

EXECUTIVE SUMMARY

In 1996, the Conference of Chief Justices decided to study and take action directed at promoting lawyer professionalism. The study that followed culminated in the development of "A National Action Plan on Lawyer Conduct and Professionalism," and its adoption by the Conference of Chief Justices on January 21, 1999. The National Action Plan included a series of recommendations, one of which was the establishment of a "Commission on Professionalism or other agency under the direct authority of the appellate court of highest jurisdiction."

This publication contains information from the professionalism commissions in Alabama, Florida, Georgia, Hawaii, Illinois, Maryland, New Jersey, New Mexico, New York, North Carolina, Ohio, Oregon, South Carolina and Texas and is designed principally to assist judges and lawyers in states that do not yet have a professionalism commission as they contemplate the possibility of establishing one. This guide is directed specifically at the state chief justices, who are in the best position to promote, help establish and make a positive contribution to the success of such a commission through their endorsement and active involvement.

Part I of this guide offers a short discussion of how the various professionalism commissions originated and describes their objectives. Part II concentrates on the varied activities and programs that these commissions have undertaken to promote lawyer professionalism. Part III describes the commissions' structure and organization. Part IV discusses how the commissions have been funded. Part V summarizes suggestions that representatives of the existing commissions have offered to those interested in following in their footsteps. Finally, the Appendix to this guide includes the contact information for the existing commissions and, to the extent relevant, the court orders establishing or the bylaws regulating those commissions.

I. Background: The Derivation of the Professionalism Commissions

Among the considerations that have shaped the organization and mission of professionalism commissions are: the nature of law practice in the state and the extent to which law practice varies between rural and urban areas or between other geographical sections of the state; whether the state has an integrated bar or a voluntary bar; the nature of the activities and resources already in place to promote lawyer professionalism; and the nature of the relationship, and extent of cooperation, among the bar, the judiciary, and the legal academic community.

Some of the professionalism commissions were initiated directly from the state supreme court, while others were initiated on the recommendation of court or bar appointed committees or task forces. Their missions generally include promoting lawyer professionalism and some have specific additional goals such as promoting scholarship regarding professionalism and ethics and promoting public understanding of the legal profession.

II. Programs and Activities

The professionalism commissions sponsor and host a variety of programs and activities that are the cornerstone of their efforts. These activities have included: continuing legal education programs; convocations; town hall meetings; law school programs; professionalism awards;

mentoring programs; conciliation programs; publications and websites; studies; activities to promote community service; and proposals for law reform.

A. Continuing Legal Education

Several of the commissions take responsibility for designing and sponsoring continuing legal education ("CLE") courses that focus on various aspects of lawyer professionalism, such as discrimination, one's role as a lawyer and communicating with clients. A number of the states have professionalism CLE requirements, either for all lawyers or for newly admitted lawyers. Some professionalism commissions have designed educational programs specifically for particular segments of the legal community, for example large law firms or judges.

B. Convocations/Conclaves

Periodic convocations bring together representatives from the practicing bar, the judiciary, and the law schools to discuss issues of ethics and professionalism, such as the social responsibilities of lawyers in the practice of law and the roles that law schools and legal employers play in shaping the professional values of new lawyers.

C. Town Hall Meetings/Public Education

Town hall meetings bring together lawyers, judges, law professors and deans, and members of the public to discuss matters of professionalism. Examples include Georgia's "Attorney Concerns about Ethics and Professionalism" and "Professionalism in Client Relations." Those meetings have led to the development of three new programs: the Law School Orientations on Professionalism, the Law Practice Management Program and the Consumer Assistance Program. In addition to town hall meetings, other avenues for public education include presentations to civic groups, clubs, schools, and other lay groups.

D. Annual Symposia

The Georgia Center works with the law schools in that state, which each year present, on a rotating basis, a symposium on Ethics and Professionalism.

E. Law School Programs

Several professionalism centers assist in developing programs designed to contribute to the law schools' efforts to integrate elements of professionalism into orientation programs, the curriculum or extra-curricular programs such as law student essay contests or a professionalism retreat for graduating law students where the students would spend as much as a day and a half with professors and experienced lawyers to discuss professionalism and ethics.

F. Judicial Programs

Judicial programs include training, education and response to unwarranted media attacks on the judiciary.

G. Law Firm Programs

The New Jersey Commission has put together seminar materials for new associates.

H. Mentoring/Transition into Law Practice Programs

Mentoring programs help to smooth the transition from law school to legal practice, and allow new lawyers and law students to learn about different practice areas as well as to have a reference for questions they may face in their work.

I. Conciliation\Peer Review Programs

Commissions have developed programs to enable lawyers, both individually and collectively, to overcome the differences between and among them, such as the Multnomah Committee's conciliation program and the New Jersey Commission's Professionalism Counseling Program.

J. Professionalism Awards

Several commissions sponsor annual professionalism awards that are given to lawyers who best exemplify the standards of professionalism articulated by the commissions.

K. Publications and Websites

Professionalism commissions have developed a variety of publications and other writings that have addressed areas such as the independence of lawyers in their relationships with clients; conflicts of duty that lawyers face in various situations; the lawyer's responsibility to communicate effectively with clients; the lawyer's responsibilities as an officer of the court; the lawyer's responsibility to protect the image of the profession; and the responsibilities of lawyers to the public. Most of the commissions have websites, which may include electronic publications, professionalism CLE information and links to other legal sites.

L. Studies

Another possible function of professionalism commissions is to engage in continued study of the professionalism issues facing lawyers, and how those issues and concerns change over time. A number of the commissions have undertaken historical projects that document the varying views of professionalism among members of their respective state bars. The New York Institute has appointed a working group on "core values," which seeks to formulate an authentic premise for American professionalism in the twenty-first century. The Institute also has undertaken a project to examine barriers faced by lawyers seeking to enter the profession, lawyers seeking mobility within the profession, and clients seeking affordable legal assistance and a project that will assess the current disciplinary system, suggest possible alternatives to it, and recommend how the image of lawyers can be improved through education or publicity.

M. Promoting Community Service

An important function that professionalism commissions might serve is to promote public service and pro bono work among lawyers. In Georgia, a Community Service Task Force was created in 1996 under the auspices of the Professionalism Commission, and it sponsored convocations, awards, the publication of a newsletter, and Habitat for Humanity projects, to name a few of its activities. The Community Service Task Force has become the Selection Committee for the Justice Robert Benham Awards for Community Service, a partnership of the State Bar of Georgia and the Professionalism Commission.

N. Proposals for Reform

A professionalism commission may be the source of ideas for reforming the law, legal practice, or judicial processes, in ways that will enhance lawyer professionalism. The North Carolina Commission developed a proposal that led to the enactment of an innovative state statute that allows all trial lawyers to take up to three weeks of vacation each year.

O. Measuring Professionalism

While it is very difficult to measure personal or systemic change in this area, the Georgia Commission has suggested a number of ways of looking at increases in awareness of professionalism issues.

III. Structure and Organization of the Professionalism Entities

The professionalism commissions have chosen different structures and organizations to meet their needs. A common link among all, however, is that they strive to include members of the bar, the judiciary, the law schools and the public among their leadership and membership.

IV. Funding

The commissions have found that the most effective route is to obtain funding from several sources at once. For the commissions that are considered part of bar associations, the funding generally comes from state bar funds, and these commissions are subject to the same budgetary procedures as other components of the bar. For the professionalism commissions that are part of the court system, the judicial budget generally provides funding. However, judicial funding is not always adequate to run all of the programs of these entities. Commissions have also derived income from CLE programs; sales of books or videotapes; contracts with law firms, corporations, and bar-related groups to which they provide assistance with ethics programs; and grants from public foundations.

V. Advice to New Commissions

First, a new entity must have the cooperation and support of both the bench and the bar. Also, the bench, bar, and the law schools must all be involved with and participate in its work.

Second, it is extremely important to secure adequate funding. Sources include bar funds, revenues from CLE courses, and private donations and grants.

Third, it is important for a professionalism commission to define its goals, which may include developing quality professionalism CLE programs or initiating studies.

Fourth, staff and directors of the commissions play essential roles. The most successful entities have full-time employees. It is helpful to involve influential and well-known members of the legal community in the commission's work, in particular the Chief Justice of the state.

Fifth, publicity is important. Several commissions have newsletters or submit articles to legal journals and newspapers. A website is another route to reaching the target audience.

Sixth, the quality and originality of programming is of utmost importance.