	<u>Claim No.</u>	<u>Amt. Recommended</u>
1.	CPF 3502	\$1,500.00
2.	CPF 3666	\$1,100.00
3.	CPF 3692	\$1,500.00
4.	CPF 3697	\$3,000.00
5.	CPF 3704	\$3,000.00
6.	CPF 3705	\$9,300.00
7.	CPF 3712	\$1,730.00
8.	CPF 3719	\$5,000.00
9.	CPF 3732	\$145,810.00
10.	CPF 3751	\$750.00
11.	CPF 3761	<u>\$4,500.00</u>
	TOTAL	\$177,190.00

The Professional Standards Committee recommends payment of these claims by the State Bar of Michigan Client Protection Fund:

1. CPF 3502 \$1,500.00

Respondent was retained to represent Claimant in an advisory capacity in a civil suit filed in U. S. District Court for a fee of \$5,000. The unsigned retainer agreement states that Claimant must pay a non-refundable \$5,000 retainer but will be billed at \$100 per hour. Respondent consulted with Claimant, reviewed materials filed in civil suit, conducted research, and drafted subpoenas and discovery requests that were never filed. Respondent received \$2,500, but only provided \$1,000 worth of legal services. Though the retainer agreement comports with *Cooper*, it was not signed by either party and Respondent abandoned the matter after providing 10 hours' worth of services, so the fee may be deemed excessive under MRPC 1.5. Respondent's failure to return the unearned portion of the retainer fee constitutes dishonest conduct under CPF Rules 9(C)(1) and 9(D)(6).

2. CPF 3666 \$1,100.00

Respondent was retained to represent Claimant's nephew in a custody matter for a fee of \$1,100. Respondent did little to no work on the file, abandoning the matter as Respondent did with numerous other cases. Respondent's failure to return the unearned fee constitutes dishonest conduct and is a reimbursable loss as provided by CPF Rules 9(C)(1) and 9(D)(6).

3. CPF 3692 \$1,500.00

Claimant retained Respondent to prepare deeds and paid \$1,500 for the representation. Respondent provided no legal services and failed to return the retainer fee before being suspended and later disbarred. Respondent's failure to return the unearned flat fee constitutes dishonest conduct and is a reimbursable loss as provided by CPF Rules 9(C)(1) and 9(D)(6).

4. CPF 3697 \$3,000.00

Respondent was retained to represent Claimant in a business litigation matter for \$3,000 retainer billed at \$300 per hour. When Respondent received Claimant's payment, Respondent knew that Respondent's Attorney Discipline Hearing was scheduled, and that Respondent likely could not continue practicing. By the time the legal services were provided, Respondent was disbarred.

The Agreement between the parties does not address the premature termination of the representation before completion. Because Respondent was disbarred, and he could not finish the representation for which Claimant paid \$3,000 may be deemed unreasonable under MRPC 1.5(a) and the reasoning of *Cooper*¹. Respondent's failure to return the unearned fee constitutes dishonest conduct and is a reimbursable loss as provided by CPF Rules 9(C)(1) and 9(C)(6).

¹ In *Grievance Adm'r v Cooper*, 757 NW2d 867 (Mich 2008), the Michigan Supreme Court ruled as follows regarding a nonrefundable retainer:

As written, the agreement clearly and unambiguously provided that the respondent was retained to represent the client and that the minimum fee was incurred upon execution of the agreement, regardless of whether the representation was terminated by the client before the billings at the stated hourly rate exceeded the minimum. So understood, neither the agreement nor the respondent's retention of the minimum fee after the client terminated the representation violated existing MRPC 1.5(a), MPRC 1.15(b) or MRPC 1.16(d).

5. CPF 3704 \$3,000.00

Claimant retained Respondent to represent Claimant's daughter in an appeal of a custody matter for \$3,000. Respondent filed an incomplete Motion for Reconsideration, which was not heard by the court, because the motion was only requesting more time to file the motion. Respondent then abandoned the matter.

Respondent contends that the retainer was non-refundable, however, Respondent cannot provide a copy and Claimant and Claimant's daughter both state that neither signed a fee agreement. Further, Claimant was provided with a receipt, as such it seems unlikely that the law firm would retain a copy of the receipt but not the retainer agreement. Without evidence that the retainer was non-refundable, and the requirement under *Grievance Adm'r v Cooper*, 757 NW2d 867 (Mich 2008), that the retainer be in writing and unambiguous, this claim was analyzed under RI-69, which provides that the retainer is not earned until the legal services are complete. Respondent did not file an appeal as hired to do and filed a bare bones motion that was never argued. Respondent's failure to return the unearned fee constitutes dishonest conduct under CPF Rules 9(C)(1) and 9(C)(6).

6. CPF 3705 \$9,300.00

Respondent was retained to represent Claimant in land contract matter for a fee of \$6,500. Per Respondent's request, Claimant also provided Respondent with an \$2,800 escrow payment. Respondent did not complete any legal services or return the escrow payment before Respondent's services were terminated. Respondent's failure to return the unearned retainer fee and unspent escrow funds constitutes dishonest conduct and is a reimbursable loss as provided by CPF Rules 9(C)(1) and 9(C)(6).

7. CPF 3712 \$1,730.00

Respondent was retained to represent Claimant in a divorce matter for \$1,730, representing \$1,500 for attorney fees and \$230 in costs. The following day, Claimant terminated Respondent's representation.

Respondent did not complete the legal services before termination and agreed Claimant was entitled to a refund but passed away before the refund was issued. Respondent's failure to return the unearned fee of ensure that his law firm or estate could reimburse the unearned fee constitutes dishonest conduct and is a reimbursable loss as provided by CPF Rules 9(C)(1) and 9(C)(6).

8. CPF 3719 \$5,000.00

Respondent was suspended in November 2019. Eight months later, Respondent was retained to represent Claimant in a child custody matter for a fee of \$5,000. Twelve days after retention with no documents having been filed with the Court, Claimant requested a full refund, but Respondent did not provide one. Respondent continued to represent that he was a licensed attorney following the 2019 suspension and misappropriated funds from several individuals needing representation by requesting payment in advance for services Respondent could not provide. Respondent's failure to refund the unearned retainer fee constitutes dishonest conduct under CPF Rules 9(C)(1) and 9(C)(6).

Approval of this claim requires the application of CPF Rule 9(F) to waive the Rule 9(A) presumption that a client is unreasonable in believing that a Respondent was licensed to practice law six months after Respondent's suspension.

9. CPF 3732 \$145,810.00

Respondent was retained to represent Claimant's company in commercial litigation. Claimant paid Respondent \$135,810 in attorney fees. The majority of the fees were "earned" while Respondent was suspended from the practice of law and later transferred to inactive status. During the course of the "representation," Respondent did not advise Claimant that Respondent was suspended, entered into a settlement agreement and received \$10,000 in settlement proceeds without advising Claimant of the settlement or disbursing the funds, and forged court documents so Claimant would believe that the case was progressing. A lawsuit was filed against Respondent and a partial Default Judgment was entered on September 2, 2021. Respondent's failure to return the unearned fee and retention of the \$10,000 settlement proceeds constitutes dishonest conduct and is a reimbursable loss as provided by CPF Rules 9(C)(1) and 9(C)(3).

10. CPF 3751 \$750.00

Respondent was retained to represent Claimant in a careless driving matter for a fee of \$750. Respondent did not provide any legal services and abandoning the matter as Respondent did with several other clients. Respondent's failure to return the unearned fee constitutes dishonest conduct and is a reimbursable loss as provided by CPF Rules 9(C)(1), 9(D)(6), and 11(B).

11. CPF 3761 \$4,500.00

Respondent was retained to represent Claimant in a divorce matter seeking spousal support. Claimant's ex-spouse sent spousal support payments totaling \$4,500 directly to Respondent who kept the funds and converted the same for Respondent's own use. Respondent's failure to disburse the spousal support to Claimant constitutes dishonest conduct and is a reimbursable loss as provided by CPF Rules 9(C)(1).

Total payments recommended: \$177,190.00

TO: Board of Commissioners and the Professional Standards Committee
FROM: Kathryn Hennessey and Katherine Gardner
DATE: November 4, 2021
RE: *Pro Hac Vice* Rule Amendments

The State Bar of Michigan (SBM) assists courts with the administration of *pro hac vice* (PHV) applications. SBM began looking into proposed amendments to MCR 8.126 to streamline and clarify the process for PHV admission based on many questions raised by attorneys applying for PHV admission.

When reviewing the rules, SBM staff noted a more substantive problem with the current language of MCR 8.126. MCR 8.126 currently provides:

Any person who is licensed to practice law in another state or territory, or in the District of Columbia, of the United States of America, or in any foreign country, and who is not disbarred or suspended in any jurisdiction, and who is eligible to practice in at least one jurisdiction, may be permitted to appear and practice **in a specific case in a court, before an administrative tribunal or agency, or in a specific arbitration proceeding** in this state when associated with and on motion of an active member of the State Bar of Michigan who appears of record in the case.

When processing PHV applications, SBM has interpreted the term “case” narrowly, as to mean the specific proceeding within a particular court, meaning that out-of-state attorneys would have to reapply for PHV admission if they continue to represent their clients at the Court of Appeals and then reapply a third time if they continue to represent their clients at the Michigan Supreme Court. This was the interpretation that the Attorney Grievance Commission had previously used before SBM took over PHV processing. An alternative reading of the term “case” could mean that the attorney would continue to be admitted PHV as the specific case moves through appellate process.

To obtain feedback on this issue and the other proposed amendments to MCR 8.126, SBM circulated draft amendments to several stakeholders, including the Michigan Judges Association, Appellate Practice Section, Michigan Association for Justice, Michigan Defense Trial Counsel, Litigation Section, Insurance and Indemnity Section, Civil Procedure & Courts Committee, and Access to Justice Policy Committee. SBM specifically offered the following four options for stakeholders to consider:

- **Option 1:** Keep the status quo and require out-of-state attorneys to reapply if their case goes on appeal.
- **Option 2:** Define case more broadly to encompass the entire proceeding as it moves from trial court through appeals. This would streamline the process for out-of-state attorneys, but it could lessen judicial discretion for appellate courts to the extent that such discretion is being utilized.

- **Option 3:** Hybrid: Define case broadly as set forth in Option 2 but require attorneys to affirmatively provide appellate courts and trial courts on remand an updated certificate of good standing.
- **Option 4:** Hybrid: Define case broadly as set forth in Option 2 but impose an affirmative duty on the out-of-state attorney and sponsoring attorney to inform court if there has been a change to their good standing status in any out-of-state jurisdiction.

The stakeholders that responded all supported Option 4.¹ Stakeholder comments are included in these materials.

After reviewing the SBM staff proposed revisions, the Appellate Practice Section offered significant revisions² to MCR 8.126. The Civil Procedure & Courts and Access to Justice Policy committees had the opportunity to compare the Appellate Practice Section and the original staff proposal; both committees agreed that the Appellate Practice Section's proposal was preferable.

The Civil Procedure & Courts Committee recommends the following amendments to the Appellate Practice Section's proposal:

- Remove the special treatment of government attorneys set forth in MCR 8.126(A)(2) and (B)(1);
- Clarify the language in the duty to notify the court when no longer in good standing set forth in paragraph (C)(5); and
- Non-substantive changes to the language of paragraph (C)(3) to make the language consistent with the language generally used in the court rules.

The full details of the Civil Procedure & Courts Committee's position are attached to this memo.³

The Access to Justice Policy Committee offered the following suggestions for improvement to the Appellate Practice Section's proposal:

- Inclusion of Tribal Courts in MCR 8.126(A);
- Remove the special treatment of government attorneys set forth in MCR 8.126(A)(2) and (B)(1);

¹ SBM staff also reached out to Clerk Larry Royster at the Michigan Supreme Court for feedback who also supported Option 4.

² As you will see from the blackline of MRC 8.126 that is attached the Appellate Practice essentially rewrote the sections (A)-(G). The Section did not provide revisions on the Waiver section dealing with attorneys appearing to participate in child protective proceedings under the Michigan Indian Family Preservation Act, and staff has proposed non-substantive revisions to that section to make the language consistent.

³ In addition, one member of the Civil Procedure & Courts Committee questioned whether PHV admission is required to participate in facilitation, mediation, and arbitration. When an attorney is engaged in alternative dispute resolution, that attorney is providing legal advice and using legal skills and discretion, which is the definition of the unauthorized practice of law. Each year, the UPL department receives complaints about out of state attorney participating in these proceedings. By including arbitration and mediation in the rule, we are clarifying the rules to make clear that attorneys need to seek PHV admission, which ultimately protects the out of state attorney from UPL claims

- Create a special provision for out-of-state attorneys employed by Michigan legal aid providers while their application for admission is pending; and
- Clarify the language in the duty to notify the court when no longer in good standing set forth in MCR 8.126(C)(5).

The full details of ATJ Policy Committee's position are attached to this memo.

Based on further review, SBM staff also recommends the following amendments to the Appellate Practice Section's proposal:

- Incorporate current MCR 8.126(A)(1)(d) which provides that “[b]y seeking permission to appear under this rule, a foreign attorney consents to the jurisdiction of Michigan’s attorney disciplinary system.”
- Incorporate an additional requirement that attorneys admitted PHV notify the tribunal and the State Bar of Michigan when they have a change of address.
- Authorize State Bar staff to make non-substantive changes to the current MCR 8.126(B) for consistency with the language that is ultimately adopted by the Board of Commissioners to replace the current MCR 8.126(A).

These recommendations have been inserted into a blackline of the Appellate Practice Section proposal. In addition, staff has included a blackline of MCR 8.126 which incorporates all proposed amendments.

REVISIONS TO THE APPELLATE PRACTICE PROPOSAL BASED ON FEEDBACK

RULE 8.126(A)-(G): TEMPORARY ADMISSION TO THE BAR

(A) Definitions. For purposes of this rule:

(1) a foreign attorney is an attorney who is licensed to practice law in another state or territory of the United States of America, in the District of Columbia, **in a Tribal court**, or in a foreign country; who is not a member of the Bar; who is not disbarred or suspended in any jurisdiction.

~~(2) a government attorney is an attorney representing the United States, the armed forces of the United States, or an agency of the United States, and who is not a member of the Bar.~~

~~(3)~~**(2)** A **sponsoring attorney** is an attorney who is a member of the Bar.

~~(4)~~**(3)** a tribunal is a court, administrative agency, facilitator, mediator, or arbitrator.

~~(5)~~**(4)** the Bar is the State Bar of Michigan.

(B) Temporary Admission.

~~(1) A government attorney is granted automatic temporary admission to practice before any tribunal in this state.~~

~~(2)~~**(1)** A foreign attorney may request temporary admission to practice before tribunals in this state through local counsel. **Except as provided in (B)(2), a** foreign attorney may not appear in more than five cases in any 365-day period.

(2) For a foreign attorney employed by a legal services program that is a grantee of the federal Legal Services Corporation or the Michigan State Bar Foundation, or employed by a law school clinic that provides services on the basis of indigence, for the time period in which the foreign attorney's application to be licensed in Michigan is submitted and pending before the Board of Law Examiners, the foreign attorney:

(a) Shall pay the fee for temporary admission with the first application for temporary admission;

(b) Shall have fees waived for all subsequent applications for

admission after the fee is paid for the first application for temporary admission; and

(c) Shall not be subject to any limitation on the number of cases in which the foreign attorney may be eligible for temporary admission.

(C) Procedure for Foreign Attorneys.

- (1) The sponsoring attorney must appear as counsel of record and file a motion asking the tribunal to grant the foreign attorney temporary admission to practice. The motion must be supported with:
 - (a) a certificate of good standing for the foreign attorney issued within the last 30 days by a jurisdiction where the foreign attorney is licensed and eligible to practice;
 - (b) an affidavit signed by the foreign attorney that verifies:
 - (i) the jurisdiction(s) in which the foreign attorney is or has been licensed, or has sought licensure;
 - (ii) the jurisdiction(s) in which the foreign attorney is presently admitted and eligible to practice and is in good standing in all jurisdictions where licensed;
 - (iii) that the foreign attorney is not disbarred or suspended from the practice of law, or the subject of any pending disciplinary action, in any jurisdiction; and
 - (iv) that the foreign attorney is familiar with the Michigan Rules of Professional Conduct, the Michigan Rules of Evidence, and these court rules;
 - (c) a copy of any disciplinary dispositions concerning the foreign attorney;
 - (d) a statement by the sponsoring attorney that he or she:
 - (i) has read the foreign attorney's affidavit and any disciplinary dispositions concerning the foreign attorney;
 - (ii) believes the foreign attorney's representations to be true; and
 - (iii) will ensure that the procedures of this rule are followed.

- (2) **Prior to filing the motion with the tribunal, the motion and supporting materials** ~~A copy of the motion~~ must also be filed with the Bar together with a fee equal to the discipline and client-protection portions of a Bar member's annual dues. Within seven days thereafter, the Bar must report to the tribunal, the sponsoring attorney, and the foreign attorney:
- (a) that the fee has been paid to the Bar; and
 - (b) the number of times that the foreign attorney has been granted temporary admission to practice within the past 365 days.
- (3) If, after receiving the Bar's report, the tribunal finds that the requirements of this rule have been met, it may issue an order granting the foreign attorney temporary admission to practice in this state. The tribunal **shall not** ~~can~~ enter such an order until after it receives the Bar's report.
- (4) If a tribunal issues an order granting the foreign attorney temporary admission to practice in this state, the foreign attorney must file a copy of the order with the Bar within seven days.
- (5) **The foreign attorney must notify the Bar if the case is dismissed or closed prior to the tribunal granting or denying temporary admission.**
- (6) The foreign attorney must notify the tribunal and the Bar if he or she ceases to be in good standing with any jurisdiction where licensed **or temporarily admitted to practice** while temporarily admitted to practice under this rule.
- (7) **By seeking permission to appear under this rule, the foreign attorney consents to the jurisdiction of Michigan's attorney disciplinary system.**
- (D) **Duration and Scope of Temporary Admission.**
- (1) If the tribunal granting temporary admission to practice is a court or administrative agency, then the temporary admission continues for the entire case, including through all appeals, any remands, and any facilitation, mediation, or arbitration that may be ordered by a court or administrative agency. A foreign attorney is not required to reapply for temporary admission each time the case moves to or from an administrative agency or between courts.

- (2) If the tribunal granting temporary admission to practice is a facilitator, mediator, or arbitrator, the facilitator, mediator, or arbitrator only may grant a foreign attorney temporary admission to practice for the limited purpose of representing a party in the facilitation, mediation, or arbitration. If the facilitation, mediation, or arbitration results in a case or other proceeding before a court or administrative agency, then the foreign attorney must apply for temporary admission before the court or administrative agency.
- (E) Revocation. The tribunal before whom a ~~government attorney~~ or a foreign attorney is practicing may revoke the attorney's temporary admission at any time for misconduct.
- (F) Local Counsel.
 - (1) If a tribunal allows a sponsoring attorney to withdraw, another member of the Bar must appear as local counsel with the foreign attorney. Local counsel must have the authority to conduct the case or proceeding if the foreign attorney does not or is unable to do so for any reason.
 - (2) A tribunal may waive the requirement for a foreign attorney to have local counsel.
- (G) Distribution of SBM Fee. If a request for investigation is filed with the grievance administrator against a foreign attorney temporarily admitted to practice under this rule, the entire amount of the fee(s) paid to the Bar for the case(s) in which the allegations of misconduct arose must be transferred to the disciplinary system.

BLACKLINE OF RULE 8.126

RULE 8.126 TEMPORARY ADMISSION TO THE BAR

(A) Definitions. For purposes of this rule:

- (1) a foreign attorney is an attorney who is licensed to practice law in another state or territory of the United States of America, in the District of Columbia, in a Tribal court, or in a foreign country; who is not a member of the Bar; who is not disbarred or suspended in any jurisdiction.**
- (2) a sponsoring attorney is an attorney who is a member of the Bar.**
- (3) a tribunal is a court, administrative agency, facilitator, mediator, or arbitrator.**
- (4) the Bar is the State Bar of Michigan.**

(B) Temporary Admission.

- (1) A foreign attorney may request temporary admission to practice before tribunals in this state through local counsel. Except as provided in (B)(2), a foreign attorney may not appear in more than five cases in any 365-day period.**
- (2) For a foreign attorney employed by a legal services program that is a grantee of the federal Legal Services Corporation or the Michigan State Bar Foundation, or employed by a law school clinic that provides services on the basis of indigence, for the time period in which the foreign attorney's application to be licensed in Michigan is submitted and pending before the Board of Law Examiners, the foreign attorney:**
 - (a) Shall pay the fee for temporary admission with the first application for temporary admission;**
 - (b) Shall have fees waived for all subsequent applications for admission after the fee is paid for the first application for temporary admission; and**
 - (c) Shall not be subject to any limitation on the number of cases in which the foreign attorney may be eligible for temporary admission.**

~~Except as otherwise provided in this rule, an out of state attorney may seek temporary admission as determined by this subsection. Any person who is licensed to practice law in another state or territory, or in the District of Columbia, of the United States of America, or in any foreign country, and who is not disbarred or suspended in any jurisdiction, and who is eligible to practice in at least one jurisdiction, may be permitted to appear and practice in a specific case in a court, before an administrative tribunal or agency, or in a specific arbitration proceeding in this state when associated with and on motion of an active member of the State Bar of Michigan who appears of record in the case. An out of state attorney may be temporarily admitted to practice under this rule in no more than five cases in a 365-day period. Permission to appear and practice is within the discretion of the court, administrative tribunal or agency, or arbitrator and may be revoked at any time for misconduct. For purposes of this rule, an out of state attorney is one who is licensed to practice law in another state or territory, or in the District of Columbia, of the United States of America, or in a foreign country and who is not a member of the State Bar of Michigan.~~

(B) Procedure for Foreign Attorneys.

~~Motion. An attorney seeking temporary admission must be associated with a Michigan attorney. The Michigan attorney with whom the out of state attorney is associated shall file with the court or administrative tribunal or agency, or arbitrator an appearance and a motion that seeks permission for the temporary admission of the out of state attorney. The motion shall be supported by a current certificate of good standing issued by a jurisdiction where the out of state attorney is licensed and eligible to practice, the document supplied by the State Bar of Michigan showing that the required fee has been paid and an affidavit of the out of state attorney seeking temporary admission, which affidavit shall verify~~

(1) The sponsoring attorney must appear as counsel of record and file a motion asking the tribunal to grant the foreign attorney temporary admission to practice. The motion must be supported with:

(a) a certificate of good standing for the foreign attorney issued within the last 30 days by a jurisdiction where the foreign attorney is licensed and eligible to practice;

(b) an affidavit signed by the foreign attorney that verifies:

(i) the jurisdiction(s) in which the foreign attorney is or has been licensed or has sought licensure;

(ii) the jurisdiction(s) where the attorney is presently eligible

to practice and is in good standing in all jurisdictions where licensed;

(iii) that the foreign attorney is not disbarred, or suspended from the practice of law, or in any jurisdiction, and is not the subject of any pending disciplinary action, ~~and that the attorney is licensed and is in good standing in all~~ any jurisdictions ~~where licensed~~; and

(iv) that the foreign attorney ~~he or she~~ is familiar with the Michigan Rules of Professional Conduct, ~~Michigan Court Rules~~, and the Michigan Rules of Evidence, and these court rules.

(c) a copy of any disciplinary dispositions concerning the foreign attorney;

~~The out of state attorney must attach to the affidavit copies of any disciplinary dispositions. The motion shall include an attestation of the Michigan attorney that the attorney has read the out of state attorney's affidavit, has made a reasonable inquiry concerning the averments made therein, believes the out of state attorney's representations are true, and agrees to ensure that the procedures of this rule are followed. The motion shall also include the addresses and email addresses of both attorneys.~~

(d) a statement by the sponsoring attorney that he or she:

(i) has read the foreign attorney's affidavit and any disciplinary dispositions concerning the foreign attorney;

(ii) believes the foreign attorney's representations to be true; and

(iii) will ensure that the procedures of this rule are followed.

(2) Prior to filing the motion with the tribunal, the motion and supporting materials must be filed with the Bar together with a fee equal to the discipline and client-protection portions of a Bar member's annual dues. Within seven days thereafter, the Bar must report to the tribunal, the sponsoring attorney, and the foreign attorney;

(a) that the fee has been paid to the Bar; and

- (b) the number of times that the foreign attorney has been granted temporary admission to practice within the past 365 days.
- (3) If, after receiving the Bar's report, the tribunal finds that the requirements of this rule have been met, it may issue an order granting the foreign attorney temporary admission to practice in this state. The tribunal shall not enter such an order until after it receives the Bar's report.
- (4) If a tribunal issues an order granting the foreign attorney temporary admission to practice in this state, the foreign attorney must file a copy of the order with the Bar within seven days.
- (5) The foreign attorney must notify the Bar if the case is dismissed or closed prior to the tribunal granting or denying temporary admission.
- (6) The foreign attorney must notify the tribunal and the Bar if he or she ceases to be in good standing with any jurisdiction where licensed or temporarily admitted to practice while temporarily admitted to practice under this rule.
- (7) By seeking permission to appear under this rule, the foreign attorney consents to the jurisdiction of Michigan's attorney disciplinary system.

~~(b) Fee. In each case in which an out-of-state attorney seeks temporary admission in Michigan, the out-of-state attorney must pay a fee equal to the discipline and client protection portions of a bar member's annual dues. The fee must be paid electronically to the State Bar of Michigan, in conjunction with submission of an electronic copy of the motion, the certificate of good standing and the affidavit to the State Bar of Michigan, pursuant to procedures established by the State Bar of Michigan. Upon receipt of the fee remitted electronically, confirmation of payment will issue electronically to the out-of-state attorney through the State Bar of Michigan's automated process.~~

~~Within seven days after receipt of the copy of the motion and fee, the State Bar of Michigan must notify the court, administrative tribunal or agency, or arbitrator and both attorneys whether the out-of-state attorney has been granted permission to appear temporarily in Michigan within the past 365 days, and, if so, the number of such appearances. The notification will be issued electronically, pursuant to the procedures established by the State Bar of Michigan. No order or other writing granting permission to appear in~~

~~a case shall be entered by a court, administrative tribunal or agency, or arbitrator until the notification is received from the State Bar of Michigan.~~

(C) Duration and Scope of Temporary Admission.

(1) If the tribunal granting temporary admission to practice is a court or administrative agency, then the temporary admission continues for the entire case, including through all appeals, any remands, and any facilitation, mediation, or arbitration that may be ordered by a court or administrative agency. A foreign attorney is not required to reapply for temporary admission each time the case moves to or from an administrative agency or between courts.

(2) If the tribunal granting temporary admission to practice is a facilitator, mediator, or arbitrator, the facilitator, mediator, or arbitrator only may grant a foreign attorney temporary admission to practice for the limited purpose of representing a party in the facilitation, mediation, or arbitration. If the facilitation, mediation, or arbitration results in a case or other proceeding before a court or administrative agency, then the foreign attorney must apply for temporary admission before the court or administrative agency.

(D) Revocation. The tribunal before whom a foreign attorney is practicing may revoke the attorney's temporary admission at any time for misconduct.

(E) Local Counsel.

(1) If a tribunal allows a sponsoring attorney to withdraw, another member of the Bar must appear as local counsel with the foreign attorney. Local counsel must have the authority to conduct the case or proceeding if the foreign attorney does not or is unable to do so for any reason.

(2) A tribunal may waive the requirement for a foreign attorney to have local counsel.

(F) Distribution of SBM Fee. If a request for investigation is filed with the grievance administrator against a foreign attorney temporarily admitted to practice under this rule, the entire amount of the fee(s) paid to the Bar for the case(s) in which the allegations of misconduct arose must be transferred to the disciplinary system.

~~The State Bar of Michigan shall retain the discipline portion of the fee for administration of the request for temporary admission and disciplinary~~

oversight and allocate the client protection portion to the Client Protection Fund. If a request for investigation is filed with the grievance administrator against an attorney while temporarily admitted to practice in Michigan, the entire amount of the administration fee paid by that attorney for the case in which the allegations of misconduct arose would be transferred to the disciplinary system.

~~(c) Order. Following notification by the State Bar of Michigan, if the out-of-state attorney has been granted permission to appear temporarily in fewer than 5 cases within the past 365 days, the court, administrative tribunal or agency, or arbitrator may enter an order granting permission to the out-of-state attorney to appear temporarily in a case. If an order or other writing granting permission is entered, The Michigan attorney shall submit an electronic copy of the order or writing to the State Bar of Michigan within seven days.~~

~~(d) By seeking permission to appear under this rule, an out-of-state attorney consents to the jurisdiction of Michigan's attorney disciplinary system.~~

~~(B)(H)~~ Waiver. An applicant **foreign attorney** is not required to associate with local counsel **a sponsoring attorney**, limited to the number of appearances to practice, or required to pay the fee to the State Bar of Michigan, if the applicant **foreign attorney** establishes to the satisfaction of the court **tribunal** in which the **foreign attorney** seeks to appear that:

- (1) the applicant **foreign attorney** appears for the limited purpose of participating in a child custody proceeding as defined by MCL 712B.3(b) in a Michigan court pursuant to the Michigan Indian Family Preservation Act, MCL 712B.1 *et seq*; and
- (2) the applicant **foreign attorney** represents an Indian tribe as defined by MCL 712B.3; and
- (3) the applicant **foreign attorney** presents an affidavit from the Indian child's tribe asserting the tribe's intent to intervene and participate in the state court proceeding, and averring the child's membership or eligibility for membership under tribal law; and
- (4) the applicant **foreign attorney** presents an affidavit that verifies:
 - (a) the jurisdiction(s) in which the foreign attorney is or has been licensed or has sought licensure;
 - (b) the jurisdiction(s) in which the foreign attorney is presently admitted and eligible to practice **and is in good standing in all jurisdictions where licensed**;

- (c)** that the **foreign** attorney is not disbarred or suspended from the practice of law, or the subject of any pending disciplinary action, in any jurisdiction; and
 - (d)** that **the foreign attorney** ~~he or she~~ is familiar with the Michigan Rules of Professional Conduct, ~~Michigan Court Rules,~~ and the Michigan Rules of Evidence, **and these rules.**
- (5)** If the court in which the **foreign** attorney seeks to appear is satisfied that the ~~out of state~~ **foreign** attorney has met the requirements in this subrule, the court shall enter an order authorizing the ~~out of state~~ **foreign** attorney's temporary admission.

State Bar of Michigan
Michael Franck Building
306 Townsend Street
Lansing, MI 48933-2012

Attn: Kathryn Loncarich Hennessey, General Counsel

Re: *Pro Hac Vice*: Proposed Amendments to MCR 8.126

Date: March 1, 2021

Dear Ms. Hennessey,

Attached please find a proposed draft of an amended MCR 8.126. The Appellate Practice Section Rules Committee reviewed the draft sent by the Bar, and submits this proposal, which incorporates “Option 4.” This draft is a suggested framework for the Bar as it decides how it wants to proceed with any proposed amendments to the Supreme Court.

Please let me know if you need the attachment in a different format (i.e. Word, Word Perfect).

Thank you.

Sincerely,

Anne Argiroff, Chair, APS

RULE 8.126 TEMPORARY ADMISSION TO THE BAR

(A) Definitions. For purposes of this rule:

- (1) a foreign attorney is an attorney who is licensed to practice law in another state or territory of the United States of America, in the District of Columbia, or in a foreign country; who is not a member of the Bar; who is not disbarred or suspended in any jurisdiction.
- (2) a government attorney is an attorney representing the United States, the armed forces of the United States, or an agency of the United States, and who is not a member of the Bar.
- (3) A sponsoring attorney is an attorney who is a member of the Bar.
- (4) a tribunal is a court, administrative agency, facilitator, mediator, or arbitrator.
- (5) the Bar is the State Bar of Michigan.

(B) Temporary Admission.

- (1) A government attorney is granted automatic temporary admission to practice before any tribunal in this state.
- (2) A foreign attorney may request temporary admission to practice before tribunals in this state through local counsel. A foreign attorney may not appear in more than five cases in any 365 day period.

(C) Procedure for Foreign Attorneys.

- (1) The sponsoring attorney must appear as counsel of record and file a motion asking the tribunal to grant the foreign attorney temporary admission to practice. The motion must be supported with:
 - (a) a certificate of good standing for the foreign attorney issued within the last 30 days by a jurisdiction where the foreign attorney is licensed and eligible to practice;
 - (b) an affidavit signed by the foreign attorney that verifies:
 - (i) the jurisdiction(s) in which the foreign attorney is or has been licensed, or has sought licensure;
 - (ii) the jurisdiction(s) in which the foreign attorney is presently admitted and eligible to practice and is in good standing in all jurisdictions where licensed;

- (iii) that he or she is not disbarred or suspended from the practice of law, or the subject of any pending disciplinary action, in any jurisdiction; and
 - (iv) that he or she is familiar with the Michigan Rules of Professional Conduct, the Michigan Rules of Evidence, and these court rules;
 - (c) a copy of any disciplinary dispositions concerning the foreign attorney;
 - (d) a statement by the sponsoring attorney that he or she:
 - (i) has read the foreign attorney's affidavit and any disciplinary dispositions concerning the foreign attorney;
 - (ii) believes the foreign attorney's representations to be true; and
 - (iii) will ensure that the procedures of this rule are followed.
 - (2) A copy of the motion must also be filed with the Bar together with a fee equal to the discipline and client-protection portions of a Bar member's annual dues. Within seven days thereafter, the Bar must report to the tribunal, the sponsoring attorney, and the foreign attorney:
 - (a) that the fee has been paid to the Bar; and
 - (b) the number of times that the foreign attorney has been granted temporary admission to practice within the past 365 days.
 - (3) If, after receiving the Bar's report, the tribunal finds that the requirements of this rule have been met, it may issue an order granting the foreign attorney temporary admission to practice in this state. The tribunal cannot enter such an order until after it receives the Bar's report.
 - (4) If a tribunal issues an order granting the foreign attorney temporary admission to practice in this state, the foreign attorney must file a copy of the order with the Bar within seven days.
 - (5) The foreign attorney must notify the tribunal and the Bar if he or she ceases to be in good standing with any jurisdiction where licensed while temporarily admitted to practice under this rule.
- (D) Duration and Scope of Temporary Admission.
- (1) If the tribunal granting temporary admission to practice is a court or administrative agency, then the temporary admission continues for the entire case, including through all appeals, any remands, and any facilitation, mediation, or arbitration that may be ordered by a court or administrative

agency. A foreign attorney is not required to reapply for temporary admission each time the case moves to or from an administrative agency or between courts.

- (2) If the tribunal granting temporary admission to practice is a facilitator, mediator, or arbitrator, the facilitator, mediator, or arbitrator only may grant a foreign attorney temporary admission to practice for the limited purpose of representing a party in the facilitation, mediation, or arbitration. If the facilitation, mediation, or arbitration results in a case or other proceeding before a court or administrative agency, then the foreign attorney must apply for temporary admission before the court or administrative agency.
- (E) Revocation. The tribunal before whom a government attorney or a foreign attorney is practicing may revoke the attorney's temporary admission at any time for misconduct.
- (F) Local Counsel.
- (1) If a tribunal allows a sponsoring attorney to withdraw, another member of the Bar must appear as local counsel with the foreign attorney. Local counsel must have the authority to conduct the case or proceeding if the foreign attorney does not or is unable to do so for any reason.
 - (2) A tribunal may waive the requirement for a foreign attorney to have local counsel.
- (G) Distribution of SBM Fee. If a request for investigation is filed with the grievance administrator against a foreign attorney temporarily admitted to practice under this rule, the entire amount of the fee(s) paid to the Bar for the case(s) in which the allegations of misconduct arose must be transferred to the disciplinary system.

From: [McNabb, Deborah](#)
To: [Kathryn Hennessey](#)
Cc: [Hegarty, Charles S. \(Charles.Hegarty@3rdcc.org\)](#); [Martha Anderson](#)
Subject: MJA: Pro Hac Vice: SBM Draft Proposed Amendments to MCR 8.126
Date: Friday, February 19, 2021 4:35:12 PM
Attachments: [image001.gif](#)
[image002.png](#)

Good Afternoon, Katie,

I solicited feedback from our rules committee, and perhaps more importantly, from our judges on the Court of Appeals. The response received was overwhelmingly in favor of:

- **Option 4:** Hybrid: Define case broadly as set forth in Option 2, but impose affirmative duty on the out-of-state attorney and sponsoring attorney to inform court if there has been a change to their good standing status in any out-of-state jurisdiction.

Thanks for reaching out to MJA regarding your work on this. I hope this feedback is helpful to you as you move forward.

Deborah L. McNabb

Presiding Judge, Family Division

17th Circuit Court, Kent County

180 Ottawa Avenue NW, Suite 6200A

Grand Rapids, MI 49503

Fax 616-632-5105

Judicial Clerk (Domestic), *Dort Maurice*, dolores.maurice@kentcountymi.gov, 616-632-5153

Judicial Clerk (Juvenile), *Lisa Gibson*, lisa.gibson@kentcountymi.gov, 616-632-5219



From: [Durkin, Terence P.](#)
To: [Kathryn Hennessey](#)
Cc: [Madelyne Lawry \(info@mdtc.org\)](mailto:Madelyne.Lawry@mdtc.org)
Subject: RE: MDTC: Pro Hac Vice: SBM Draft Proposed Amendments to MCR 8.126
Date: Thursday, February 25, 2021 1:38:07 PM
Attachments: [image001.jpg](#)

Ms. Hennessey-

The MDTC is in agreement with the proposed amendments to MCR 8.126 and Option 4 as the definition of "case".

If I may be of any further assistance, please contact me.

Regards,

Terry



www.kitch.com

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Public Policy Position Pro Hac Vice Proposed Amendments

Support Option 4 and Appellate Practice Section Proposal with Amendments

Explanation

The Committee supports option 4 to define case broadly to encompass the entire proceeding as it moves from trial court through appeals and impose an affirmative duty on the out-of-state and sponsoring attorney to inform the court if there has been a change to the out-of-state attorney's good standing status in any jurisdiction. The Committee also supports the language proposed by the Appellate Practice Section with the following amendments:

1. Remove the government attorney carve out in paragraphs (A)(2) and (B)(1).
2. Amend paragraph (C)(5) to clarify that an attorney has a duty to inform a court if an out-of-state attorney is no longer in good standing in a jurisdiction where temporarily admitted, as follows:

The foreign attorney must notify the tribunal and the Bar if he or she ceases to be in good standing with any jurisdiction where ~~licensed~~ **admitted (including pro hac vice)** while temporarily admitted to practice under this rule.

3. Amend paragraph (C)(3) to ensure that language is consistent through the court rules as follows:

If, after receiving the Bar's report, the tribunal finds that the requirements of this rule have been met, it may issue an order granting the foreign attorney temporary admission to practice in this state. The tribunal ~~cannot~~ **shall not** enter such an order until after it receives the Bar's report.

Contact Person: Randy J. Wallace

Email: rwallace@olsmanlaw.com

Public Policy Position
Proposed Amendments to MCR 8.126 – Pro Hac Vice

Support with Amendments

Explanation

The committee votes unanimously (20) to support the following recommendations:

Inclusion of Tribal Courts: Paragraph (A) should include attorneys licensed to practice law tribal courts, as follows:

(A) Temporary Admission. Any person who is licensed to practice law in another state or territory, or in the District of Columbia, of the United States of America, **in a Tribal Court**, or in any foreign country, and who is not disbarred or suspended in any jurisdiction, and who is eligible to practice in at least one jurisdiction, may be permitted to appear and practice in a specific case in a court, before an administrative tribunal or agency, or in a specific arbitration proceeding in this state when associated with and on motion of an active member of the State Bar of Michigan who appears of record in the case. An out-of-state attorney may be temporarily admitted to practice under this rule in no more than five cases in a 365-day period. Permission to appear and practice is within the discretion of the court, administrative tribunal or agency, or arbitrator and may be revoked at any time for misconduct. For purposes of this rule, an out-of-state attorney is one who is licensed to practice law in another state or territory, or in the District of Columbia, of the United States of America, **in a Tribal Court**, or in a foreign country and who is not a member of the State Bar of Michigan.

Government Attorneys: Paragraphs (A)(2) and (B)(1) should be amended. Remove special treatment for government attorneys and have them go through the same process as other attorneys.

Legal Aid Attorneys: Legal Aid providers have had numerous problems waiting for employees to get licensed in Michigan. Even for attorneys who are admitted without taking the bar examination, it takes six or more months for them to get licensed. To address this problem, the subcommittee recommends that a special provision is created for attorneys awaiting their admission to the bar as follows:

During the time period in which their application to be licensed in Michigan is submitted and pending before the BLE, legal aid attorneys employed by legal aid providers in Michigan (1) pay the first fee when requesting PHV admission; (2) have all subsequent pro hac vice fees waived; and (3) are not limited in the number of times they may be admitted pro hac vice.

Duty to Notify in No Longer in Good Standing: Paragraph (C)(5) should be amended as follows to ensure that attorneys are required to notify court or tribunal if they cease to be in good standing in any jurisdiction where licensed or temporarily admitted: “any jurisdiction where licensed **or admitted pro hac vice** while temporarily admitted to practice under this rule.”

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