

CHAIR:

Richard J. Shoop
 AHCA
 2727 Mahan Dr., MS #3
 Tallahassee, FL 32308-5407
 (850)412-3630

CHAIR-ELECT:

Jowanna N. Oates
 Joint Administrative Procedures Committee
 680 Pepper Bldg.
 111 W. Madison St.
 Tallahassee, FL 32399-1400
 (850)488-9110

TREASURER:

Garnett W. Chisenhall, Jr.
 Division of Administrative Hearings
 1230 Apalachee Pkwy.
 Tallahassee, FL 32399
 (850)488-9675

SECRETARY:

Robert H. Hosay
 Foley & Lardner, LLP
 106 E. College Ave., Ste. 900
 Tallahassee, FL 32301
 (850)222-6100

Administrative Law Section

**IMMEDIATE PAST CHAIR:**

Daniel E. Nordby
 215 S. Monroe St., Ste. 804
 Tallahassee, FL 32301-1858
 (850)521-0600

BOARD LIAISON:

Lawrence E. Sellers, Jr.
 P.O. Box 810
 Tallahassee, FL 32302-0810
 (850)425-5671

P.U.L.C. CHAIR:

Michael G. Cooke
 625 E. Twiggs St., Ste. 100
 Tampa, FL 33602-3925
 (813)318-5700

Administrative Law Section Executive Council
 AHCA 2727 Mahan Drive
 Tallahassee, FL
 Conference Room B – Building 3
 2:00pm – 4:30pm
 October 16, 2015

Dial In Information (888) 376 -5050 Conference Code: 3789654123

AGENDA

EXECUTIVE COUNCIL:**Terms Expiring 2017:**

Frederick R. Dudley
 Tallahassee
 Stephen C. Emmanuel
 Tallahassee
 Clark R. Jennings
 Tallahassee
 Bruce D. Lamb
 Tampa
 Patricia A. Nelson
 Tallahassee
 Brian A. Newman
 Tallahassee
 Christina Shideler
 Tallahassee

Terms Expiring 2016:

J. Andrew Bertron, Jr.
 Tallahassee
 Francine M. Ffolkes
 Tallahassee
 Brent McNeal
 Tallahassee
 Frederick J. Springer
 Tallahassee
 Lynne A. Quimby-Pennock
 Tallahassee
 Suzanne Van Wyk
 Tallahassee
 Amy Schrader
 Tallahassee

SECTION ADMINISTRATOR:

Calbrail L. Bennett
 651 E. Jefferson St.
 Tallahassee, FL 32399-2300
 (850)561-5623
 Fax: (850) 561-9427
 cbennett@flabar.org

- I. CALL TO ORDER- Richard Shoop, Chair
- II. PRELIMINARY MATTERS
 - A. Consideration of Minutes
 1. June 26, 2015 (Executive council meeting) **Exhibit A**
 - B. Treasurer's Report- Garnett Chisenhall
 1. Detail Statement of Operations **Exhibit B**
 - C. Chair's Report- Richard Shoop
 - III. LIAISON/COMMITTEE REPORTS
 - A. Continuing Legal Education- Bruce D. Lamb
 1. Practice Before DOAH (October 2015)
 2. 2015-2016 Audio Webcast Series (12/3/15,01/07/16,02/04/2016)
 3. Advanced Topics in Admin Law (Joint with ELULS & GLS) April 15,2016
 - B. Publications
 1. Newsletter- Elizabeth W. McArthur/Jowanna N. Oates
 2. TFB Journal- Stephen C. Emmanuel
 3. Florida Administrative Practice- Elizabeth W. McArthur
 - C. Legislative -Linda M. Rigot/Fred R. Dudley/Daniel E. Nordby
 - D. Public Utilities Law- Michael G. Cooke/Cynthia B. Miller
 - E. Board of Governors Liaison- Lawrence E. Sellers, Jr. **Exhibit C**

THE FLORIDA BAR

F. Law School Liaison – Lynne Quimby-Pennock

G. CLE Committee Liaison – Bruce D. Lamb

H. Council of Sections- Clark R. Jennings

I. Section/Division Liaison

1. Environmental and Land Use Law- Francine M. Folkes

2. Health Law - Allen R. Grossman

3. Government Lawyer- Lynne Quimby-Pennock

4. YLD Liaison- Dustin Metz

5. RPPTL- Frederick R. Dudley

J. DOAH Update- F. Scott Boyd, Lynne A. Quimby-Pennock, Suzanne Van Wyk

K. Budget Committee – Robert Hosay / Richard J. Shoop

L. Pro Se Consultation Ad Hoc Committee- Richard J. Shoop

M. Young Lawyers Committee – Christina Shideler

IV. OLD BUSINESS

V. NEW BUSINESS

A. Leadership Academy Scholarship

B. Proposed Website Changes

C. Renewal of Linda Rigot's Contract

D. Formation of Ad Hoc Committee to Compile and Update Study Materials for Certification Exam

E. Thoughts on Section Using Social Media (Facebook and Twitter)

VI. INFORMATIONAL

A. Section Bylaws **Exhibit D**

B. Potential Agency Snapshots **Exhibit E**

VII. TIME AND PLACE OF NEXT MEETING (* denotes tentative date)

A. *Wednesday, November 18, 2015 (budget call)

B. Long Range Planning Retreat Friday, March 18, 2016 – 10am Tallahassee

VIII. ADJOURNMENT

Florida Bar Administrative Law Section
Executive Council Meeting

Minutes

Date: June 26, 2015

The meeting was held on June 26, 2015, at the Boca Raton Resort & Club.

Call to Order	The meeting was called to order at 10:33 a.m. by Daniel E. Nordby (Chair).
Consideration of Minutes	The March 6, 2015, minutes were approved by the Executive Council without objection.
Treasurer's Report (Robert H. Hosay)	Robert H. Hosay reviewed the financial documents included in the meeting packet. There was discussion regarding the Section's financial losses on CLE courses and the cost of the Newsletter. Mr. Nordby asked for an estimate of the expenses for the Pat Dore Administrative Law Conference under the Bar's new billing system so that Executive Council has an idea of how much needs to be charged for the next conference.
Chair's Report (Daniel E. Nordby)	Mr. Nordby reviewed highlights of the year and the program evaluation committee responses. He noted that we have the highest member satisfaction of any section.
Liaison/Committee Reports	<p><u>Continuing Legal Education</u> – Bruce D. Lamb reported that the CLE committee met yesterday and reviewed the Bar's new billing system. Mr. Lamb explained changes for section service programs; now only section members may attend such programs. He noted that this change will impact the upcoming Public Utilities Committee Seminar, as many of the attendees are not members of the Administrative Law Section. Mr. Lamb recommended that the Public Utilities Committee Seminar be re-categorized as a CLE. Judge Lynne A. Quimby-Pennock moved to change the Public Utilities Committee Seminar to a CLE; Francine M. Folkes seconded; and the motion was approved. The "Practice Before DOAH" CLE will be held on October 2, 2015. The committee is currently working on a web seminar, if anyone is interested in assisting or has ideas for topics, please contact Mr. Lamb. Additionally, program chairs are needed for the Advanced Topics in Administrative Practice Seminar.</p> <p><u>Publications</u> – Jowanna N. Oates reported that the deadline for the September</p>

issue of the Newsletter is July 17, 2015. She thanked Richard J. Shoop for submitting his column a record-setting month early. The Newsletter editors are always in need of authors for feature articles and agency snapshots. The “agency snapshot” portion of the Section’s website has been updated and a list of agencies that are in need of updated snapshots has been prepared. Please contact Ms. Oates if you are interested in writing a snapshot. Stephen C. Emmanuel noted that several articles are scheduled to be published in the Florida Bar Journal in the upcoming months. Mr. Emmanuel suggested that every member of the Council come up with topics/authors for future Florida Bar Journal articles. The January issue of the Florida Bar Journal will be dedicated to technology and each section will be asked to submit an article. It was suggested that an article be written about the agency indexing of final orders at the Division of Administrative Hearings.

Legislative – Mr. Nordby reported that two APA bills were signed into law, including the agency final orders bill. However, the Governor vetoed House Bill 435. Mr. Nordby also reported that interim meetings will begin in September and session will convene in January. Calbrail L. Bennett will look to see when the legislative monitoring contract will end; if necessary a meeting will be scheduled to discuss renewing the contract.

Public Utilities Law – No report

Board of Governors Liaison – Lawrence E. Sellers, Jr. reviewed the Board of Governors materials in the meeting packet. The JNC’s recommendations to the Governor were approved. Mr. Sellers noted that the Board is discussing suggestions to enhance technology competence amongst lawyers. He also noted that the Board will consider an amendment to rule 4-4.2 at its July 27, 2015, meeting.

Law School Liaison – No report

CLE Committee Liaison – No additional report

Council of Sections – No report

Section/Division Liaison

1. Environmental – Ms. Folkes reported that a CLE will potentially be held in January and at the Bar meeting next June.
2. Health –Mr. Lamb noted that the section’s young lawyers committee is engaged in a number of activities
3. Government Lawyers – Judge Quimby-Pennock reported that a United States Supreme Court program will be presented next April.

	<p>4. YLD Liaison – No report</p> <p>5. RPPTL – No report</p> <p><u>DOAH Update</u> – Judge Arrington has retired from the Division of Administration Hearings.</p> <p><u>Budget Committee</u> – Mr. Hosay reported that the committee’s report was included in the Treasurer’s report.</p> <p><u>Pro Se Consultation Ad Hoc Committee</u> – Judge Suzanne Van Wyk reported that the committee will meet in July or August 2015.</p> <p><u>Order Access Ad Hoc Committee</u> –Mr. Nordby noted that this committee has been abolished and thanked the Committee for its work.</p> <p><u>Young Lawyers Committee</u> – Christina A. Shideler reported that next few “Tables for 8” activities have been scheduled. The committee is planning a social event for September.</p>
<p>Old Business</p>	<p>No old business</p>
<p>New Business</p>	<p>The following proposed slate of officers was presented by the Nominating Committee:</p> <p>Chair- Richard J. Shoop Chair Elect-Jowanna N. Oates Secretary-Robert H. Hosay Treasurer-Garnett W. Chisenhall, Jr.</p> <p>Mr. Lamb moved that the proposed slate of officers be accepted; Mr. Nordby seconded; and the motion was approved.</p> <p>Ms. Folkes moved that Christina A. Shideler be appointed to replace Garnett W. Chisenhall, Jr. on the Executive Council; Amy W. Schrader seconded; and the motion was approved. Mr. Shoop moved that the slate of Executive Council members’ terms expiring in 2015 be approved for the term expiring in 2017; Mr. Lamb seconded; and the motion was approved.</p> <p>Ms. Folkes moved that Amy W. Schrader be appointed to fill a vacancy on the Executive Council for a term expiring 2016; Judge Van Wyk seconded; and the motion was approved.</p>

	<p>There was discussion about whether to eliminate the printed Newsletter in favor of an electronic newsletter due to increased cost. It was suggested that the membership be surveyed in order to determine whether most members prefer a printed or electronic version of the Newsletter.</p> <p>Additionally, there was discussion about preparing a handbook for individuals studying for the State and Federal Government Administrative Practice Certification examination.</p>
Time and Place of Next Meeting	The next meeting will be held on October 16, 2015, in Tallahassee, Florida at the Agency for Health Care Administration (Building 3).
Adjournment	The meeting was adjourned at 12:32 p.m.
Attendance	Garnett W. Chisenhall, Jr., Frederick R. Dudley, Stephen C. Emmanuel, Robert H. Hosay, Clark R. Jennings, Bruce D. Lamb, Patricia A. Nelson, Brian A. Newman, Daniel E. Nordby, Jowanna N. Oates, Judge Lynne A. Quimby-Pennock, Amy W. Schrader, Lawrence E. Sellers, J., Richard J. Shoop, Judge Suzanne Van Wyk, Christina A. Shideler, Linje Rivers, Sharlee H. Edwards, and Michael Higer.

Respectfully Submitted,

Jowanna N. Oates
Secretary

Date of Approval: _____

	August 2015 Actuals	YTD 15-16 Actuals	Budget	Percent Budget
Administrative Law ~~~~~				
31431 Sect Dues	3,650	25,003	26,875	93.03
31432 Affil Dues	0	175	350	50.00

Total Dues Income Net	3,650	25,178	27,225	92.48

32191 CLE Courses	737	1,062	5,000	21.24
32293 Sect Differential	38	88	2,500	3.52
35700 Member Srvc Prog	0	0	2,400	0.00
38499 Investment Alloc	-5,060	-5,534	6,376	-86.79

Other Income	-4,285	-4,384	16,276	-26.94

Total Revenues	-635	20,794	43,501	47.80

36998 Credit Card Fees	0	0	50	0.00
51101 Employee Travel	0	0	411	0.00
71005 Internet Charges	31	31	450	6.89
84001 Postage	0	0	75	0.00
84002 Printing	0	0	1,300	0.00
84003 Officers Office Exp	0	0	500	0.00
84006 Newsletter	0	0	10,500	0.00
84007 Membership	0	0	715	0.00
84009 Supplies	0	0	50	0.00
84010 Photocopying	0	0	50	0.00
84051 Officers Travel Exp	0	0	1,250	0.00
84052 Mtg Travel Exp	0	0	1,000	0.00
84054 CLE Speaker Exp	0	0	100	0.00
84101 Committee Exp	0	0	500	0.00
84201 Board Or Council Mtg	0	0	300	0.00
84202 Annual Mtg	0	0	2,210	0.00
84205 Section Service Prog	0	0	750	0.00
84209 Retreat	0	0	3,000	0.00
84299 Public Utility Comm	0	0	1,750	0.00
84301 Awards	0	0	700	0.00
84310 Law School Liaison	0	0	3,000	0.00
84422 Website	214	334	2,500	13.36
84501 Legis Consultant	0	0	7,500	0.00
84701 Council Of Sections	0	0	300	0.00
84998 Operating Reserve	0	0	4,094	0.00
84999 Miscellaneous	0	0	100	0.00

Total Operating Expenses	245	365	43,155	0.85

31433 Section Mgmt Fee	2,678	18,428	19,495	94.53
86431 Mtgs Admin	0	0	580	0.00
86543 Graphics & Art	0	0	2,525	0.00

	August 2015 Actuals	YTD 15-16 Actuals	Budget	Percent Budget
Administrative Law ~~~~~				
Total TFB Support Services	2,678	18,428	22,600	81.54
Total Expenses	2,923	18,793	65,755	28.58
Net Operations	-3,558	2,001	-22,254	-8.99
21001 Fund Balance	0	198,014	212,545	93.16
Total Current Fund Balance	-3,558	200,015	190,291	105.11

	August 2015 Actuals	YTD 15-16 Actuals	Budget	Percent Budget
Total Administrative Law =====				
31431 Sect Dues	3,650	25,003	26,875	93.03
31432 Affil Dues	0	175	350	50.00

Total Dues Income Net	3,650	25,178	27,225	92.48

32191 CLE Courses	737	1,062	5,000	21.24
32293 Sect Differential	38	88	2,500	3.52
35700 Member Srvc Prog	0	0	2,400	0.00
38499 Investment Alloc	-5,060	-5,534	6,376	-86.79

Other Income	-4,285	-4,384	16,276	-26.94

Total Revenues	-635	20,794	43,501	47.80

36998 Credit Card Fees	0	0	50	0.00
51101 Employee Travel	0	0	411	0.00
71005 Internet Charges	31	31	450	6.89
84001 Postage	0	0	75	0.00
84002 Printing	0	0	1,300	0.00
84003 Officers Office Exp	0	0	500	0.00
84006 Newsletter	0	0	10,500	0.00
84007 Membership	0	0	715	0.00
84009 Supplies	0	0	50	0.00
84010 Photocopying	0	0	50	0.00
84051 Officers Travel Exp	0	0	1,250	0.00
84052 Mtg Travel Exp	0	0	1,000	0.00
84054 CLE Speaker Exp	0	0	100	0.00
84101 Committee Exp	0	0	500	0.00
84201 Board Or Council Mtg	0	0	300	0.00
84202 Annual Mtg	0	0	2,210	0.00
84205 Section Service Prog	0	0	750	0.00
84209 Retreat	0	0	3,000	0.00
84299 Public Utility Comm	0	0	1,750	0.00
84301 Awards	0	0	700	0.00
84310 Law School Liaison	0	0	3,000	0.00
84422 Website	214	334	2,500	13.36
84501 Legis Consultant	0	0	7,500	0.00
84701 Council Of Sections	0	0	300	0.00
84998 Operating Reserve	0	0	4,094	0.00
84999 Miscellaneous	0	0	100	0.00

Total Operating Expenses	245	365	43,155	0.85

31433 Section Mgmt Fee	2,678	18,428	19,495	94.53
86431 Mtgs Admin	0	0	580	0.00
86543 Graphics & Art	0	0	2,525	0.00

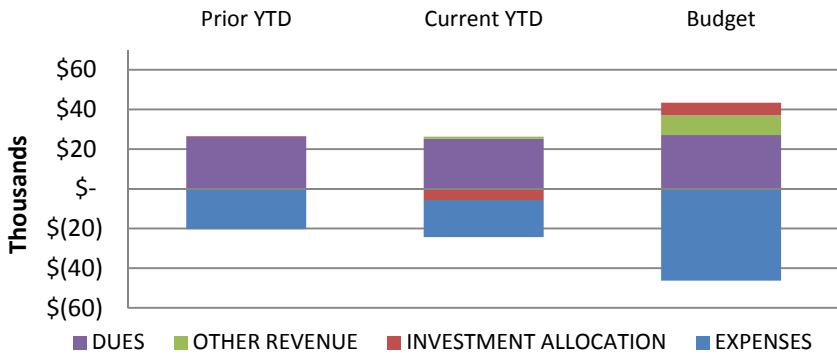
	August 2015 Actuals	YTD 15-16 Actuals	Budget	Percent Budget
Total Administrative Law =====	-----	-----	-----	-----
Total TFB Support Services	2,678	18,428	22,600	81.54
Total Expenses	2,923	18,793	65,755	28.58
Net Operations	-3,558	2,001	-22,254	-8.99
21001 Fund Balance	0	198,014	212,545	93.16
Total Current Fund Balance	-3,558	200,015	190,291	105.11

* * * * * End of listing * * * * *

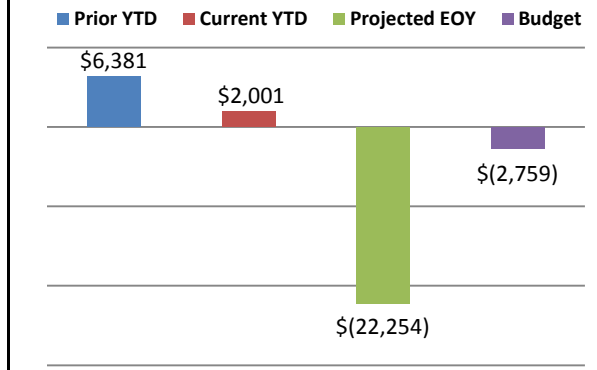
**The Florida Bar
Administrative Law Section Overview
Two Months Ending August 31, 2015**

Statement of Operations	Prior Year to Date	Current Year to Date	Variance	Budget 2014-15	% of Budget
REVENUES					
DUES	\$ 26,293	\$ 25,178	\$ (1,115)	\$ 27,225	92.48%
OTHER REVENUE	-	1,150	1,150	9,900	11.62%
INVESTMENT ALLOCATION	360	(5,534)	(5,894)	6,376	-86.79%
TOTAL REVENUE	26,653	20,794	(5,859)	43,501	47.80%
EXPENSES					
CURRENT OPERATIONS	6,381	2,001	(4,380)	(2,759)	-72.53%
BEGINNING FUND BALANCE	229,629	198,015		198,015	93.16%
CURRENT FUND BALANCE	\$ 236,010	\$ 200,016		\$ 195,256	95.34%

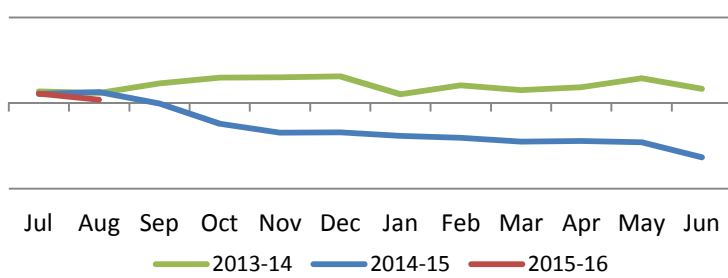
Administrative Law



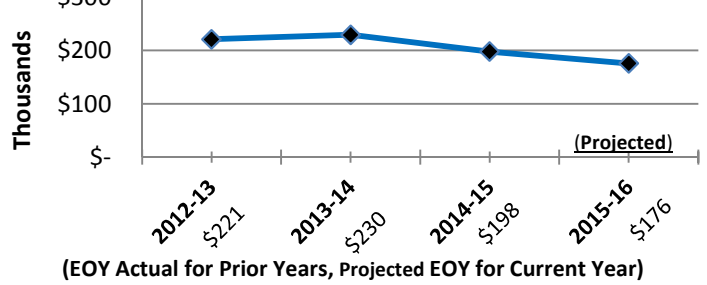
Net Operations Comparison:



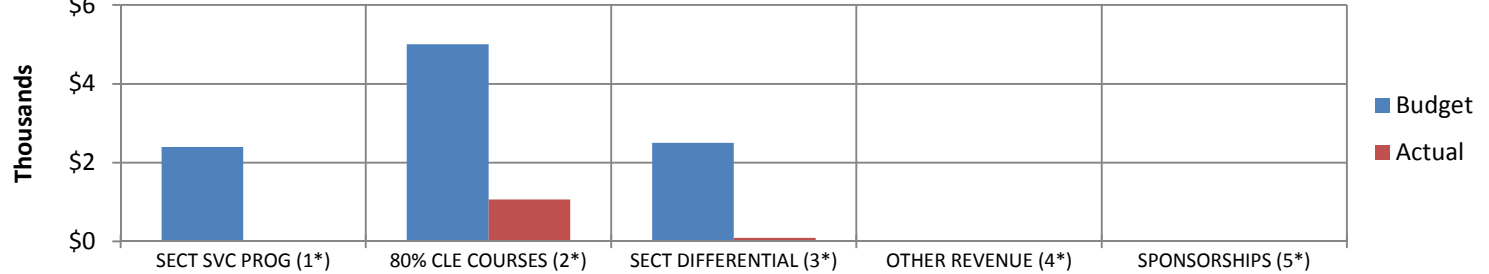
YTD Net Operations by Month



Fund Balance



YTD Non-Dues Revenue Sources by Category



1* Section CLE and Service Programs.

2* Section's 80% share of net profit of joint CLE.

3* Section Differential. The premium paid by non-section members for CLE.

4* Other Revenue. Includes ticketed events, advertising, licensing, etc.

5* Sponsorships.

The Florida Bar Board of Governors met on July 24, 2015. The major actions of the Board and reports received included:



Report from

The Florida Bar Board of Governors

A proposed rule amendment, which will require approval by the Florida Supreme Court, was approved to increase continuing education requirements by three hours in technology-related education every three years. The approved proposed changes also include amending the comment to Rule 4-1.1 of the Rules Regulating The Florida Bar regarding attorneys' understanding of the risks and benefits associated with the use of technology. For more information, please see the August 15 edition of The Florida Bar News. The proposed amendment will be submitted in the next master rules filing in the fall of 2016. Comments will be sought from members to be sent to the Court with the amendment request. The Florida Bar already offers free technology CLE courses on the Practice Resource Institute webpage and is working to expand that catalog to ensure Bar members have ample courses to increase competence in legal practice technology.

The Vision 2016 Commission is currently studying a number of issues that concern all lawyers, including legal education, technology, bar admissions and access to legal services. Information on all areas of study by the Commission, and email links for members' comments on each are available at www.floridabar.org/vision2016.

The Vision 2016 Bar Admissions Subgroup presented a preliminary informational report with recommendations and a summary of the review and study undertaken by the committee over the past two years. One of the issues being studied by Vision Bar Admissions is admission by motion/reciprocity. No action was taken by the Board on this report or any bar admissions issues, and no action is scheduled to be taken. Comments from Bar members are being actively sought by the subgroup.

A recommendation by the Board Review Committee on Professional Ethics was approved to allow law firms to send text messages to prospective clients as long as the text messages comply with all Bar advertising regulations for written and email communications. A record of the text messages must be retained and that the firms must bear any costs related to the delivery of the texts, not the recipient. Bar members may call the Ethics Hotline or submit an inquiry form with any questions. Also, a joint committee with the Vision 2016 Technology Subgroup has been formed to review online referral companies that match lawyers with potential clients and study how fees are split for those companies.

A committee has been appointed to monitor the upcoming Constitution Revision Commission (CRC), which will begin its meetings in January 2017. Information on the CRC and the monitor committee will be reported in future issues of The Florida Bar News.

A proposed amendment presented jointly by the Rules of Judicial Administration Committee and the Court Interpreter Certification Board were approved to amend RJA 2.560 (Appointment of Spoken Language Court Interpreters for Non-English-Speaking and Limited-English-Proficient Persons) and to create a new rule 2.565 (Retention of Spoken Language Court Interpreters for Non-English-Speaking and Limited-English-Proficient Persons by Attorneys of Self-Represented Litigants) that will be submitted to the Florida Supreme Court for its consideration.

A proposed amendment to the comment of Rule 4-4.2 of the Rules Regulating The Florida Bar by the Government Lawyer Section and the City, County and Local Government Section was not presented to the Board at the July meeting pending review by other interested parties. The amendment deals with attorneys communicating with government officials who are represented by counsel.

Important Links

Practice Resource Institute: Free guidance, information resources, and general assistance to Florida Bar members and their staff

Pay Fees Online : After Aug. 15, a late fee will be charged.

For daily updates and information: Florida Bar Social Media

<http://www.floridabar.org>

Subject: Proposed Amendments to Rule 4-4.2

You are receiving this email because you have either commented on or inquired about proposed amendments to Rule 4-4.2.

At its July 23, 2015 meeting, the Board Review Committee on Professional Ethics heard from Mr. Marion Radson on behalf of the City, County & Local Government Law Section, the Government Lawyers Section, and the Florida Association of County Attorneys regarding proposed amendments to Rule 4-4.2. Mr. Radson announced orally at that meeting that the proponents of the proposed amendments had decided to amend their request. The new proposal is to delete the following sentence from the comment, with no other changes proposed by the proponents: "Permitted communications include, for example, the right of a party to a controversy with a government agency to speak with government officials about the matter."

The Board Review Committee on Professional Ethics voted to defer consideration of this matter to the October Board of Governors meeting so that others may consider the proposal and provide any comments to the BRC and board. The next meeting of the BRC is scheduled for 1-3 p.m. on Thursday, October 15, 2015, at the One Ocean Hotel in Jacksonville, Florida. The full board is scheduled to meet the following day in the same location.

Comments must be received no later than Thursday, September 24, 2015, in order to be provided to the board with its agenda backup.

The full text of the rule in legislative format (additions underlined, deletions stricken) appears below. Please note that other proposed amendments are by staff to conform to the Supreme Court style guide, with the exception of "contemporaneously" which was proposed by another bar member when the proposed amendments were published last year.

If you have questions, please contact me.

Sincerely,

Elizabeth Clark Tarbert

Ethics Counsel

The Florida Bar

651 E. Jefferson Street

Tallahassee, Florida 32399-2300

850/561-5780

RULE 4-4.2 COMMUNICATION WITH PERSON REPRESENTED BY COUNSEL

(a) In representing a client, a lawyer must not communicate about the subject of the representation with a person the lawyer knows to be represented by another lawyer in the matter, unless the lawyer has the consent of the other lawyer. Notwithstanding the foregoing, a lawyer may, without such prior consent, communicate with another's client to meet the requirements of any court rule, statute or contract requiring notice or service of process directly on a person, in which event the communication is strictly restricted to that required by the court rule, statute or contract, and a copy must be contemporaneously provided to the represented person's lawyer.

(b) An otherwise unrepresented person to whom limited representation is being provided or has been provided in accordance with Rule Regulating The Florida Bar 4-1.2 is considered to be unrepresented for purposes of this rule unless the opposing lawyer knows of, or has been provided with, a written notice of appearance under which, or a written notice of the time period during which, the opposing lawyer is to communicate with the limited representation lawyer as to the subject matter within the limited scope of the representation.

Comment

This rule contributes to the proper functioning of the legal system by protecting a person who has chosen to be represented by a lawyer in a matter against possible overreaching by other lawyers who are participating in the matter, interference by those lawyers with the client-lawyer relationship, and the uncounseled disclosure of information relating to the representation.

This rule applies to communications with any person who is represented by counsel concerning the matter to which the communication relates.

The rule applies even though the represented person initiates or consents to the communication. A lawyer must immediately terminate communication with a person if, after commencing communication, the lawyer learns that the person is one with whom communication is not permitted by this rule.

This rule does not prohibit communication with a represented person, or an employee or agent of such a person, concerning matters outside the representation. For example, the existence of a controversy between a government agency and a private party, or between 2 organizations, does not prohibit a lawyer for either from communicating with nonlawyer representatives of the other regarding a separate matter. Nor does this rule preclude communication with a represented person who is seeking advice from a lawyer who is not otherwise representing a client in the matter. A lawyer may not make a communication prohibited by this rule through the acts of another. See rule 4-8.4(a). Parties to a matter may communicate directly with each other, and a lawyer is not prohibited from advising a client concerning a communication that the client is legally entitled to make, provided that the client is not used to indirectly violate the Rules of Professional Conduct. Also, a lawyer having independent justification for communicating with the other party is permitted to do so. Permitted communications include, for example, the right of a party to a controversy with a government agency to speak with government officials about the matter.

In the case of a represented organization, this rule prohibits communications with a constituent of the organization who supervises, directs, or regularly consults with the organization's lawyer concerning the matter or has authority to obligate the organization with respect to the matter or whose act or omission in connection with the matter may be imputed to the organization for purposes of civil or criminal liability. Consent of the organization's lawyer is not required for communication with a former constituent. If a constituent of the organization is represented in the matter by the agent's or employee's own counsel, the consent by that counsel to a communication will be sufficient for purposes of this rule. Compare rule 4-3.4(f). In communication with a current or former constituent of an organization, a lawyer must not use methods of obtaining evidence that violate the legal rights of the organization. See rule 4-4.4.

The prohibition on communications with a represented person only applies in circumstances where the lawyer knows that the person is in fact represented in the matter to be discussed. This means that the lawyer has actual knowledge of the fact of the representation; but such actual knowledge may be inferred from the circumstances. See terminology. Thus, the lawyer cannot evade the requirement of obtaining the consent of counsel by closing eyes to the obvious.

In the event the person with whom the lawyer communicates is not known to be represented by counsel in the matter, the lawyer's communications are subject to rule 4-4.3.

Please note: Florida has very broad public records laws. Many written communications to or from The Florida Bar regarding Bar business may be considered public records, which must be made available to anyone upon request. Your e-mail communications may therefore be subject to public disclosure.

Subject: Proposed Amendments to Rule 4-4.2

The BRC Chair, Carl B. Schwait, has removed proposed amendments to Rule 4-4.2 from the October agenda of the Board Review Committee on Professional Ethics to give more time for the proponents to coordinate and for others to make comments. The next possible time this could be on the BRC agenda is on the December 3, 2015 agenda.

Sincerely,

Elizabeth Clark Tarbert
Ethics Counsel
The Florida Bar
651 E. Jefferson Street
Tallahassee, Florida 32399-2300
850/561-5780

**BYLAWS OF THE
ADMINISTRATIVE LAW SECTION**

**ARTICLE I
DESCRIPTION**

Section 1. Name. The name shall be "Administrative Law Section, The Florida Bar."

Section 2. Purposes. The purposes of this section are:

(a) to provide an organization within The Florida Bar open to members thereof in good standing having an interest in administrative law and procedure on both the state and federal levels, and

(b) to provide a forum for discussion and exchange of ideas leading to the improvement and development of the fields of administrative law and procedure and agency practice, and to serve the public generally and The Florida Bar in interpreting and carrying out the professional needs and objectives in these fields.

Section 3. Aspirational Goal. It is an aspirational goal to achieve fair balance between government attorneys and private practitioners among the executive council members of the section.

**ARTICLE II
MEMBERSHIP**

Section 1. Eligibility. Any member in good standing of The Florida Bar interested in the purposes of this section is eligible for membership upon application and payment of this section's annual dues. Any member who ceases to be a member of The Florida Bar in good standing shall no longer be a member of the section.

Section 2. Administrative Year. The administrative year of the section shall run concurrently with the administrative year of The Florida Bar.

Section 3. Annual Dues. The annual dues shall be the amount fixed by the executive council and approved by The Florida Bar. After an applicant has become a member, dues shall be payable in advance of each membership year and shall be billed by The Florida Bar at the time that regular dues of The Florida Bar are billed.

Section 4. Affiliate Membership.

(a) *Eligibility.* Any person who is not a member of The Florida Bar but who has an interest in administrative law and processes may become an affiliate member of the Administrative Law Section. Such persons may include but are not limited to members of administrative boards, agency staff, law students, legal assistants, members of the legislature and legislative staff, and other administrative personnel.

(b) *Privileges and Responsibilities.* Affiliates shall be members of this section only. Affiliates shall have all the privileges accorded to members of the section except that affiliates shall not be entitled to vote on any matter or to hold any section office. Affiliate members shall pay annual dues as determined by the executive council.

(c) *Membership Limits and Administrative Expenses.* The number of affiliate members shall not exceed one-third of the section membership. The section shall reimburse the bar for expenses incurred by the bar in administering this section's affiliate membership.

ARTICLE III OFFICERS

Section 1. Officers. The officers of this section shall be a chair, a chair-elect, a secretary and a treasurer.

Section 2. Duties of Officers. The duties of the officers shall be as follows:

(a) *Chair.* The chair shall preside at all meetings of the section and at all meetings of the executive council. The chair shall appoint all committees and committee chairs with the approval of the executive council, be responsible for all reports to be submitted to The Florida Bar, and perform all duties as customarily pertain to the office of chair. The chair shall be an ex-officio member of each committee of the section.

(b) *Chair-elect.* The chair-elect shall become chair in the event of the death, resignation, or failure of the chair to serve for whatever reason; provided, however, that in the case of temporary disability or absence of the chair, the chair-elect shall serve as acting chair only for the duration of the chair's disability or absence. The chair-elect shall be responsible for such other duties as the chair may designate. The chair-elect shall be an ex-officio member of each committee of the section.

(c) *Secretary.* The secretary shall be responsible for all permanent files and records of the section, including the minutes of the meetings of the section and the executive council and all committee reports. The secretary shall keep accurate minutes of the proceedings of all meetings of the section and the executive council and shall furnish copies of said minutes to the executive director of The Florida Bar and to the section coordinator.

(d) *Treasurer.* The treasurer shall serve as liaison to The Florida Bar and other sections on matters involving section finances and shall have the responsibility of accounting for all funds of the section, shall approve all disbursements, shall prepare annual financial statements under the supervision of the executive council and shall prepare budget requests and amendments in a timely manner in accordance with the procedures of the budget committee of The Florida Bar.

Section 3. Term of Office.

(a) *Chair.* The term of office of the chair shall begin at the conclusion of the next annual meeting of the section after the chair was elected chair-elect and shall end at the

conclusion of the next succeeding annual meeting. Upon expiration of the chair's term, the chair shall be automatically succeeded by the chair-elect.

(b) *Other officers.* The terms of office of the other officers shall run concurrently with that of the chair.

Section 4. Election of Officers. The chair-elect, secretary and treasurer shall be elected by a plurality of the membership of the section in attendance at its annual meeting. Nominations shall be made by the nominating committee of the executive council and may be accepted from the floor.

Section 5. Vacancies. Any permanent vacancy occurring in an office shall be filled for the balance of the unexpired term by vote of the executive council at its next meeting.

ARTICLE IV EXECUTIVE COUNCIL

Section 1. Governing Body. There shall be an executive council composed of 14 members of the section, plus the chair, chair-elect, immediate past chair, secretary, treasurer, and chair of the public utilities law committee, who shall be ex-officio voting council members. The executive council shall be the governing body of the section between the annual meetings of the section. The chair of the section shall be the chair of the executive council and the secretary of the section shall be the secretary of the executive council. It shall have general supervision and control of the affairs of the section, subject to the provision of the Rules Regulating The Florida Bar and the bylaws of this section. It shall authorize all commitments or contracts which entail the payment of money and it shall authorize the expenditures of all section funds. It shall not, however, authorize commitments, contracts or expenditures involving amounts of money in excess of the total amount which is anticipated as receipts from dues during the fiscal year plus the amount that has been previously collected from dues and remains unexpended. As the governing body of the section, it shall be vested with the power and authority to formulate, fix, determine and adopt matters of policy concerning the affairs and purposes of The Florida Bar. All recommendations of the section to The Florida Bar, any branch of the judiciary or to any other group or body to which recommendations by the section are authorized to be made, must first be approved by the executive council. Any recommendation made to other than The Florida Bar shall have the prior approval of The Florida Bar.

Section 2. Term of Office. All members of the executive council, excluding ex-officio voting council members, shall serve for a term of 2 years, the terms of the members being staggered so that 7 members shall take office at the conclusion of every other annual section meeting and shall serve until the conclusion of the annual meeting of the section 2 years thereafter, and 7 members shall take office at the conclusion of every other annual meeting and shall serve until the conclusion of the annual meeting of the section 2 years thereafter.

Section 3. Election of Executive Council Members. The members of the executive council to be elected each year for 2-year terms shall be elected by a plurality vote of the membership in attendance at the annual meeting of the section. Nominations shall be made by the executive council and may be accepted from the floor.

Section 4. Vacancies. Except as is otherwise provided herein, any permanent vacancy occurring in the membership of the executive council shall be filled for the balance of the expired term by vote of the executive council at its next meeting.

Section 5. Duties. In addition to attending meetings of the executive council and of the section, executive council members shall participate in at least 1 standing or ad hoc committee or serve as an executive council liaison to other Florida Bar committees or sections.

ARTICLE V MEETINGS

Section 1. Meetings of the Membership.

(a) The annual meeting of the section shall be held at each annual meeting of The Florida Bar. The active members of the section attending any meeting of the section shall constitute a quorum for the transaction of business and a majority vote of those present shall be binding.

(b) Special meetings of the entire membership of this section may be called by the executive council provided 30 days' notice thereof shall be given to each member of the section.

Section 2. Meetings of the Executive Council.

(a) There shall be at least 3 meetings of the executive council each year, 1 of which shall be held in conjunction with the annual meeting of The Florida Bar.

(b) Regular meetings of the executive council shall be subject to call by the chair of the section upon 15 days' written notice to the members of the executive council.

(c) Special meetings of the executive council shall be subject to call by the chair of the section upon written notice that is reasonable under the circumstances. For a special meeting, the purpose of the meeting must be stated in the call of the chair and no vote may be taken on business other than that stated in the call.

(d) The executive council shall conduct its business at regular and special meetings as provided for in these bylaws; provided, however, the business of the executive council between regular meetings may be conducted by correspondence to the extent authorized by the chair.

(e) Those participating in a meeting or in transacting business by correspondence as authorized above shall constitute a quorum and majority vote of those participating shall be binding.

(f) In the event a member of the executive council is absent from any 2 regular meetings during the fiscal year, the member's office shall be deemed vacant, and such vacancy shall be filled as otherwise provided in these bylaws.

ARTICLE VI COMMITTEES

Section 1. There shall be the following permanent, standing committees within the section:

(a) *Budget Committee.* The budget committee shall prepare and revise proposed budgets for submission to the executive council for approval. The budget committee shall be composed of the section chair, immediate past chair, chair-elect and treasurer.

(b) *Long Range Planning Committee.* The long range planning committee shall develop long-range goals for the section, review the present activities of the section and submit reports thereof and recommendations to the executive council for adoption. The long range planning committee shall be composed of the chair-elect of the section and such other persons as the chair may appoint.

(c) *Legislative Committee.* The legislative committee shall be composed of 3 members, appointed by the chair, who will also name the chair of the committee.

1) *Legislative Positions.* The legislative committee shall from time to time make recommendations to the executive council regarding requests for the section to adopt a legislative position. Such position shall require a 2/3 vote of the executive council to be adopted as the section position.

2) *Legislature in Session.* When the legislature is in session, the chair of the committee shall consult with the chair and, if available, the chair-elect of the section. The chair of the committee may then act upon pending or proposed legislation in accordance with section legislative positions if it is not reasonably possible or feasible for the executive council to act. The chair of the section shall notify all members of the executive council of such action taken as soon as it is reasonably possible to do so.

(d) *Publications Committee.* The publications committee shall be composed of the chair of the committee and the editors of the section's column in The Florida Bar Journal and the section's newsletter and any other section members appointed by the chair. The chair of the section will appoint the chair of the committee each year. The chair of the committee will appoint the editors for the section's publications, who will be responsible for the timeliness, quality, and contents of those publications.

(e) *Public Utilities Law Committee.* The public utilities law committee's purpose is to gather and disseminate information, share expertise and advise its members on the legal, technical, and economic issues related to regulated utilities providing electric, gas, water, sewer, and telephone services. Any member of the section may become a member of the committee by so notifying the chair of the committee in writing. The committee may present at least 1 CLE program which receives Bar approval for CLE credits each year. All CLE presentations must be approved by the executive council. The committee shall also be provided space in the section's newsletter featuring the committee's own column for matters of special interest to its members.

(f) *Law School Outreach Committee.* The law school outreach committee shall be composed of members appointed by the chair. The committee shall coordinate section activities

with Florida law schools to stimulate students' interest in administrative law with the goal of increasing the number of law students with an interest in administrative law.

(g) *Nominating Committee.* There shall be a nominating committee composed of 3 executive council members appointed by the chair to determine and propose a slate of candidates for any vacancy which occurs either during an executive council member's term or at the conclusion of any executive council member's term. For any executive council member seeking re-appointment at the expiration of that member's term, consideration for re-appointment will be based upon that member's contributions to the executive council during the term that is about to expire.

Section 2. Ad Hoc Committees. The chair shall establish ad hoc committees from time to time as the need arises.

ARTICLE VII MISCELLANEOUS

Section 1. Action of The Florida Bar. No action of the section shall be represented or construed as the action of The Florida Bar until the same has been approved by The Florida Bar.

Section 2. No member of the section nor any committee thereof shall take any action or espouse any position as being the action or position of the section except as otherwise provided in these bylaws.

Section 3. Financial Obligations. Before payment, all financial obligations must first be approved in the manner specified by the executive council.

Section 4. Compensation and Expenses. No salary or other compensation shall be paid to any member of the section for performance of services to the section but the chair may authorize the payment of reasonable out-of-pocket expenses resulting from performance of such services.

Section 5. Amendments. These bylaws may be amended only by The Florida Bar upon recommendation made by the executive council of the section.

Section 6. No action of this section shall be contrary to the policies of The Florida Bar.

Agency Snapshots

Agency Name	Date Last Snapshot was Published
Florida Parole Commission	12/2003
Department of Revenue	---
Department of Citrus	---
Department of Lottery	--
Department of Management Services	---
Space Florida	----
Department of Law Enforcement	---
Administration Commission	--
Department of Military Affairs	--
Department of Children and Families	---
Agency for Persons with Disabilities	---
Department of Corrections	--
Commission on Ethics	12/2006
Department of Health	9/2007
OPPAGA	3/2008
Auditor General	6/2008
Florida Housing Finance Corporation	12/2008
Department of Veterans Affairs	1/2010

Fish and Wildlife Conservation Commission	3/2010
Commission on Human Relations	6/2010
Department of Environmental Protection	9/2010

If you are interested in writing an "Agency Snapshot" please contact Jowanna N. Oates at oates.jowanna@leg.state.fl.us