

Bar's Response to Comments Generally Recurring in the 2010 Annual Survey of Lawyers

The comments received on the survey were varied in their detail and in their expressions of support or dissatisfaction. While the survey results were generally very positive, most of the specific comments were more critical. For example, comments about the Bar's Admission function ranged from admission being too easy to the Character and Fitness Committee standards becoming too strict.

Following is a listing of responses to recurring comments which we believe are representative of questions and concerns about Bar operations. This listing is neither specific to every comment nor exhaustive, but illustrates general concerns.

If you wish more information on these or other Bar-related questions, please contact Executive Director John C. Baldwin at jbaldwin@utahbar.org or 801-297-7028. A copy of the Bar's 2009-2010 Annual Report which describes Bar operations, programs and services may be found at www.utahbar.org/assets/Annual.pdf.

1. **Bar license fees are too high. The Bar Commission owes us an accounting.** Licensing fees were raised by the Utah Supreme Court for the first time in 20 years at the request of the Bar Commission. The petition included thorough and comprehensive detail about operations, income and expenses. The petition was referenced in several *Bar Journal* articles and monthly e-bulletins. It was highlighted, front and center, on the Bar's home page with all its exhibits and attachments, including extensive historical financial information and projections. The increase was intended to: (1) offset the growing deficit between expenses and revenue; (2) establish a healthier operations reserve to protect against an unknown future and provide for longer-range contingencies; (3) improve upkeep and maintenance on an aging building and; (4) provide for some appropriate growth in Bar services. A copy of the Bar's petition to increase fees and supporting financial information may be found at www.utcourts.gov/resources/rules/comments/20100104/. The Commission has recently engaged in a 5-year audit of all operations and has concluded that the current programs and services are important and necessary to regulate the practice of law and carry on appropriate public and group services. The 2010-2011 budget may be found at www.utahbar.org/documents/2010_2011_budget.pdf. The current audit by Deloitte Touch may be found at www.utahbar.org/documents/2008_09_usb_audit.pdf.

2. **Why can't lawyer regulation be done through the Division of Occupational and Professional Licensing?** The Division of Occupational and Professional Licensing (DOPL) is statutorily created to protect the health, safety, and welfare of Utah citizens by regulating a myriad of professionals other than lawyers. The regulation of the practice of law is performed by the Utah Supreme Court under the Utah Constitution. The Court has delegated much of that responsibility to the Bar under several rules. DOPL performs governmental licensing and discipline functions as well as some public benefits for some of its license groups. It is not funded to carry on the same type of varied public services and group programs which are administered by the

Bar. Even if there were substantial cost savings, it is difficult to determine the extent to which the broader mission directives from the Court would receive the same attention if the Constitution were amended to take authority from the Judicial Branch.

3. **The website is difficult to search and navigation is counter-intuitive.** The Bar's website is intended to provide a great amount of information to both the public and the members of the legal profession. As a consequence, the homepage provides a large number of news items and informational icons which some believe is confusing. We are constantly working to improve the site and compare it to other state bars' websites and determine how it might better provide information for the intended audiences. The Bar relies upon a small staff of highly qualified information technology administrators, whose responsibilities include tasks not always exclusive to running the website. We also rely upon the entire Bar staff and volunteer leaders to make sure that information is up to date and to assure that information remains fresh. We will continue to work on our site and strive to develop it as a portal for clear, concise and comprehensive information.

4. **CLE is expensive, a waste of time, difficult to track, and not always available in my area.** In establishing annual requirements for continuing legal education over 20 years ago, the Utah Supreme Court found that it was not only important that lawyers keep up on developments in the law and assure that their own skills stay sharp, but that it was necessary to protect the public and administer justice. We understand that some CLE sessions are better than others. Much of the CLE which is provided through the Bar is done by the individual sections and put together by their leadership. Much, but not all, of the CLE which is provided in Utah is done through Bar sections. The Bar generally charges a fee of around \$35 per CLE hour. This has enabled the CLE Department to break even or just better over the years. All of the CLE which is done in Utah must be approved by the Supreme Court's Mandatory Continuing Legal Education Board. Events are authorized on a case by case basis by the MCLE Board under the guidelines which the Court has set. The Commission has recently appointed an advisory committee to provide, among other things, increased access through technology for areas outside of Salt Lake City and to increase the types and quality of legal education available to everyone. That advisory board is chaired by Nanci Bockelie. She may be reached at nsb@bockelie-law.com.

5. **The Office of Professional Conduct is too aggressive in investigating complaints, is unhelpful, and only goes after small and solo practitioners.** We are aware of these criticisms and the Bar Commission and the Utah Supreme Court regularly review the policies, priorities and processes of OPC. The Office of Professional Conduct 2009-2010 Annual Report is available at www.utahbar.org/opc/Assets/2009_2010_annualreport.pdf. The Office recently went through a very comprehensive evaluation by the Bar Commission. They surveyed every lawyer sanctioned within the past 2 years and every lawyer who had been involved in a disciplinary hearing before a screening panel. The Commission has more recently asked the Supreme Court to appoint more solo and small firm practitioners to the screening panels to help avoid the appearance that there is any bias. Otherwise,

lawyers in the Office of Professional Conduct do their best to appropriately investigate all complaints which are filed and present any rules violation to the Court's screening panels for their determination of merit regardless of the status of the respondent lawyer.

6. **The Bar should limit the number of yearly admissions. It allows too many attorneys in the state. Applicants are increasingly kept out of taking the Bar.** The Bar Commission believes that the current system of reviewing the fitness of Bar applicants and the makeup of the Bar examination, including the current passing threshold, is an appropriate way to confirm that applicants have the requisite moral character to practice law and have a certain amount of legal knowledge and aptitude to be lawyers. Reasonable people may differ on what those standards should be and where the threshold should lay. Those matters are reviewed regularly through the Bar's Admissions Committee, which include the deans of the two in-state law schools and involvement with the associations of admissions administrators throughout the country.

7. **What do Bar Commissioners do anyway?** The Bar Commission consists of 13 lawyers who are elected by the active members of the Bar and two public members who are appointed by the Utah Supreme Court. The Commission also includes nine ex-officio members, including representatives of the Women Lawyers of Utah, the Utah Minority Bar Association, the Young Lawyers Division, the Deans of the two in-state ABA-approved law schools, the American Bar Association representatives from the state, the state Bar's representatives to the American Bar Association and the Bar's Past President. The Bar Commission establishes a mission and vision for the Bar and supervises Bar programs and services under bylaws, policies, procedures, and rules which have been approved by the Utah Supreme Court. They meet nine times a year as a group and more often in committees to review program performance and evaluate operations needs. The Commission sets regular yearly and multi-yearly priorities in conjunction with the Court to manage the practice of law and engage in the regulation of lawyers in a changing environment. A list of Bar Commissioners may be found at www.utahbar.org/directories/bar_commissioners.html. Please contact your Bar Commissioner with more specific questions. A list of the Commission meetings, agendas and minutes may be found at www.utahbar.org/commission/Welcome.html.

8. **The Bar staff is too large. Is every one of their positions essential? And why is it so hard to talk to a live body?** The day-to-day functioning of every program and service administered by the Bar is the specific responsibility of an individual employee. Each one works under the specific policies and procedures of the program or service he or she administers and has a defined role within a department. The employee has a position description which is reviewed annually; a direct supervisor; regular reporting requirements and semi-annual performance evaluations. The Bar Commission hires an Executive Director to manage Bar employees and evaluates his performance on a quarterly basis. The staff realizes that there are issues from time to time with telephone calls not being picked up promptly enough and that the existing voice message system can lead to routing away from an intended response. We regret that staff are not always at their desks to answer the phone when work and walk-in demands require them to be elsewhere. We will do our best to be available in person

and are committed to responding to messages as soon as possible. A staff directory with direct phone numbers may be found at www.utahbar.org/directories/bar_staff.html.

9. **Some sections and committees work better than other sections and committees.** Bar sections are independent groups created by lawyers with a specific interest in an area of law and managed by elected leaders with a budget set by them. These are all volunteers. Some volunteers are simply better than others, some are more engaged and some are busy. Some activities tend to reflect the needs of the membership better than others. The Bar is consistently trying to work with leaders of sections to make sure that their seminars are of high quality and that they are doing their best to meet the needs of their members. Bar committees are established by the Bar Commission to perform specific charges under the direction of the Commission. From time to time work loads vary depending upon the needs of the Commission for work and the need of the committee to satisfy its own agenda.

10. **What is the Bar doing about reciprocal admission?** The Bar has reciprocal admission with most states. You can find out more about reciprocal admission at www.utahbar.org/admissions/Welcome.html.

11. **Why does the Bar still hold its Summer Convention in Sun Valley?** The Summer Convention provides a specific opportunity for lawyers to get away from their offices for a great amount of CLE hours over three days plus numerous social opportunities to get to know other lawyers. The Summer Conventions, as do the Annual Fall Forum in Salt Lake and the Spring Convention in St. George all pay for themselves through registrations and vendor fees. No licensing fees are used in running any convention. The Fall Forum is quickly becoming the Bar's largest convention although it is in Salt Lake City and it is only one day. It is fast becoming the Bar's most important and largest gathering and provides a great value with varied CLE within a short time in a collegial environment at an affordable price. More information about the conventions may be found at www.utahbar.org

12. **The parking at the Law & Justice Center is terrible.** Two or three days out of the month it is difficult to find parking behind the Law & Justice Center because the building is busy. The Bar has looked into other parking areas around the building and at one time considered buying adjacent space for a parking lot. The time may come when parking is more difficult on a more regular basis and decisions will need to be made about how to accommodate that growth. In the meantime, we can only suggest that people park across the street, on the street or through the block. We know these options are not as convenient as the parking lot but are still close and free.

13. **The group benefits provided by the Bar are not very good and we need better health insurance.** The Bar negotiates for group discounts from anyone who has an appropriate product and who is interested in engaging 10,000 lawyers as a group. We do provide free basic legal research through **Casemaker**; free mental health counseling through **Blomquist Hale** and **Lawyers Helping Lawyers**; a discount on e-filing in the state courts through **Tybera** and some group discounts on a variety of

services that are available. A listing of those services is available at www.utahbar.org/members/Welcome.html. The Bar has done its best in a difficult health environment climate to provide a clearing house at [www.utahbar.org/members/products health insurance.html](http://www.utahbar.org/members/products_health_insurance.html). We are constantly looking for more benefits and better deals and understand that at times individuals may be able to negotiate good deals for a time even if they are outside of a given group.