

**UTAH STATE BAR KELLER REFUND REQUEST POLICIEIS AND
PROCEDURES**

Rebate of Licensing Fees Allocated to Legislative Activities and Public Policy Actions
Related to the Practice of Law and the Administration of Justice.

a. Notice of Expenditures and Availability of Rebate

At the end of each annual legislative session the Bar will place a notice in the next Bar Journal giving licensees notice of the availability of a rebate for legislative and public policy expenditures as determined by the Board and instructions for claiming the rebate. Positions taken by the Bar will also be available on the Bar's website.

b. Calculation of Rebate

Any member of the Bar who objects to the expenditure of funds by the Board may apply for a license fee rebate in an amount representing that member's *pro rata* portion of the amount of the lawyer's licensing fees spent on legislative activities, including reasonable administrative expenses, for the preceding 12-month period. That *pro rata* portion is determined by dividing the total amount spent on legislative activities into the total amount of license revenue collected to date and multiplying that dividend by the licensing fees paid by the member. Applications for a rebate must be made in writing to the Executive Director following annual publication of a notice of rebate in the *Utah Bar Journal*.

c. ABA Delegates

The Utah State Bar pays for both the State and Bar ABA Delegates to travel to ABA meetings to report to the Bar on issues relevant to the Utah State

Bar. Bar expenditures for the Utah and the Utah State Bar American Bar Association (ABA) Delegates' activities in the ABA House of Delegates are be included in the annual rebate amount. Members will also be offered a rebate for Bar expenditures for the annual ABA Day in Washington D.C. by ABA Delegates and Bar volunteers.

Objections

a. Written Notice

A Bar licensee who objects to the use of any portion of the licensee's license fees for activities he or she considers promotes or opposes political or ideological causes which are not already included in the rebate may request the Board to review the licensee's objections. Licensee objections must be in writing and submitted by mail to the Executive Director of the Bar within 45 days of the Bar giving notice of the rebate in the *Bar Journal*. The Board will review each written objection received by the Executive Director at its next regularly scheduled board meeting following receipt of the objection. The Board will respond through the Executive Director in writing to each objection. The Board's response will include an explanation of the Board's reasoning in agreeing or disagreeing with each objection.

b. Refund

If the Board agrees with the licensee's objection, it will immediately refund the portion of the licensee's dues that are attributable to the activity, with interest paid on that sum of money from the date the licensee's fees were received to the date of the refund. The statutory rate of interest will be used. If the Board

disagrees with the licensee's objection, it will immediately offer the licensee the opportunity to submit the matter to binding arbitration between the Bar and objecting licensee. The licensee must submit a letter agreeing to arbitration within 30 days of the Board's offer to submit the matter to binding arbitration. Delivery may be made in person, email to the Executive Director or by first class mail and mailed demands will be deemed delivered upon mailing. The Executive Director and the member must sign an arbitration agreement approved as to form by the Board. The matter must be submitted to an arbitrator within 60 days after the arbitration agreement is signed.

c. Arbitration

If an objecting licensee agrees to binding arbitration, the parties will select an arbitrator from the list of court approved arbitrators for the United States District Court for the District of Utah. The Bar and the objecting licensee may each strike one name and then rank the remaining arbitrator candidates in order of preference with one (1) being the first preference. The arbitrator candidate with the highest composite ranking will be appointed to arbitrate. If the arbitrator selected is unable to fulfill the arbitrator's duties, the arbitrator from the list with the second highest composite ranking will be chosen as arbitrator.

Similar or related objections to Bar expenditures on legislative or public policy issues, by agreement of the parties, may be consolidated for hearing before one arbitrator. The arbitrator will be compensated at an hourly rate established pursuant to Utah State Bar policy for the hearing, preparation, and study time, and

will be reimbursed for all necessary expenses of the arbitration. The Bar will pay for the arbitrator's services.

d. The Hearing

The arbitrator will promptly arrange for an informal hearing on the objection, which may be held at the Law and Justice Center or at another location in Utah that is acceptable to the parties and the arbitrator. The hearing will be limited to the presentation of written information and oral argument by the Bar and the objecting licensee. The arbitrator will not be bound by the rules of evidence. The presentation of witnesses will not be part of the hearing process, although the arbitrator may ask the Bar representative and the objecting licensee and his or her lawyer, if any, questions. The hearing may be reported, but the expense of reporting must be borne by the party requesting it. The Bar and the objecting licensee may submit written material and a legal memorandum to the arbitrator no later than seven days before the hearing date. The arbitrator may request additional written material or memoranda from the parties. All written material and memoranda must be provided to the other party at the same time it is submitted to the arbitrator.

e. The Decision

The arbitrator will promptly decide the matter applying the standard set forth in Keller v. State Bar of California, 496 U.S. 1 (1990), to the expenditures to which the licensee objected. The scope of the arbitrator's review must solely be to determine whether the matters at issue are acceptable activities for which compulsory fees may be used under applicable constitutional law. In making his

or her decision, the arbitrator must apply the substantive law of Utah and the United States Federal Courts.

The arbitrator must file a written decision with the Executive Director within 14 days after the hearing. The arbitrator's decision will be final and binding on the parties. If the arbitrator agrees with the licensee's objection, the Bar will immediately refund the portion of the licensee's fees that are reasonably attributable to the activity, with interest paid at the statutory rate paid on the amount from the date of the licensee's fees were received to the date of the Bar's refund. If the arbitrator agrees with the Bar, the licensee's objection is denied, and the matter is closed.