

### What is the *Keller* Rule?

In 1990, the United States Supreme Court ruled in *Keller v. State Bar of California*, 499 US 1, 111 SCt 2228 (1990) that an integrated (mandatory) bar's use of compulsory dues to finance political and ideological activities violates the 1st Amendment rights of dissenting members when such expenditures are not germane to the bar's purpose, which the court identified as regulating the legal profession and improving the quality of legal services

*Keller* does not prohibit integrated bars from using member dues to advance political or ideological positions that are not germane to the bar's purpose; however, it requires that dissenting members receive a refund of the portion of dues attributable to the non-germane activity.

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### Functions of the Oregon State Bar

- We are a professional organization.
- We are a provider of assistance to the public.
- We are a partner with the judicial system.
- We are a regulatory agency providing protection to the public.
- And the bar does this as a "public" corporation – as an instrumentality of the Oregon Supreme Court.



Oregon  
State  
Bar

### PUBLIC AFFAIRS DEPARTMENT

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Oregon State Bar

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# Public Affairs Program

*Public Policy &  
Law Improvement*

## Public Affairs Mission

The Public Affairs Program works to apply the knowledge and experience of the legal profession to the public good by advising governmental bodies, proposing legislation for law improvement, and advocating on matters that affect the legal profession.

## What is the OSB Public Affairs Program?

The Public Affairs Program:

- Provides legal expertise and assistance to lawmakers;
- Informs bar leaders, members and government bodies on bar related legislation and public policy issues;
- Assists bar groups with law improvement projects; and
- Influences major issues affecting the legal profession and justice system.

The department recognizes the diverse membership of the organization and tries to “avoid committing bar funds to issues which are divisive or result in creating factions within the profession.”

The Public Affairs Committee of the Board of Governors oversees the work of the program, and makes recommendation to the Board of Governors on public policy issues.

## 2010 Board of Governors, Public Affairs Committee Members

Stephen Pucci, *Chair, Portland*  
Derek Johnson, *Vice-Chair, Eugene*  
Ann Fisher, *Beaverton*  
Audrey Matsumonji, *Gresham*  
Gina Johnnie, *Salem*  
Kenneth Mitchell-Phillips, *Portland*  
Steve Larson, *Portland*

## The OSB Legislative Guideline Overview

The Board has determined that the use of bar dues to participate in shaping legislation involving the regulation of the legal profession and matters concerning the improvement of the quality of legal services available to the people of Oregon is germane to the bar’s legitimate role and is in the public interest.

Oregon State Bar legislative or policy activities shall be limited to those reasonably related to any of the following subjects:

1. The regulation and discipline of lawyers;
2. The improvement of the functioning of the courts including issues of judicial independence, fairness, efficacy and efficiency;
3. The availability of legal services to society;
4. The regulation of lawyer trust accounts;
5. The education, ethics, competence, integrity and regulation of the legal profession; or
6. The provision of law improvement assistance to elected and appointed government officials;
7. Issues involving the structure and organization of federal, state and local courts in or affecting Oregon;
8. Issues involving the rules of practice, procedure and evidence in federal, state or local courts in or affecting Oregon; and
9. Issues involving the duties and functions of judges and lawyers in federal, state, and local courts in or affecting Oregon.

\* Excerpt from OSB Bylaws, Article 12 Legislation and Public Policy

## Public Affairs Committee Process

The Board or its Public Affairs Committee sets priorities regarding legislation or positions on legislation. In so doing, the Board will make a reasonable effort to do the following:

- Encourage as wide a participation of the membership as possible in formulating positions on legislative issues;
- Inform members of the Bar’s legislative positions;
- Respect divergent opinions of subgroups within the legal profession;
- Provide assistance to bar sections and committees;
- Avoid committing bar funds to issues that are divisive or create factions within the profession;
- Present major issues to the House of Delegates for approval.

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If a bar group such as a section or committee requests to take a position on a legislative proposal, the BOG Public Affairs Committee may:

1. Adopt it as a state bar position - thus activating full Public Affairs support available including lobbying efforts;
2. Designate it as a section or committee position - thus the Public Affairs staff monitors and gives staff assistance to volunteers; or
3. Refuse to approve a section or committee position request - thus there is no support by the bar, the section or the committee.

\* Excerpt from OSB Bylaws, Article 12 Legislation and Public Policy