

CBA LEGISLATIVE POLICY COMMITTEE GUIDELINES

LPC adopted April 20, 2021

Introduction

Acting on a grant of authority from the Colorado Bar Association (“CBA”) Executive Council and Bylaws, the Legislative Policy Committee (“LPC”) is charged with determining CBA positions on state legislative and associated executive branch administrative actions. In conjunction with the detailed analyses and recommendations of CBA sections and committees, the following guidelines provide standards, priorities, and considerations for this work.

LPC Organization

Authority, Mission, Values, Vision

Under the CBA Bylaws (“Bylaws”), the LPC is comprised of thirteen members: the President, the President-elect, the Immediate Past President, seven members appointed by the President, and three members selected by the caucus of section representatives. Presidential appointments shall be made in consideration of factors including the Equity, Diversity and Inclusivity goals of CBA, in addition to both the geographic and practice areas of its membership. LPC members shall serve one-year terms. The President shall act as chair of the LPC (“Chair”).

The LPC shall work to advance the CBA’s legislative aims and endeavor to fulfill CBA’s mission, values, and vision statement as provided for in the CBA Bylaws Appendix C. CBA Bylaws Section 1.2 states that the CBA objectives include advancing the science of jurisprudence, securing the more efficient administration of justice, and encouraging the adoption of proper legislation. Authority regarding public policy not addressed in these guidelines or CBA Bylaws is otherwise reserved by the CBA Executive Council. Unless authorized by the LPC and coordinated with the Legislative Director, CBA members may not advocate on behalf of the CBA regarding state legislative and executive branch administrative actions. Moreover, sections and committees may not advocate a position on such matters independent of the CBA.

Unless authorized by the CBA Executive Council, the LPC may not approve an advocacy position on non-legislative or non-rulemaking public policy matters, such as ballot measures, local ordinances, federal legislation, or court rules. However, the CBA Executive Council may request input from the LPC on any such matters.

Meetings, Quorum, Voting

During the legislative session (early January – early May), the LPC meets weekly. The LPC may meet in person, via a tele-/video-conference platform, or in combination. The LPC may convene as necessary between legislative sessions, at the discretion of the Chair or the Legislative Director.

A majority of the members of the LPC shall constitute a quorum. Assuming a quorum, an act of a majority of the members present at any meeting shall be an act of the LPC.

When determined by the Chair and the Legislative Director that prompt LPC action is required but convening the LPC is not practicable, a majority vote of the Chair, President-elect, and the Immediate Past President shall be deemed an act of the LPC. At the next meeting of the LPC, the Chair shall report to the LPC of any action taken by the Chair, President-elect, and the Immediate Past President on behalf

of the LPC; the LPC may vote to reconsider and rescind any such prior action as an approved act of the LPC.

Standard of Review

Within the areas listed below, the LPC reviews legislation to ensure it is narrowly crafted to solve an actual and specific problem best resolved statutorily. The LPC should seek to ensure clarity and consistency in legislation that fits within existing frameworks and avoids unintended consequences.

Priorities

Substantive Areas of Law

- The LPC should generally take a position on legislation where CBA sections or committees have specific legal expertise and a compelling legal argument; and
- When sections or committees present conflicting recommendations, the LPC will weigh the respective analyses and recommendations before considering a position. Conflicting recommendations do not necessarily preclude the LPC from establishing a position on behalf of the CBA.

The Practice of Law

- The LPC should generally take positions on legislation that affects the practice of law, including but not limited to the diversity of the profession, the business of lawyering, attorneys' fees, or attorney-client relations. The LPC should take measures safeguarding the Judiciary's ability to regulate the practice of law in Colorado.

The Judiciary

- The LPC should support legislation that promotes a fair, impartial, diverse, and independent judiciary. Moreover, the LPC should defend against attempts to erode a fair, impartial, diverse, and independent judiciary.
- The LPC may take positions on legislation that addresses the structure, organization, operation, or funding of state courts in Colorado.
- The LPC may take positions on legislation that involves the allocation of and access to judicial resources, judicial compensation and benefits, selection and retention, and budget appropriations for the court system.

The Justice System

- The LPC should generally support legislation that improves access to the justice system by all persons.
- The LPC may take a position on legislation that relates to the public's interactions with the justice system, including but not limited to due process and equal protection.
- The LPC may take positions on legislation that modifies the right to jury trials, expands or restricts claims, defenses and/or allowable evidence.

Considerations

The Political Climate

- The LPC may evaluate the political climate (*e.g.*, partisan issues, legislative leadership, committee assignment, public opinion, press coverage, stakeholder involvement, and opportunity for discussion) and weigh the interests of its statewide membership.

- The LPC may choose not to take a position in circumstances that will portray the association as partisan and/or harm its reputation as fair, impartial experts of the law.
- The LPC may choose not to take a position if the bill is unlikely to advance or when CBA engagement will have negligible impact.

Stakeholder Requests

- The LPC may consider requests of the diversity bars, specialty bars, and other related stakeholders or associations.

Legislative Positions

The LPC may authorize positions on behalf of the CBA regarding legislation of the Colorado General Assembly. The LPC may also request that a legislator introduce a bill on behalf of the CBA. Generally, the LPC acts upon a request from a section or committee, but the LPC may review any legislation related to the priorities of the LPC as stated herein. A request to the LPC by a section or committee should be made in adherence to the section or committee’s bylaws. Consistent with the LPC’s authorization, the Legislative Director may act on behalf of the CBA throughout the lawmaking process, including executive action. The Legislative Director shall report to the LPC or Executive Council concerning such actions.

Proposed Legislation by CBA Sections

A section or committee may, from time to time, propose that the CBA request that a legislator introduce legislation. The LPC is to review a legislative proposal consistent with these guidelines. If the LPC authorizes CBA to pursue new legislation, the appropriate position is “support.”

Positions Available to the CBA

All organizations that lobby the Colorado General Assembly and executive branch agencies must categorize and publicly disclose advocacy done on behalf of the organization. The Colorado Secretary of State establishes the following positions,¹ and all positions authorized by the LPC must align with one of the following:

- **Support** – The LPC supports, whether strongly or tentatively, the bill and the CBA will advocate its enactment. A “support” position may be the result of successful efforts to amend the bill.
- **Oppose** – The LPC objects to the bill in whole or part and the CBA will advocate defeat of the bill. An “oppose” position may be the result of unsuccessful efforts to amend the bill.
- **Amend** – The LPC recommends changes to the bill to make it acceptable legislation. The CBA may work with bill sponsors, partners, or stakeholders to modify the bill consistent with the direction from the LPC. To comply with Secretary of State reporting requirements, the LPC should indicate a conditional position on the bill upon adoption or rejection of proposed amendments, as appropriate.
- **Monitor** – The LPC does not authorize advocacy (*i.e.*, support, oppose or amend) on the bill but directs the Legislative Director to monitor the legislation. The Secretary of State notes that a “monitor” position may be interpreted as a “neutral” position on a bill or as indicating that an organization has yet to establish a position. A “monitor” position will be publicly registered with the Secretary of State.

¹ Colorado Secretary of State Lobbying Guidance Manual, Revised January 2020.
<https://www.sos.state.co.us/pubs/lobby/files/guidanceManual.pdf>

- **None** – The LPC does not authorize any advocacy action on the bill and no position is reportable to the Secretary of State.

The LPC is to avoid nuanced positions on legislation and should align positions with those defined by the Secretary of State. The LPC may table a bill at any time for later reconsideration. In connection with tabling a bill, the LPC may refer any bill to a section or committee for additional review or analysis. The LPC may reconsider a position on any legislation at any time for reasons consistent with these guidelines.

Communication of Positions

LPC members and LPC meeting attendees may not disclose LPC decisions or internal LPC discussions outside CBA membership until and unless authorized by the Legislative Director or Chair. A member who, without authorization, discloses to non-members the outcome or discussion of the LPC meeting may be barred from future LPC meetings at the discretion of the Chair.