

ADVOCACY

The Legal and Government Affairs Department spearheads the Association's efforts to advocate on behalf of its members before the state's three branches of government. The Department assists in developing comments on court rules, regulations and legislation. The Department works with relevant Association sections and committees to advance the Association's legislative, judicial administration and *amicus* programs.

The *Capitol Report*, published weekly in *The New Jersey Law Journal* and on njsba.com, provides NJSBA members with current information about the organization's advocacy efforts, including the status of legislation, regulations, new laws, gubernatorial and legislative appointments, judicial appointments, pending *amicus* matters, court rule proposals and regulatory matters.

LEGISLATIVE ADVOCACY

As the voice of New Jersey attorneys, the NJSBA works closely with the Legislature, the Governor's office and other stake holders on issues that affect the practice of law, access to the courts, judicial administration, and related budgetary issues. The Association also works closely with an outside lobbying group to help promote its positions and priorities.

How does the NJSBA determine what issues to advocate?

The NJSBA Board of Trustees determines those issues on which the Association will advocate, with the assistance of the Legislative Committee and the association's sections and committees.

Legislation is one aspect of review. Sections, committees and divisions may also review relative rules, regulations or recommend policies or issues for potential legislation. Review begins with a determination as to whether the legislation fits the criteria for advocacy. This is so that the NJSBA can remain focused on its core mission of advocating for New Jersey's legal community and access to the courts.

The criteria used to determine whether a position should be taken on a particular bill is as follows:

- The bill directly affects lawyers as a profession.
- The bill affects public access to the judicial system, fairness in the administration of justice or the independence and integrity of the judicial branch.

- The bill affects a constitutional right.
- The bill has the potential of making substantial changes to the practice of law in a substantive practice area.
- The bill was drafted by an NJSBA Section/Committee/Division.

The Legislative Review Process

The Association's legislative review process is guided by the Legislative Committee. Members of the Legislative Committee meet regularly to review and discuss the legislative position forms submitted by the sections/committees to recommend an overall position to the Board. The association strives to place on the committee a diverse group of attorneys—both in terms of practice and backgrounds—to review the various positions of the sections/committees.

The Legislative Committee collects information from relevant sections and committees and may move a bill to the Board agenda with a recommendation or it can remand legislation back to a section/committee/division for further examination or analysis. A final policy determination on legislation is the sole province of the Board of Trustees.

The New Jersey State Bar Association legislative policy-making process involves several steps outlined below:

Bill Referral: NJSBA sections/committees review legislation, regulations, rules, or policies referred by the Government Affairs Department or a bill of interest that the section/committee deems important to track. Also, sections/committees are encouraged to draft amendments, redraft bills or suggest reforms in the law by drafting new legislation, if the section/committee feels this would be helpful.

Recommending a Position: After discussing the legislation, regulation, rule or policy, the section/committee/division can recommend any of the following:

- Support the bill;
- Support the bill with amendments;
- Oppose the bill;
- Take no position on the bill; and
- Table the bill and refer it to additional sections/committees/divisions. This position is conveyed by completing and submitting to the Government Affairs Department a Legislative Position Form (LPF)
- A blank form is included in the Appendix

Legislative Committee Review: The NJSBA Legislative Committee reviews all submitted LPFs and votes on the recommendations received. The Legislative Committee may adopt the recommended position, take no position, or table the bill and refer it back to the section/committee or to other sections/committees for further review.

Board of Trustees Review: The NJSBA Board of Trustees, which has final policy-making authority, votes on each bill referred by the Legislative Committee and determines the official NJSBA position. The Executive Committee may act on the Board of Trustees' behalf on emergent legislation.

Bill Position: The NJSBA implements the Board of Trustees' policy-making decision on legislation.

Bill Referrals and Updates

The Association receives updates from activity within the Legislature following session days, committee hearings, etc. These updates include but are not limited to bills proposed for introduction, introduced bills and bills that have been reported on by committees. NJSBA staff reviews these reports, and identifies bills to be referred to the sections/committees/divisions utilizing the criteria for advocacy. If a section/committee/division flags a bill that has not been referred, NJSBA staff should be notified and the bill will be monitored accordingly. If a bill is referred that falls outside the scope or expertise of a section/committee/division, the NJSBA should be notified and it will be moved from the group's tracking list.

Review and Responding to Legislative Requests

The Government Affairs Department will refer a bill no more than three times unless requested by the section/committee/division for an extension of time to respond to same; at which time the bill will continue to be referred and monitored. If a position is not received and a request for an extension of time has *not* been received, the Legislative Committee will act and make their recommendation to the Board. This ensures the NJSBA can address bills within a reasonable time-frame.

Legislative Position Forms

Legislative Position Forms (LPFs) are critical tools that initiate the legislative process and inform the NJSBA of the issue and the position relative to the issue. The forms ask questions that give the Government Affairs Department the ability to understand the position of the section/committee/division and to indicate the level of involvement the group is willing to have in advancing its position on a particular bill.

Completing Legislative Position Forms

Sections/committees/divisions are encouraged to provide thoroughly completed LPFs, as the information provided on these forms are reviewed by the Legislative Committee, Board of Trustees and/or Executive Committee. They are also used to create letters to bill sponsors and statements to advocate the NJSBA's final position.

Incomplete LPFs may cause delays in the legislative process and, in worse case scenarios, key legislation may be overlooked if a section or committee fails to clearly express the impact that a specific bill or rule proposal may have on their area of practice.

You've Provided An LPF...Now What?

A section/committee's involvement does not end upon submitting an LPF. It is only the first step. Once the Board has adopted the position of the section/committee/division, members of the Government Affairs Department will work closely with the chair or persons identified as experts in the issue being addressed to formulate a plan to advocate the position of the Board when necessary. Members may be asked to participate in meetings, testify or just provide background information on the issue.

E-mail updates will be provided about the NJSBA's advocacy efforts in relaying our formal position to the Legislature. These updates will be circulated to the Executive Committees of sections/committees/divisions that have shown a particular interest and had previously taken a position.

Board of Trustees Policy on Confidentiality of Legislative Materials

Materials distributed and prepared for the use of the NJSBA Board of Trustees in its consideration and deliberation

of legislative and regulatory matters is for the use of the Board of Trustees, NJSBA Executive Committee and NJSBA Legislative Committee only. The legislative recommendations made by a section, committee or division shall be communicated in an appropriate manner by the director of government affairs and/or staff. The materials used by a section, committee or division to reach a legislative policy recommendation shall be provided to the Board of Trustees, Executive Committee, Legislative Committee and any section, committee or division as may be appropriate to formulate, review or discuss a legislative position.

The material shall not be distributed to groups outside the NJSBA or to a section, committee or division that has not taken part in the deliberation on the legislation at issue or that does not need the materials for the purposes of formulating, reviewing or discussing a legislative recommendation as determined by the director of government affairs in consultation with the executive director. A legislative position adopted by the Board of Trustees shall become the official position of the association and is subject to appropriate communication.

Grassroots Advocacy

The association encourages NJSBA leaders to advise the Government Affairs staff of any professional or personal relationships they may have with legislators. At important times during the passage of high priority legislation, the government affairs department staff contacts bar leaders to ask that they write or call their key legislator(s) to express and advance the NJSBA's position on the legislation.

NJSBA Events in Trenton

The NJSBA holds periodic Town Hall meetings in Trenton and elsewhere, at which members hear bar leaders, legislators, and gubernatorial, partisan and Office of Legislative Services staff discuss the lawmaking process in New Jersey.

If a section/committee/division would like to have a legislator or public official attend a future meeting, the Government Affairs Department can help facilitate that request.

Member Recognition

The Annual Distinguished Legislative Service Award and Legislative Recognition Award are presented to the NJSBA members who advance the Association's legislative efforts.

JUDICIAL ADMINISTRATION

Concerns, suggestions and ideas that your division, section or committee may have regarding the operation and management of the municipal, state and federal court system are important to the development of the association's judicial administration program. You can make your views known by contacting the NJSBA's General Counsel, who will communicate your position to the Judicial Administration Committee for review and recommendation to the Board of Trustees. The committee is actively involved in reviewing and developing proposed reforms of the judicial system. The Board of Trustees reviews the committee's recommendations and determines what issues the NJSBA will pursue.

The State Bar Association also reviews court directives, Supreme Court committee reports and proposed court rules for general comment and input. When an issue arises that pertains to a particular section or committee, you will be sent the corresponding material for review and comment. In order to meet court deadlines for submission of comments, it is essential that your section or committee comment promptly, so that the Board of Trustees can review your recommendations and respond to the court as quickly as possible.

Amicus Curiae Participation

The state bar frequently seeks to participate as *amicus curiae* in appellate cases that are important to the legal profession or the system of justice. NJSBA participation is usually sought at the state supreme court level, but the association will occasionally seek to participate at the state appellate level if the matter presents extenuating circumstances. The types of cases in which the association has been involved are widely varied. A sampling of cases include matters involving legal malpractice issues, the right to representation and the use of drug recognition evaluation evidence in the prosecution of DUI offenses. A full listing of cases in which the NJSBA has participated, as well as a copy of the briefs filed in each can be found at njsba.com.

If your section or committee believes the NJSBA should seek to participate in a pending appellate-level case, you should complete an *amicus* request form, found in the Appendix or on the NJSBA website, and submit it to the general counsel. All requests will be reviewed by the NJSBA *Amicus* Committee, which then makes a recommendation to the Board of Trustees.

LEGAL ASSISTANCE PROGRAMS

Encouraging participation in voluntary *pro bono* activities is part of the mission of the New Jersey State Bar Association. The following programs are run by the NJSBA:

MILITARY LEGAL ASSISTANCE PROGRAM

Administered through the legal and government affairs department, this program has been created to assist military personnel deployed to Iraq or Afghanistan since 2001 with their legal needs on a voluntary *pro bono* basis. It offers assistance in four areas: family law, employment law, debtor-creditor law and medical disability appeals. Members of the military who contact the New Jersey State Bar Association are referred to volunteers qualified to assist them with their specific legal issues. All NJSBA members are eligible to participate in the program.

Section/committee leaders are urged to encourage their members to volunteer to participate in the program. Participants can receive a *Madden pro bono* exemption for volunteering 25 or more hours with the program each year. For more information, visit njsba.com or email mlap@njsba.com. A volunteer form is included in the Appendix and is available online.

MASS DISASTER RESPONSE PROGRAM

The legal and government affairs department coordinates the NJSBA's Mass Disaster Response Program, which assists disaster victims with free legal information and assistance such as in the aftermath of Hurricane Sandy. The NJSBA is an active participant in the State Disaster Legal Response Team, which aims to provide a coordinated statewide legal response when an appropriate need arises.

FREE LEGAL ANSWERS

NJ Free Legal Answers is an online legal advice resource that allows the public to post civil legal questions and get help from a volunteer attorney.

Free Legal Answers allows users to post civil and family legal questions to a secure site where volunteer lawyers can login to provide basic legal guidance. It is the online version of the traditional walk-in clinic, similar to Law Day clinics that the NJSBA has hosted around the state where members of the public could ask for help from volunteer attorneys.

The platform is part of an American Bar Association (ABA) project to help address the justice gap around the country. The ABA provides malpractice coverage for attorneys providing advice through the site.

All NJSBA attorney-members are encouraged to consider volunteering for the program at nj.freelegalanswers.org, which allows attorneys to participate in their own time and their own convenience.

There is no fee for residents to ask questions and no fee for lawyers who wish to volunteer.