

997 HJ AK BAR ASSN SUNSET REVIEW FILES NO. 15

ABA

RESPONSE  
to REVIEW

#15



# Alaska State Legislature

## House of Representatives

### Committee on Judiciary

Pouch V  
State Capitol  
Juneau, Alaska 99811

Official Business

TO: Charlie Parr, Chairman, and Members of the House Judiciary  
Committee

FROM: Margaret W. Berck, Staff

DATE: February 14, 1980

RE: Sunset Review of the Alaska Bar Association

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Attached are the responses of the Alaska Bar Association to those requests for information which I made on the Committee's behalf in early November, 1979. Rather than xerox the lengthy appendices to these responses which were provided by the Alaska Bar Association, I have selected only a few of the appendix items to be included in your packets today. Should you desire review more of the documents contained in the appendices please let me know..

1. As of January 1, 1980, there are 1,263 active members of the Alaska Bar Association, 147 inactive members, and fifty-three (53) judicial members.

✓ 2. Seven (7) attorneys are currently practicing law in the State of Alaska on an Alaska Legal Services Corporation (ALSC) waiver. Pursuant to Alaska Bar Rule III-43, an individual who (a) is employed by or associated with Alaska Legal Services Corporation on a full-time basis, (b) is licensed to practice law in another state, and (c) has not failed the Alaska Bar examination, can be granted permission to practice law in Alaska for not more than two years (i.e., the admissions exam is "waived" for up to two years).

3. No attorney has yet applied to practice law in Alaska on an Expanded Legal Assistance Program waiver. The United States Armed Forces Expanded Legal Assistance Program, or E.L.A.P., is just being instituted in Alaska. Proposed regulations to implement the program were published in the November/December 1979 issue of The Alaska Bar Rag, and were only recently adopted by the Alaska Bar Association. Please see Alaska Bar Rule III-43.1 for information regarding the E.L.A.P. waiver requirements, which are similar to those described in #2 above, except that the person admitted on an E.L.A.P. waiver must be an active duty member of the Armed Forces, as opposed to employed by the Alaska Legal Services Corporation.

4. The total number of attorneys practicing law in this State pursuant to a waiver is seven (7). Since no one has yet applied to practice law under an E.L.A.P. waiver, only those attorneys who are practicing law on an ALSC waiver can currently be counted (see #2 above).

✓ 5. Eight (8) legal interns are currently certified in the State. Pursuant to Alaska Bar Rule IV-44, an intern permit is terminated upon the occurrence of one of the following three events, whichever occurs first: (a) expiration of a period of six months from the date the permit is issued; (b) failure of the intern to take the first Alaska Bar examination for which he or she is eligible; or (c) the intern's failure to pass any bar examination.

6. There are 1263 active members of the Alaska Bar Association.

7. There are 147 inactive members of the Alaska Bar Association.

8. There are fifty-three (53) judicial members of the Alaska Bar Association.

9. There are no honorary members of the Alaska Bar Association at the present time.

10 through 14. The Alaska Bar Association does not ask for information regarding the race, ethnic background, or sex of any law school graduate who applies to take the Alaska Bar examination. Therefore, since such statistics are not available on applicants, it follows that the Bar Association would not have such information on those persons who subsequently do pass the Bar exam and are admitted to practice law in the State of Alaska (i.e., those applicants who eventually become "active" members of the Association).

For your information, however, a current list of the active and inactive members of the Alaska Bar Association is enclosed as Appendix A and, should the House Judiciary Committee wish, it could request the individual members of the Association to provide the Judiciary Committee with the information necessary to answer questions #10-14. In addition, Ms. Carolyn Jones, a State Assistant Attorney General and Chairperson of the Bar Association's Committee on Legal Educational Opportunities (LEO), may have some information regarding these areas, and is undoubtedly willing to make available to the House Judiciary Committee what information the LEO Committee has compiled. [NOTE: Ms. Jones, in March 1979, reported that her Committee had been able to identify five Alaskan Natives (one retired) and four Blacks admitted to practice law in Alaska. Since that time, according to Ms. Jones, the Committee has additionally been able to discover that one Hispanic, one Japanese, and one Korean are admitted to the Alaska Bar.]

15. It would be inappropriate for the Alaska Bar Association to show preference in its admission policies. The Association admits anyone who passes the Bar examination and is found to be of good character, regardless of the applicant's race, ethnic background, sex, or religion. Nevertheless, as discussed more fully in #16 below, the Board of Governors of the Association has actively supported and acted upon most of the recommendations of the Association's Committee on Legal Educational Opportunities, particularly as they relate to assisting minorities interested in law. Additionally, it is generally recognized that Alaska has one of the highest percentages of women lawyers in the United States and, specifically, the highest percentage of women on its Board of Governors.

16. The following documents are enclosed as Appendix B:

(a) A copy of the Committee on Legal Educational Opportunities' preliminary report to the Board of Governors, dated March 23, 1979.

(b) A copy of the LEO Committee's final report to the Board, dated June 12, 1979.

17 cont'd

Ethics	Charles Flynn
Family Law	John Reese
Insurance	Karen Hunt
Law Related Education	William Choquette
Legal Educational Opportunities	Carolyn Jones
Natural Resources	Ronald Birch
Paralegal	Steve Conn
Probate	Peter Ginder
Real Estate	Frank Nosek
Statutes, By-Laws & Rules	David Bundy
Taxation	David Shaftel
Tort	Bernard Kelly

Special Committees

<u>TITLE</u>	<u>CHAIRPERSON</u>
Advertising	Frank Smith, Jr.
Alternative Disputes Resolution	Stephen DeLisio
Examination Review	Michael Thomas
Historian	Judge James Hornaday
Prepaid Legal	Philip Volland
Specialization	Henry Camarot
Unauthorized Practice of Law	Daniel Gerety

Bar Rule Committees

<u>TITLE</u>	<u>CHAIRPERSON</u>
Client Security Fund	William Cook
Conciliation Panels	No appointed Chairperson

Discipline Hearing

1st Judicial District -  
Chuck Cloudy  
2nd and 4th Judicial Districts -  
Millard Ingraham  
3rd Judicial District (Panel A) -  
Harris Saxon  
3rd Judicial District (Panel B) -  
Bernd Guetschow

E.L.A.P.

No appointed Chairperson

Fee Arbitration

1st Judicial District (Juneau) -  
(No Chairperson)  
1st Judicial District (Ketchikan) -  
Cliff Smith  
2nd & 4th Judicial Districts -  
Pat Brown  
3rd Judicial District (Panel A) -  
Ben Walters  
3rd Judicial District (Panel B) -  
John Reese

Law Examiners

Alex Young

Enclosed, as Appendix C, is a copy of the Committee Book of the Alaska Bar Association, showing the chairpersons and members of each committee listed above. In addition, please note that each member of the Board of Governors is assigned to act as liaison between the Board and at least two of the Standing Committees of the Bar. A listing of those liaison assignments is contained in Appendix C.

18. As stated in the cover letter of this response, the Board of Governors is currently completing a booklet which will, among other things, describe the powers, duties, and functions of the Association's Bar Rules Committees, the Standing Committees, and the Special Committees. That description of the Alaska Bar Association's committee structure will be available almost concurrent with this response and, to avoid duplication, the committee information is not reproduced here.

19. The available annual reports of the Standing committees are contained in Appendix D. Unfortunately, the Association's Committee files are incomplete and contain gaps in information. In addition, and as some of the correspondence indicates (for instance, see page 2 of Peter Ginder's letter to Ronald A. Offret regarding the Probate Committee), the various committees of the Alaska Bar Association have only recently been reconstituted and given substantive tasks. From the files, it would appear that many of the committees met irregularly during the mid-Seventies. Not all committee reports have been retained by the Association.

✓ 20. This request cannot be complied with because the Examination Review Committee, a special committee of the Alaska Bar Association created in mid-1979, will not issue its first (preliminary) report until March, 1980.

21. Attached, as Appendix E, are copies of the information sent to the members of the Alaska Bar Association regarding programs in Alaska by the Association's Continuing Legal Education (CLE) Committee. Information regarding the CLE programs held in 1977, 1978 and 1979 is provided.

✓ 22. In 1976 the Ethics Committee of the Alaska Bar Association rendered seven (7) opinions which were approved by the Board of Governors. In 1977 the Ethics Committee rendered two (2) opinions approved by the Board. In 1978 the Board approved five (5) opinions of the Ethics Committee, and in 1979 three (3) opinions were approved, and one is pending. Copies of these opinions are provided as Appendix F of this response.

23. While the Alaska Bar Association has not actively attempted to influence the decision making process of either the legislative or administrative branches of government in the area of substantive law, members of the various standing committees of the Association have always been available to assist the Legislature upon its request. The Bar Association has retained the services of a lobbyist to monitor legislation and provide information to the Board of Governors, local Bar Associations, and the membership that may be of interest to the legal profession. The Alaska Bar has, from time-to-time, proposed amendments to the Alaska Integrated Bar Act (1976 was the last instance of such activity), but generally the Association's lobbyist has limited his efforts to supporting such proposals as pay increases for judges, requests for the creation of additional judgeships, expansion of overcrowded court facilities, and items of that nature.

3654

Kathy Kolcorst will  
announce schedule  
to Chi bar assoc  
meeting - esp.

Sup Wed. Feb 20

3pm in person

to attend

1/20 - 1/20

Feb 6, 1980 D.

Individual members of the Alaska Bar Association may -- and do -- lobby actively on many subjects, but these individuals do not speak on behalf of the Association as a whole. Representatives of the Association have also met with members of the Legislature to answer questions and provide information on diverse topics of legislative inquiry.

24. Attached, as Appendix G, is a copy of the introductory letter sent to attorneys who desire information concerning the Alaska Bar Association's statewide Lawyer Referral Service. The letter should answer your questions regarding the referral service. As additional information, copies of two staff reports are included in Appendix G. The reports state the number of referrals made by the Service from its inception in April, 1978 through November, 1978, and for the third quarter of 1979. For further information, see the booklet describing the Alaska Bar Association.

25. The following is a listing of the dates and locations of all meetings of the Board of Governors of the Alaska Bar Association since January 6, 1976:

<u>DATE</u>	<u>LOCATION</u>
January 6, 1979	Conference Phone Meeting (CPM)
February 13, 1976	CPM
February 20, 1976	CPM
February 23, 1976	CPM
March 12, 1976	Anchorage
April 22, 1976	CPM
May 15-16, 1976	Anchorage
June 1-3, 1976	Anchorage
June 5, 1976 (Annual Meeting)	Anchorage
July 13, 1976	CPM
August 9, 1976	CPM
September 20, 1976	CPM
September 27, 1976	CPM
October 14-16, 1976	Anchorage
December 1, 1976	CPM
December 28, 1976	CPM
January 27-28, 1977	Juneau
January 31, 1977	CPM
February 8, 1977	CPM
February 28, 1977	CPM
March 30, 1977	CPM

April 14, 1977	CPM
April 27, 1977	CPM
May 21, 1977	Anchorage
June 6-8, 1977	Ketchikan
June 11, 1977 (Annual Meeting)	Ketchikan
July 13, 1977	CPM
July 18, 1977	CPM
July 21, 1977	CPM
September 16-17, 1977	Anchorage
October 13-15, 1977	Kodiak
December 1, 1977	CPM
December 17, 1977	CPM

January 21, 1978	Anchorage
February 14, 1978	CPM
February 20-23, 1978 (Adjunct to Mid-Winter CLE Meeting)	Kauai, Hawaii
February 24, 1978	Kauai, Hawaii
February 25, 1978	Kauai, Hawaii
March 11, 1978	Anchorage
April 4, 1978	CPM
May 10, 1978	CPM
May 18-20, 1978	Sitka
May 23, 1978	CPM
May 26, 1978	CPM
June 6-8, 1978	Fairbanks
June 10, 1978 (Annual Meeting)	Fairbanks
June 13, 1978	CPM
June 14, 1978	CPM
June 20, 1978	CPM
June 26, 1978	CPM
July 14, 1978	CPM
August 9, 1978	CPM
August 24, 1978	CPM
September 6-8, 1978	Fairbanks
October 26-28, 1978	Anchorage
December 2-3, 1978	Anchorage
December 12, 1978	CPM

January 15, 1979	CPM
January 18, 1979	CPM
January 29-31, 1979 (Adjunct to Mid-Winter CLE Meeting)	Kauai, Hawaii
March 29-31, 1979	Juneau
April 13, 1979	CPM
April 17, 1979	CPM
May 17-19, 1979	Anchorage
May 29, 1979	CPM
June 5-6, 1979	Sitka
June 9, 1979 (Annual Meeting)	Sitka
June 15, 1979	CPM

July 16, 1979	CPM
July 19, 1979	CPM
July 30, 1979	CPM
August 6, 1979	CPM
September 6-9, 1979	Anchorage
October 25-27, 1979	Anchorage
November 17, 1979	CPM
December 6-8, 1979	Anchorage
December 21, 1979	CPM

26. Pursuant to the Association's By-Laws, the President schedules at least six regular meetings of the Board of Governors. These dates are published immediately upon the President's assumption of office. In addition, the dates are published throughout the year in the Alaska Bar Rag. Finally, all law libraries, the clerks of court, and the presidents of the local bar associations are sent a copy of the agenda of each upcoming Board meeting ten (10) days in advance of the meeting dates.

27 and 28. In 1978, the Board of Governors recommended to the Supreme Court of Alaska Bar Rule 62, commonly known as the "Rule on Rules". In accordance with its provisions, the Board, prior to adoption, publishes in the Alaska Bar Rag any proposed changes or additions to the Association's by-laws, rules, and regulations. The Bar Rag is received by all active members of the Association and is available to any interested person. There are approximately 200 non-member subscribers. Proposed Bar Rule 63 was published not only in the Alaska Bar Rag, but also in its predecessor publication, the Alaska Bar Brief. The Association received over thirty (30) responses to its proposed Definition of the Practice of Law in 1978, including comments from the State's Ombudsman, the Attorney General, Alaska Legal Services, members of the U.S. Department of Interior Regional Solicitor's Office, three city attorneys from within Alaska, the National Bank of Alaska, two public consumer agencies (Trustees for Alaska and Akpirg), the State Human Rights Commission, and numerous individual attorneys.

29 and 30. The Association's current Personnel Manual was adopted by the Board of Governors in December of 1978. A copy of that manual is enclosed as Appendix H. Titles, job descriptions, fringe benefits and office procedures are outlined in the personnel manual. Please note: in 1979, at contract renewal, the Board granted the Association's Bar Counsel additional days of vacation for the year 1979-1980, in lieu of a salary increase. The following is all information that is available on staff and salaries:



- e. Mary L. Loran Bookkeeper  
Employed on 2/15/79 at \$900 per month; employment ended on 6/19/79 at \$980
- f. Ethel B. Stratman Bookkeeper  
1975 - Employed on 9/8/75  
1977 - Employment ended on 12/15/77 at \$1300 per month  
1978 - Employed again on 9/1/78 at \$7.50 per hour;  
Salary increased on 11/6/78 to \$1200 per month  
1979 - Employment ended on 2/28/79
- g. Mary J. Blount Bookkeeper  
Employed on 4/6/78; employment ended on 8/31/78; \$1175 per month
- h. Shirley E. Dreese Administrative Assistant  
1976 - Employed on 10/11/76 at \$1150 per month  
1977 - Receiving \$1200 per month  
1978 - Employment ended on 3/22/78
- i. Laura Spickelmier Discipline and Fee Arbitration Secretary  
1977 - Employed on 4/28/77 at \$900 per month; salary increased on 11/15/77 to \$950  
1978 - Salary increased on 4/11/78 to \$1050, and to \$1140 on 9/20/78  
1979 - Employment ended on 5/30/79
- j. Carla Wilkins Receptionist and Lawyer Referral Secretary  
Employed on 6/26/79 at \$1000 per month; employment ended on 11/15/79
- k. Susan K. Harnasch Receptionist and Lawyer Referral Secretary  
Employed on 3/27/79 at \$900 per month; employment ended on 6/22/79
- l. Michelle Smith Receptionist and Lawyer Referral Secretary  
1978 - Employed on 4/3/78 at \$950 per month  
1979 - Employment ended on 3/28/79 at \$1030 per month

Temporary Employees:

Robert E. Allen Printer  
Employed on 2/28/77 - 4/6/78 at \$12.00 per hour

Adrian B. Clark Discipline and Admissions Investigator  
Employed on 4/15/78 - 9/15/78 at \$20.00 per hour (Part-time)

31. Attached, as Appendix I, are copies of the 1976, 1977, 1978 and 1979 budgets of the Alaska Bar Association.

SEE

ATTACHMENTS

32. Attached, as Appendix J, are copies of the 1976, 1977 and 1978 audits. An audit of the finances of the Association for 1979 is currently being conducted. The audit for 1979 will be provided to the House Judiciary Committee when completed.

33. The monthly, fixed publishing costs of the Alaska Bar Rag are approximately as follows:

a. Typesetting:	\$75.00 per page, at 12 pages	\$900.00
b. Printing:	12 pages	540.00
c. Postage		24.00
TOTAL		<u>\$1464.00</u>

The Bar Rag receives income from paid subscriptions (The Bar Rag is "free" to active members of the Association), advertising, and the Anchorage Bar Association. The Alaska Bar Association has, in the past, paid those costs not met by the income generated.

SEE

ATTACHMENTS

34. The Alaska Bar Association receives State funds from only one source (the Alaska Court System) for only one purpose (discipline). This contribution represents approximately only fifty percent (50%) of the discipline costs incurred by the Association.

35. Per diem (\$75.00 per day) and travel (coach fare) is paid to only those members of the Board of Governors residing outside the community where approved meetings of the Association are held.

36. The total travel and per diem expenses paid by the Alaska Bar Association to other than members of the Board of Governors can be categorized as follows:

- (a) Administrative - travel expenses of the Executive Director and, occasionally, the Executive Assistant;
- (b) Discipline - travel expenses of the Bar Counsel and, occasionally, the investigator; and
- (c) Committees - travel expenses of speakers for programs and, occasionally, committee members, etc.

Staff administrative and discipline travel expenses are broken out in the audits provided in Appendix J. The actual cost to the Association of the expenditures for travel and per diem made in con-

nection with CLE programs is shown by the "Continuing Legal Education" line item in the audits contained in Appendix J. Expenses for the other committees of the Association appear under a separate line item entitled "Committees."

37. Enclosed, as Appendix K, is a copy of an October 3, 1979 memorandum prepared by Vickilee Goodrow, the Association's Bookkeeper, which updates her August 27, 1979 profit and loss statement for the Association's 1979 Mid-Winter CLE meeting in Hawaii.

38. The total amount of income derived from admission fees is contained in Appendix J.

39 through 40. The audits contained in Appendix J state the costs of administering the Alaska Bar examination. In addition, any litigation costs resulting from the admissions process are also shown.

41. It is assumed that this question refers to instances when the Alaska Bar Association was sued or sued in the trial courts of Alaska. Since 1976, this has occurred twice -- once in 1978 in Horowitz v. Alaska Bar Association (Supreme Court docket #4310/4311), and once in 1979 in State of Alaska v. Willard (Superior Court docket #79-5932). The former case is pending before the Supreme Court and the latter case is pending in Superior Court. These cases are public record and are available to the House Judiciary from the Court. The Association has never been assessed or recovered attorney fees.

42. Enclosed, as Appendix L, is a copy of the "Application for Admission to the Alaska Bar Association," as well as the attendant rules, brochures, instructions, fingerprint cards, and other materials sent to those persons either making simple inquiry or actually requesting application forms.

43 and 44. The item contained in Appendix L, entitled "Instructions to Applicants and Orientation Information about the Alaska Bar Examination," describes the content of the Alaska Bar examination for both general and attorney applicants.

45 through 52. For the purposes of this section, the following abbreviation apply:

- GA - General applicants taking the Alaska Bar examination
- AA - Attorney applicants taking the Alaska Bar examination

	GA	AA	TOTAL
45 a. February 1976 Alaska Bar Exam Results:			
No. of Examinees	90	6	96
No. Who Passed	67	6	73
No. Who Failed	23	0	23
46 b. July 1976 Alaska Bar Exam Results:			
No. of Examinees	95	2	97
No. Who Passed	77	0	77
No. Who Failed	18	2	20
47 c. February 1977 Alaska Bar Exam Results:			
No. of Examinees	100	8	108
No. Who Passed	76	7	83
No. Who Failed	24	1	25
48 d. July 1977 Alaska Bar Exam Results:			
No. of Examinees	117	5	122
No. Who Passed	91	4	95
No. Who Failed	26	1	27
49 e. February 1978 Alaska Bar Exam Results:			
No. of Examinees	93	7	100
No. Who Passed	60	5	65
No. Who Failed	33	2	35
50 f. July 1978 Alaska Bar Exam Results:			
No. of Examinees	117	8	125
No. Who Passed	84	7	91
No. Who Failed	33	1	34
51 g. February 1979 Alaska Bar Exam Results:			
No. of Examinees	102	13	115
No. Who Passed	65	10	75
No. Who Failed	37	3	40
52 h. July 1979 Alaska Bar Exam Results:			
No. of Examinees	97	5	102
No. Who Passed	64	5	69
No. Who Failed	33	0	33

53 through 60. The Alaska Bar Association does not ask for information regarding the race, ethnic background, or sex of any applicant who desires to take the Alaska Bar examination, although a photograph of every applicant is required. The Board of Governors, however, as a part of the on-going research it is sponsoring with the Legal Educational Opportunities Committee (see #16 above), and on behalf of the LEO Committee, does now provide each applicant with a copy of a voluntary questionnaire which asks for information regarding each applicant's race or ethnic background. This questionnaire, if returned, is submitted to the LEO Committee. It is not sent to the Bar Association, nor kept on file by the Bar Association, and the responses are treated in a confidential manner. Hence, beginning this year, the LEO Committee will be able to make such statistics available. You should be aware, however, that since completion of the survey is currently voluntary, to date the response rate is running at about fifty percent (50%). Applicants for the February 1980 exam were the first group asked to complete the survey, and were considered a trial group.

61. William W. Garrison, Esq., is the Alaska Bar Association's Disciplinary Administrator and Bar Counsel.

62. The booklet being prepared by the Board of Governors explains, in substantial detail, the processing of all complaints received by the Association. In brief, however, the Conciliation Panels were adopted by the Supreme Court, at the request of the Association, as a means of establishing a forum where complaints resulting from a breakdown in communications between the client and his or her attorney could be arbitrated or mediated. Prior to the creation of Conciliation Panels, if the allegations contained in a complaint would not constitute actual misconduct by an attorney (i.e., did not violate the Code of Professional Responsibility), or if the matter was not a dispute over attorney fees, then the client basically was without a forum in which to air his or her grievances, since the case could not be referred to either of the two existing forums: the hearing committee or a fee arbitration panel. The purpose of the Conciliation Panels is to provide the public with a place to air complaints and seek solutions to problems which previously would have been denied consideration by the Association, in as much as the complaint fit neither existing categories of grievance proceeding.

63. A copy of the "Request for Investigation" form is provided as Appendix M to this response.

SEE  
ATTACHMENTS 64 and 65. Copies of disciplinary reports prepared by the Association for the Supreme Court of Alaska in 1975, 1976, 1977, 1978 and 1979 are provided as Appendix N to this response.

66. The cover letter to the 1977 year-end grievance report, which is dated March 17, 1978 and contained in Appendix N, provides explanation for revisions in the 1977 year-end report. This is the only report revised.

67. The Alaska Bar Association cannot release confidential information and is therefore unable to provide the House Judiciary Committee with a copy of the requested card file on disciplinary cases.

68. The discipline reports furnished in Appendix N contain, for the most part, the statistical data requested here. The information requested in (c) and (d) is available within the records of the Association, but is not in a form readily retrievable to answer the inquiry. To compile the information would be an undue burden on the small staff of the Association. In addition, the information requested in (c) and (d), because of confidentiality, cannot be made available for compilation by the Committee.

69 through 75. The information requested is contained in the discipline reports furnished in Appendix N.

SEE  
ATTACHMENTS 76. Enclosed, as Appendix O, is a copy of an internal report prepared by the Board of Governors. The final column of this report indicates the number of months (or years) taken to resolve a case. The report is based on the disciplinary reports for the final quarter of 1977 through the first quarter of 1979. The report clearly demonstrates that the employment of a full-time Bar Discipline Administrator (in mid-1977) has had a significant impact on the efficiency with which a complaint is processed.

✓ 77. Yes, records are maintained on previous disciplinary complaints against an attorney, regardless of whether such complaints are ultimately dismissed. In this way, a discipline "history" is created on an attorney, which is helpful to the Bar Counsel and the Board when making final decisions or recommendations to the Supreme Court regarding appropriate disciplinary action.

78 through 81. To the extent not set forth in Appendix N, the Alaska Bar Association has not kept statistics of the nature required in questions #78 through 81.

82. When unethical conduct on the part of a judge is observed, the matter is referred to the Judicial Qualifications Commission. The Association is aware of no instance where a judge has failed to report attorney misconduct. The Bar Association has commenced proceedings based upon requests from the Judiciary, as shown in Appendix N.

83. The Board of Governors itself does not determine the inadequacy, incompleteness or insufficiency of a request for investigation. The Bar Counsel and the Association's investigator pursue each complaint to gather all the information necessary to determine whether there are reasonable grounds to believe that formal action by the Board of Governors should be taken on the complaint.

84 and 85. To the extent available, the information regarding the originator of complaints requested by these two questions is contained in Appendix N.

86. The information that is available on the number of fee arbitrations held during the past four years is contained in Appendix N.

87. Since there have been approximately 160 fee arbitrations held in the past four years, furnishing factual summaries of each one would be an intolerable burden for the staff.



# Alaska State Legislature

## House of Representatives

### Committee on Judiciary

Official Business

Pouch V  
State Capitol  
Juneau, Alaska 99811

November 7, 1979

Donna C. Willard  
President  
Alaska Bar Association  
P.O. Box 279  
Anchorage, Ak. 99510

Dear Ms. Willard;

The House Judiciary Committee, pursuant to its obligations under the sunset law, AS 44.66.010, et. seq., and pursuant to its general authorities and powers as a standing committee of the Alaska State Legislature, requests the following information from the Board of Governors of the Alaska Bar Association:

1. How many attorneys are admitted to practice law in the State of Alaska, excluding those who are practicing on a waiver?
2. How many attorneys are practicing law on a waiver for Alaska Legal Services Corporation?
3. How many attorneys are practicing law on a waiver for the United States Armed Forces Expanded Legal Assistance Program?
4. What is the total number of attorneys practicing law in the state pursuant to a waiver?
5. How many legal interns are certified in the State of Alaska?
6. How many active members of the Alaska Bar Association are there?
7. How many inactive members of the Alaska Bar Association are there?
8. How many judicial members of the Alaska Bar Association are there?
9. How many honorary members of the Alaska Bar Association are there?

10. How many active members of the Alaska Bar Association are women and how many women were active members in 1976, 1977 and 1978?

11. How many active members of the Alaska Bar Association are Natives and how many Natives were active members in 1976, 1977 and 1978?

12. How many members of the Alaska Bar Association are black and how many blacks were active members in 1976, 1977, and 1978?

13. How many active members of the Alaska Bar Association are Hispanic and how many hispanics were active members in 1976, 1977 and 1978?

14. How many active members of the Alaska Bar Association are Asian and how many Asians were active members in 1976, 1977 and 1978?

15. What steps has the Alaska Bar Association taken to increase membership of women and minorities?

16. What steps has the Alaska Bar Association taken to implement any of the recommendations contained in the 1979 report from the association's Committee on Legal Educational Opportunities?

17. List all standing committees of the Alaska Bar Association?

18. What are the powers, duties and functions of the Alaska Bar Association's standing committees?

19. Furnish all annual reports from the Alaska Bar Association's standing committees for the years 1976, 1977 and 1978.

20. Furnish all reports issued by the special committee established by the Alaska Bar Association to study and evaluate the Alaska bar exam.

21. Briefly describe all continuing legal education programs in 1976, 1977, 1978 and 1979.

22. How many ethics opinions did the Alaska Bar Association render in 1976, 1977, 1978 and 1979?

23. Briefly describe the legislative programs of the Alaska Bar Association in 1976, 1977, 1978 and 1979.

24. Briefly describe the Alaska Bar Association's lawyer referral system.

25. List the dates and locations of all meetings of the Board of Governors of the Alaska Bar Association for 1976, 1977, 1978 and 1979.

26. What type of public notice is provided for meetings of the Board of Governors of the Alaska Bar Association?

27. How many non-attorney agencies or groups were notified by the Alaska Bar Association of its consideration of a proposed bar rule amendment to define the practice of law?

28. How many non-attorney individuals were notified by the Alaska Bar Association of its consideration of a proposed bar rule amendment to define the practice of law?

29. Provide the position title, duties and powers as well as salaries and fringe benefits of all paid staff positions within the Alaska Bar Association for 1976, 1977, 1978 and 1979.

30. What is the turn-over rate for each of the positions?

31. Furnish copies of the Alaska Bar Association's budgets for 1976, 1977, 1978 and 1979.

32. Furnish copies of all financial audits of the Alaska Bar Association conducted in 1976, 1977, 1978 and 1979.

33. Furnish a copy of the budgets for the Bar Rag for 1978 and 1979.

34. Provide the source, purpose and amount of all state funds obtained by the Alaska Bar Association during 1976, 1977, 1978 and 1979.

35. Provide the total travel and per diem expenses paid by the Alaska Bar Association to members of the Board of Governors in 1976, 1977, 1978 and 1979.

36. Provide the total travel and per diem expenses paid by the Alaska Bar Association to individuals, other than members of the Board of Governors, for 1976, 1977, 1978 and 1979.

37. Furnish a copy of the profit and loss statement for the mid-winter Hawaii Convention prepared by V. Goodrow on August 27, 1979.

38. Provide the total income derived from applications for admissions to the Alaska Bar Association in 1976, 1977, 1978 and 1979.

39. What was the total expense of the admission procedures of the Alaska Bar Association, excluding the cost of any court litigation arising therefrom, for 1976, 1977, 1978 and 1979?

40. What was the total cost of the admission procedures of the Alaska Bar Association, including the cost of any court litigation arising therefrom, for 1976, 1977, 1978 and 1979?

41.. Provide the total amount of funds expended by the Alaska Bar Association for court litigation in 1976, 1977, 1978 and 1979, including the case name, docket number, brief discription of the issues involved, whether the case was appealed to the Supreme Court and the final disposition. Additionally, it should be noted if the Alaska Bar Association was assessed attorney's fees and costs pursuant to Rule 82 or if the Alaska Bar Association was able to recover a portion of its attorney's fees and costs pursuant to that rule.

42. Furnish a copy of the application form which the Alaska Bar Association requires all applicants for admission to complete.

43. Briefly describe what comprises the Alaska Bar Association examination for attorney applicants.

44. Briefly describe what comprises the Alaska Bar Association examination for general applicants.

45. What was the total number of general applicants who took the spring Alaska Bar examination in 1976, 1977, 1978 and 1979?

46. What was the total number of general applicants who passed the spring Alaska Bar examination for 1976, 1977, 1978 and 1979?

47. What was the total number of general applicants who took the summer Alaska Bar examination in 1976, 1977, 1978 and 1979?

48. What was the total number of general applicants who passed the summer Alaska Bar examination in 1976, 1977, 1978 and 1979?

49. What was the total number of attorney applicants who took the spring Alaska Bar examination in 1976, 1977, 1978 and 1979?

50. What was the total number of attorney applicants who passed the spring Alaska Bar examination in 1976, 1977, 1978 and 1979?

51. What was the total number of attorney applicants who took the summer Alaska Bar examination in 1976, 1977, 1978 and 1979?

52. What was the total number of attorney applicants who passed the summer Alaska Bar examination in 1976, 1977, 1978 and 1979?

53. What was the total number of females, Alaska Natives, blacks, Hispanics and Asians who as general applicants took the spring Alaska Bar examination for the years 1976, 1977, 1978 and 1979?

54. What was the total number of females, Alaska Natives, blacks, Hispanics and Asians who as general applicants passed the spring Alaska Bar examination for the years 1976, 1977, 1978 and 1979?

55. What was the total number of females, Alaska Natives, blacks, Hispanics and Asians who as general applicants took the summer Alaska Bar examination for the years 1976, 1977, 1978 and 1979?

56. What was the total number of Alaska Natives, females, blacks, Hispanics and Asians who as general applicants passed the summer Alaska Bar examination for the years 1976, 1977, 1978 and 1979?

57. What was the total number of females, Alaska Natives, blacks, Hispanics and Asians who as attorney applicants took the spring Alaska Bar examination for the years 1976, 1977, 1978 and 1979?

58. What was the total number of females, Alaska Natives, blacks, Hispanics and Asians who as attorney applicants passed the spring Alaska Bar examination for the years 1976, 1977, 1978 and 1979?

59. What was the total number of females, Alaska Natives, blacks, Hispanics and Asians who as attorney applicants took the summer Alaska Bar examination for the years 1976, 1977, 1978 and 1979?

60. What was the total number of females, Alaska Natives, blacks, Hispanics and Asians who as attorney applicants passed the summer Alaska Bar examination for the years 1976, 1977, 1978 and 1979?

61. Who is the Alaska Bar Association disciplinary administrator?

62. Distinguish between the type of complaints which are referred to a hearing committee as opposed to those complaints which are referred to a conciliator.

63. Provide a copy of the "Request for Investigation" form which is currently utilized by the Alaska Bar Association as well as copies of any previous forms used for this purpose.

64. Furnish copies of all original disciplinary reports prepared for the Alaska Supreme Court during the years 1976, 1977, 1978 and 1979.

65. Furnish copies of any revised disciplinary reports prepared for the Alaska Supreme Court during the years 1976, 1977, 1978 and 1979.

66. Provide an explanation for any revision of a disciplinary report prepared for the Alaska Supreme Court for the years 1976, 1977, 1978 and 1979.

67. Provide a copy of the card index on discipline, indicating the type of case, disposition, whether or not appealed, the disposition if appealed to the Alaska Supreme Court.

68. For the years 1976, 1977, 1978 and 1979, furnish statistical data reflecting:

a. The types of complaints against attorneys received and acted upon;

b. The types of investigations conducted and the results thereof;

c. The procedural steps taken with respect to each type of complaint processed and the ultimate disposition of each such action;

d. The number of times any member of the Alaska Bar Association subject to the Alaska Bar rules has been the subject of a complaint or investigation, the type of complaint or investigation in which each such attorney was the subject, the dates on which each procedural step was taken with respect to each such complaint or investigation and the ultimate disposition of each such action with respect to each such attorney.

69. Provide the total number of complaints against attorneys received by the Alaska Bar Association for the years 1976, 1977, 1978 and 1979.

70. Provide the total number of attorneys who were disciplined for the years 1976, 1977, 1978 and 1979.

71. What was the total number of attorneys who were the subject of a private admonition by the Alaska Bar Association disciplinary administrator for the years 1976, 1977, 1978 and 1979?

72. What was the total number of attorneys who were the subject of a private reprimand during the years 1976, 1977, 1978 and 1979?

73. What was the total number of attorneys who were the subject of a public censure during the years 1976, 1977, 1978 and 1979?

74. What was the total number of attorneys who were suspended from the practice of law during the years 1976, 1977, 1978 and 1979?

75. What was the total number of attorneys who were disbarred from the practice of law during the years 1976, 1977, 1978 and 1979?

76. From the date of the initiation of the complaint, how long did it take the Alaska Bar Association to resolve disciplinary actions filed in 1976, 1977 and 1978?

77. Are records maintained on previous disciplinary complaints against an attorney regardless of whether such complaints are ultimately dismissed?

78. What percentage of disciplinary complaints were filed against an attorney by a client of such attorney during the years 1976, 1977, 1978 and 1979?

79. What percentage of disciplinary complaints were filed by the Alaska State Bar Association disciplinary administrator during the years 1976, 1977, 1978 and 1979?

80. What percentage of disciplinary complaints were filed against an attorney by an individual living in Alaska, but not within Anchorage, Fairbanks, Ketchikan, Sitka or Juneau, for the years 1976, 1977, 1978 and 1979?

81. What was the total number of attorneys who have been disciplined for observing misconduct on behalf of another attorney and failing to report such conduct during the years 1976, 1977, 1978 and 1979?

82. What was the total number of judges who have been disciplined for observing misconduct on behalf of a lawyer and failing to report such during the years 1976, 1977, 1978 and 1979?

83. What percentage of requests for investigation were determined to be inadequate, incomplete or insufficient to warrant further attention of the Board of Governors during the years 1976, 1977, 1978 and 1979?

84. What percentage of disciplinary complaints were filed against an attorney by another attorney for the years 1976, 1977, 1978 and 1979?

85. What percentage of disciplinary complaints were filed against an attorney by a judge or magistrate during the years 1976, 1977, 1978 and 1979?

86. What was the total number of requests for investigation which were referred to the fee arbitration panel for the years 1976, 1977, 1978 and 1979?

87. Furnish factual summaries, without reference to either parties by name, of each fee arbitration dispute which was concluded in 1976, 1977, 1978 and 1979.

DRAFT COMMITTEE REPORT ON ALASKA BAR ASSOCIATION

In compliance with AS 44.66.010 - 060 and referral by the Speaker of the House on January 15, 1980, the House Judiciary Committee has conducted a review of the Alaska Bar Association. By letter of July 31, 1979 the Speaker had notified the Committee of the forthcoming referral, thereby permitting advance work to be done during the interim between legislative sessions.

The Alaska Bar Association has taken the position "that it is not a State agency, and that it is not subject to the Sunset review process." The Association refused the Legislative Auditor access to all of its records; therefore, no performance audit has been conducted.

On November 7, 1979 the Committee requested information on 87 points, by letter of January 30, 1980 and a 71-page booklet, The Alaska Bar Association, February 1980, the Association answered of the questions posed. Some questions were not answered "for reasons of privacy and because of limitations on its own authority as regards the confidentiality of the Association's discipline and grievance files" and others because "the Association has not kept those records -- until very recently -- in a manner which would make the retrieval of those statistics feasible."

In addition to receiving testimony during interim hearings, the Committee held hearings in Juneau. Also, two teleconference hearings were held to obtain testimony from Anchorage, Fairbanks, Kodiak, Valdez, Ketchikan, Sitka and Nome. Written testimony was received from persons, and oral testimony from

Witnesses included

president, president-elect, two former presidents, and three members of the present Board of Governors of the Association; the Ombudsman, and a number of attorneys.

The Alaska Supreme Court has delegated to the Association the responsibility for admissions and discipline, and by statute the Association may propose court rules or rule changes. All attorneys practicing in Alaska are required to be members of the Association, and to pay dues (now \$180.00 per year). Statutory authority is AS 08.08.010 - 250, commonly called the Integrated Bar Act, and some members of the Bar seem to feel that authority also resides in the inherent power of the Alaska Supreme Court.

The Committee found that the Association is conducting a number of worthwhile activities. Unfortunately, it is not clear that most of these are benefiting the general public, as opposed to Association members. (If, as it claims, the Association is not a State agency, it would be under no obligation to benefit the general public.)

In some ways one of the most disturbing revelations was the extent to which attorneys form a closed corporation. The Association comprises all attorneys in the State, only its members may practice law, it is in charge of admissions to the Bar and of discipline of its members, it nominates the three attorneys who sit on the Judicial Council, which in turn sends judgeship nominees to the Governor, judges must themselves be attorneys, the Association furnishes nine members of the Board of Directors of Alaska Legal Services Corporation. Only in the disciplinary hearing and attorney

fee review committees is there any lay presence. There seems to be at present no provision for the exercise of supervisory responsibility by the elected representatives of the people.

When, after completion of testimony, the Committee began its deliberations, the diversity of opinion was clearly evident. Apparently no one believed that the Alaska Bar Association should be extended for the maximum four years. Some members wanted to treat attorneys like other professionals, with a board to handle admissions and discipline; others preferred to make the Supreme Court directly responsible for those functions; and a third group preferred a short extension together with appropriate statute changes. The last viewpoint was finally adopted.

In compliance with AS 44.06.050(d), the Committee finds that:

- (1) The Alaska Bar Association is intended to address the need for admission and discipline of attorneys in the State.
- (2) The objectives are to upgrade the Bar in terms of education, competence, and professionalism of its members, and to perform some services for the general public.
- (3) There are no other programs having similar or conflicting objectives.
- (4) The responsibilities could be turned over to the Supreme Court or to a professional board in the Division of

Occupational Licensing. The Committee has considered these alternatives but believes that they are not feasible at this time.

- (5) The Association could not be eliminated unless some other agency were responsible for the functions.
- (6) The extension of the Association for one year will permit time for a more thorough review and there is no duplication of other efforts.
- (7) Information which would improve the performance of the Association is included in other portions of this report or in legislation to be introduced by the House Judiciary Committee.

The House Judiciary Committee finds that:

- (1) The Alaska Bar Association should be extended until June 30, 1981.
- (2) Statutory changes are needed in the public interest. The Committee will propose a bill incorporating these changes.

2. A major defect in the administration of the Alaska examination is that it is prepared and graded by persons who, while skilled attorneys, are amateurs in testing. Professionalism is needed in both the preparation and grading of the examination to ensure that the examination will score persons only on relevant factors. The training of the preparers and graders should be financed by the income derived each year from the administration of the bar examination (\$16,000 <sup>about</sup> anticipated in 1980). <sup>above the cost of administration is not reflecting any costs of being out of the way</sup>

3. There appears to be no discrimination against women in the Alaska Bar Association. Alaska has one of the highest percentages of women lawyers in the United States and, specifically, the highest percentage of women on its Board of Governors. In fact, the president of the Alaska Bar Association is a woman. <sup>the majority out of the way</sup>

4. Although no apparent preference for non-minorities is shown, there is a disparity in the numbers of minorities versus non-minorities in the Alaska Bar Association. Ethnic minorities are poorly represented in the Alaska Bar Association. Present membership from these ethnic groups is as follows: <sup>cc returned for C. class should</sup>

Alaska Native	<u>5</u>
Black	<u>4</u>
Asian-American	<u>2</u>
Hispanic	<u>±</u>

To the best of our knowledge, 12 Native people have been admitted to the Alaska Bar since Statehood. The only reliable statistics available are those reflecting current membership. Because the problem of low representation of minorities in the Alaska Bar Association has not been addressed adequately in the past, reasons for this situation cannot be determined at this time.

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Cathy C.  
check  
abstract

The Judiciary Committee recognizes that the percentage of minorities failing the Alaska bar exam, compared with the percentage of non-minority persons failing, is disproportionately high. The Committee believes that this disparity may be caused in part by cultural factors.

The Committee does not believe that the Alaska Bar Association intends to discriminate against minorities. The Committee commends the Board of Governors' Legal Educational Opportunities Committee for its work in gathering statistics regarding minorities in the Alaska Bar Association. The Committee urges the Board of Governors to continue this work so that accurate minority pass rates may be established.

5. The Committee urges the Board of Governors to develop a program which will speak to the statistics reflecting minority representation in the Alaska Bar Association and the apparently low percentage of minority and non-minority individuals who pass the bar exam.
6. The Committee urges the Board of Governors to be aware of the disparity in minority participation in the bar and to direct its Committee of Bar Examiners to continually scrutinize the preparation and grading of the examination for possible cultural biases.
7. The Committee urges the Board of Governors to look into establishing some other criteria for evaluating an individual's competency to practice law in the state.

\$ 26,185 total ad<sup>mission</sup> expenses  
grading  
rent  
1/4 excc. asst  
telephone, etc.

\$ 42,500 income from  
applicants wishing  
to take exam

\$ 16,415