
**8. New Fee Structure with Discounts Based on Income Rather Than Years of Practice
(Board of Governors Resolution No. 2)**

Whereas, the House of Delegates directed at its November 2018 meeting that the Board of Governors consider the following with respect to member fees:

1. the creation of a separate tier of membership fees for Oregon State Bar members active in any jurisdiction under five years or for a similar duration of time; and
2. an equitable assignment of fees to this new tier of active Bar members, as well as equitable changes to fees assigned to existing tiers, reflecting the economic realities of experienced and newer legal professionals; and
3. other appropriate issues of equity permissible under Oregon statute during the creation of a separate tier of membership fees for Oregon State Bar members active in any jurisdiction under five years or for a similar duration of time; and

Whereas, the House of Delegates further requested that the Board of Governors present the results of its deliberation to the House of Delegates at the 2019 HOD meeting, and;

Whereas, the Board of Governors has completed its study of alternative fee structures; now, therefore, be it

Resolved, that the House of Delegates approve the Board of Governors taking the steps necessary to move from a system of discounts on fees based on years of membership in the bar to a system of discounts based on income and ability to pay; in the event of any increase in fees based on such a structure, the Board of Governors will bring a resolution to the 2020 HOD meeting pursuant to ORS 9.191.

Background

At present, there are three tiers of licensing fees for active lawyers in Oregon, each of which is defined by the number of years a lawyer has practiced law. The standard active fee applies to lawyers who have been active in any jurisdiction for more than 2 years, but have been active members of the Oregon State Bar for no more than 49 years. Lawyers with less than two years of membership in any jurisdiction pay a discounted rate. Lawyers who have been members of the Oregon State Bar for 50 years or more pay nothing.

At its 2018 meeting, the HOD asked the Board to evaluate the merits of creating an additional tier of discounted fees for third and fourth year bar members, in light of the economic realities faced by many newer lawyers. At the same time, the HOD asked the Board to evaluate equity issues raised by the current fee structure. After the HOD meeting, the Board assigned this review

to its Budget and Finance Committee, which met and discussed the matter over approximately nine months.

At the outset, the committee calculated the loss of revenue that would result if a discount were afforded to the approximately 1,250 lawyers in Oregon who are third and fourth year bar members. Every \$10 reduction in the fee for these individuals translates to a \$12,500 reduction in annual revenue to the bar. The committee was concerned about the equity of shifting costs from one subset of members to the others. In order to avoid an overall licensing fee increase to accommodate this loss of revenue, the committee considered how to recapture that loss through other adjustments to the fee structure.

In discussions of equity, two key issues arose regarding the current tiered structure. First, it was noted that the pool of 50-year members who continue to actively practice law has been growing significantly over the last five years. Moreover, these lawyers often have a higher earning capacity than newer lawyers, carry less debt, and are better able to afford to pay the full license fee. Second, it was noted that employers often pay the annual license fees for their lawyers, which means the discounts provided to newer lawyers may not benefit them directly.

The committee also looked to other mandatory state bars for alternative fee structures. While most follow Oregon's model of offering discounts based on years of practice, the California State Bar provides discounts based on income. California offers a 25% fee reduction for lawyers whose individual annual income is \$40,000 or less, and a 50% reduction for lawyers whose household income is \$20,000 or less.

The committee felt strongly that an income-based structure was more equitable than one based on years of practice. Income-based discounts provide relief to lawyers who may be starting a new practice, who work part-time to accommodate family or caretaking responsibilities, who devote significant time to pro bono service, or who provide discounted rates to clients. By supporting lawyers in those situations, the committee reasoned, a fee reduction would also support the bar's goals of increasing access to justice. The Board agreed.

If the HOD approves this resolution, the Board will develop a new income-based fee structure in detail, including an implementation plan. If the new structure would result in any increase in fees, the Board will bring a resolution to the 2020 HOD meeting pursuant to ORS 9.191.

Financial Impact
None anticipated.

*Presenter: David Wade,
BOG, Region 2*