

THE EMPLOYMENT & LABOR LAW

SECTION GUIDE

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I. EMPLOYMENT & LABOR LAW SECTION OVERVIEW

The Employment & Labor Law Section of the State Bar of Arizona was created for the purpose of enhancing the quality of practice in the area of labor and employment law so as to substantively, procedurally, and ethically provide representation to clients, while providing a personally and professionally satisfying experience for practitioners in this area of law. *By-laws Art. 1.2.* Its focus covers the complex fields of employment law, discrimination, employee relations and traditional labor law. The Section provides regular monthly education programs, semi-annual seminars and outreach programs. It has also produced two editions of the ARIZONA EMPLOYMENT LAW HANDBOOK.

A. The Employment & Labor Law Section Short History

The State Bar Labor Law Section was started more than 30 years ago by a small group of lawyers who recognized the significant need for a specialized State Bar Section focused on labor law issues, traditional union-management issues and collective bargaining. After the passage of The Civil Rights Act of 1964, the concept of “employee rights” began to grow, while traditional union power was declining. This change in emphasis of the law of employee-employer relationships spawned the related concept of “Employment Law,” in which a growing number of lawyers began to practice.

In order to reflect this change in both the law and the legal practice related to employment relationships, the Labor Law Section of the State Bar became the “Employment & Labor Law Section” in 1991. Since that time, membership in the Section has grown consistently to its present size of approximately 625 members.

B. Philosophy/Purpose

The purpose of the Employment & Labor Law Section is to enhance the quality of practice in the area of labor and employment law so as to substantively, procedurally, and ethically provide representation to clients while providing a personally and professionally satisfying experience for practitioners in this area of law.

The Employment & Labor Law Section effectuates its purpose by providing educational and technical assistance to its membership through a broad range of programs, publications and meetings. Every member of the Employment & Labor Law Section is accorded equal stature and respect. While participation in the Employment & Labor Law Section as a member and on the Executive Council may have incidental personal marketing benefits, the Employment & Labor Law Section exists to enhance professional capability, achievement and cooperation. The strength and reputation of the Employment & Labor Law Section has derived in large measure from the active leadership of the Executive Council's members.

In accordance with the policies of the State Bar as promulgated by the Board of Governors, the Section works to:

- (1) Develop educational programs and assist in the preparation and delivery of seminars;
- (2) Systematically inform its members of the activities of the Section;
- (3) Obtain the involvement of its members in the activities of the Section; and
- (4) Cooperate in the development of legislative programs of the State Bar.

The Executive Council strives to comprise itself of a balance of members representing all parts of the state, a variety of practice areas, and diverse personal attributes and backgrounds.

C. The Employment & Labor Law Section Relationship to Its Members

The Employment & Labor Law Section maintains a close relationship with its members through the *Arizona Employment Law Handbook*, CLE lunch programs in Phoenix and Tucson, regular CLE programs, CLE outreach programs, annual fall CLE seminar, and annual State Bar Convention CLE program and Section meeting.

D. The Employment & Labor Law Section Relationship to the State Bar

1. Board of Governors and its Staff

The State Bar of Arizona Board of Governors designates one of its members as an ex officio member of the Employment & Labor Law Section. This ex officio member provides an important communication link between the Board of Governors and the Employment & Labor Law Section.

In addition, a specific State Bar staff member is assigned to be liaison between the Employment & Labor Law Section and the State Bar. This person's function is to provide administrative assistance to the Executive Council, financial management of the Employment & Labor Law Section funds, and a range of other important organizational functions.

2. Other Bar Sections

The Employment & Labor Law Section strives to work with other State Bar Sections, such as the Trial Practice Section, the Workers' Compensation Section and the Intellectual Property Section, on individual projects and CLE events.

E. The Employment & Labor Law Section Relationship to the ABA and other State Bars

The Employment & Labor Law Section works with the ABA and other State Bars to broaden its involvement with the legal profession nationally. The Employment & Labor Law Section has cooperated with various ABA Sections in either co-sponsoring or assisting in CLE programs.

II. THE EMPLOYMENT & LABOR LAW SECTION ORGANIZATION

A. The Employment & Labor Law Section Membership

1. Members

Any lawyer in good standing of the State Bar can enroll as a member of the Employment & Labor Law Section by paying the annual Section dues. The dues amount is set by the Employment & Labor Law Section Executive Council within guidelines set by the Board of Governors. Dues are payable on an annual basis (by calendar year) although membership enrollment is available year round. Membership renewal is usually arranged on a lawyer member's Annual Dues Statement from the State Bar.

Membership entitles the lawyer member to vote on substantive matters properly brought before the membership for a vote, to vote in Executive Council elections, to receive information regarding Section-sponsored events and Section newsletters, and to attend certain seminars and programs for a discounted fee.

2. Officers

The officers of the Employment & Labor Law Section are the Chair, Chair-Elect, Treasurer and Secretary. Officers serve one-year terms. The Chair cannot succeed to that office. At the end of each term, the Chair-Elect automatically assumes the office of the Chair; and the Chair automatically assumes the office of Immediate Past-Chair.

3. Associate Members

The Executive Council previously considered the possibility of non-lawyer membership in the section and decided that the Section provides a unique opportunity for attorneys, which may be diminished with the admission of non-attorneys. The Council recognizes that various human resources, workplace psychology, motivation, time management, OSHA, security and other professionals may have great interest in the activities of the Section, but believes that Section activities are most beneficial to Section members when limited to

attorneys. Accordingly, the focus of Section programs will continue to be on legal education and networking for the benefit of attorneys. To change this would require a by-laws change. *By-laws Art. II.*

B. The Employment & Labor Law Section Executive Council

1. Executive Council Overview

The Executive Council of the Employment & Labor Law Section of the State Bar of Arizona is a very active and committed group of professionals. Its members are selected by their peers to provide a wide range of employment and labor law services and programs to the Employment & Labor Law Section members and the public through the State Bar of Arizona. The Executive Council governs the Employment & Labor Law Section.

2. Executive Council Membership

The Executive Council includes the Officers, the Immediate Past Chair and six members at large. The term of office begins at the Annual Meeting in June, following the election and ends at the following Annual Meeting at which a successor has been elected. In addition to the Officers, Executive Council members at large are elected and often are the ones, along with the Officers, who specifically chair Section committees or serve as Project Leaders for the various projects and activities of the Section.

3. Ex Officio Members

The Board of Governors representative is an ex officio member of the Executive Council and serves at the pleasure of the Board of Governors. Ex officio members have no substantive rights and cannot vote.

C. The Employment & Labor Law Section Finances

The primary source of income for the Employment & Labor Law Section is annual dues paid by Section members. The Employment & Labor Law Section is allowed to set its own dues within reasonable limits set by the Board of Governors. The State Bar Board of Governors may assess an administrative fee to the Section, or out of Section dues, to offset a portion of the cost of staff support to the Section. This issue has been addressed on an annual basis.

The designated State Bar administrator manages the Employment & Labor Law Section's finances by maintaining a record of all income and expenses and by advising the Chair and Treasurer of the current status monthly.

The Executive Council prepares a budget in July for approval in September for the fiscal year beginning January 1. Although the Employment & Labor Law Section's operations year begins in July, the State Bar operates on a fiscal calendar year basis. Thus, each Executive Council administration effectively controls only one half of its yearly budget.

At times, the Employment & Labor Law Section accumulates surplus funds from Section dues. The Employment & Labor Law Section has been able to carry these surplus funds forward each year. The carryover funds are available for use by the Employment & Labor Law Section at any time, after its "active" dues account has been depleted.

D. The Employment & Labor Law Section Executive Council Meetings

The Executive Council meets monthly. A meeting notice and agenda with the previous month's minutes are distributed to each Executive Council member in advance of the meeting.

Agendas include all items of new and old business, such as reports from the Board of Governors Liaison, a Budget Officer's report, committee reports, project updates, and CLE program status reports.

A quorum is a majority of voting council members, which usually equals six members. A quorum is required in order for the Council to undertake any official business.

The Executive Council places great importance on attendance of council members at Executive Council meetings. The Council adopted a resolution providing that any Council member who is absent for three consecutive regularly scheduled meetings or three meetings within any six-month period shall be removed automatically unless, by vote taken by the Council, good cause is found to excuse the absences. **The Executive Council Secretary is responsible for tracking member attendance and for reporting to the Council in the event a Council Member exceeds the allowable number of absences.**

III. THE EMPLOYMENT & LABOR LAW SECTION EXECUTIVE COUNCIL COMMITTEES

The Executive Council occasionally uses committees to perform specific on-going tasks. Committee chairs and members are appointed by the Executive Council on an as-needed basis. Past committees have included an Arizona Employment Law Handbook Committee, an Arizona Bar Network Committee, Law Student Committee, a Jury Research Project Committee and a Specialization Committee.

IV. THE EMPLOYMENT & LABOR LAW SECTION CLE PROGRAMS

A. Philosophy

One of the Employment & Labor Law Section's fundamental purposes is to present high quality CLE programs for its members. Over the years the Employment & Labor Law Section's CLE programs have been well attended and commended. These programs are generally delivered by the Employment & Labor Law Section members who have volunteered substantial personal time in preparing excellent written materials as well as making professional presentations at the seminars themselves. In addition, the Section regularly attracts nationally recognized professionals to speak at or participate in Section CLE Programs. The Executive Council strives to keep the attendance fee for its seminars low relative to private enterprise fees.

B. Convention, Mini-Seminars, Fall-Seminar

The Employment & Labor Law Section schedules seminars with state-wide appeal on a regular basis. Each seminar theme must be broad enough to support a series of defined subtopics around which individual speakers and panels can develop their presentations. Each seminar has a chair or co-chairs responsible for selecting other presenters and overseeing the timely preparation of written materials.

1. Convention

The Section traditionally holds a one-day seminar at the annual State Bar Convention in June. The Convention site historically alternates between Tucson and Phoenix and provides an opportunity for the Section to attract new interest from non-members visiting the Section's seminar program at the Convention.

2. Fall Seminar

The Section traditionally holds a Friday-Saturday seminar in the fall of each year at a "get-away" location within the state, such as Sedona, Prescott or Flagstaff. This seminar is typically geared toward the more experienced labor and employment law practitioner.

3. Employment Law Luncheons

The Section regularly provides educational programs in both Tucson and Phoenix. These luncheons usually focus around the presentation of a speaker on issues that are important to employment and labor law practitioners, and are open to anyone interested in attending.

4. *County Outreach Seminars*

The Section has periodically held seminars in outlying areas of the state in an effort to bring Section benefits to practitioners outside of the Phoenix and Tucson metropolitan areas. In addition, when possible, the Section broadcasts its lunchtime CLE programs via webcast to reach a wider audience.

C. Co-sponsorship of Other CLE Programs

The Section has worked with other State Bar Sections, the ABA and other professional organizations in co-sponsoring CLE programs. Co-sponsorship allows the Section to reach a broader range of practitioners, to provide Section members with access to the expertise of other Sections, and to help bridge the gap between employment and labor law and other related areas of practice

V. THE EMPLOYMENT & LABOR LAW SECTION PUBLICATIONS

The Employment & Labor Law Section publishes the *Arizona Employment Law Handbook*, and has periodically published a Section Newsletter and an *Arizona Attorney* theme issue. These projects require an enormous amount of time and commitment by the editors and support staff involved. The Section has been fortunate to have talented members undertake the demanding requirements to prepare publications of interest to employment and labor law practitioners.

A. The Arizona Employment Law Handbook

The Arizona Employment Law Handbook was first published in January 1996, thanks to the substantial efforts of over 60 members of the Employment & Labor Law Section. Its purpose is to provide an overview of Arizona employment and labor law in a form usable to general practitioners, human resource directors, business owners, and employees. The Handbook is in a two-volume loose-leaf format, and is also available on CD-ROM.

The cooperation between this Section and the CLE Department to produce this excellent publication benefits not only Section members, but the Bar and all others involved in employment law in Arizona. This cooperative effort is a credit to the Section and CLE Department.

The planning and preparation of the manual is the responsibility of the Editor in Chief, who serves in that position at the request of the Executive Council. The Editor in Chief selects a Board of Editors, who in turn select and recruit authors. The Handbook is updated on a periodic basis. A second edition of the Handbook was published in 2004 (Volume I) and 2007 (Volume II).

B. The Employment & Labor Law Section Newsletter

The Section has at times published a periodic newsletter to provide Section members with current information on law and issues affecting labor and employment practitioners. The publication of such newsletters is coordinated through the State Bar.

C. Arizona Attorney Theme Issue

Occasionally, the *Arizona Attorney* magazine devotes an issue to the Employment & Labor Law Section. The Executive Council selects authors and topics for the issue.

D. Section Web Site

The Section has its own web page, accessible through the State Bar's website, where members can access information about the Section, its publications, and other resources useful to Employment & Labor law practitioners.

VI. THE EMPLOYMENT & LABOR LAW SECTION PROGRAMS AND PROJECTS

A. The Employment & Labor Law Section Annual Meeting Program

The Annual Meeting is held at the annual State Bar Convention in June. At this meeting the election is held, the new council members are installed, and the Chair-Elect succeeds to Chair for the coming year. Any bylaw amendments must be approved at the Annual Meeting.

In July or August, the newly elected Executive Council holds a retreat for the purpose of planning and goal-setting for the coming year.

B. Specialization Project

The Employment & Labor Law Section has periodically reviewed members' requests that the Section apply for specialization status, as coordinated through the State Bar of Arizona Board of Legal Specialization. If the Section were to approve a Specialization program, then lawyers who have a significant practice emphasis in labor and employment law would be afforded the opportunity to take an examination in order to be classified as a "Certified Specialist." A proposed Specialization project was reviewed and debated by the Section in various formats. In 1996, the Section members voted to reject the proposed Specialization project. The issue may be reconsidered in the future if there is significant Employment & Labor Law Section member support.

C. Past Seminar Programs and Materials Project

For more than 30 years the Section in its newsletter and CLE seminars has produced and made available to practitioners excellent materials on labor and employment related subjects. The Section is currently collecting past materials, producing an index and exploring ways for members and non-members (for a fee) to gather copies. Access to this valuable information via the Section's page on the State Bar web site is also being explored.

D. R. Kelly Hocker Scholarship

Each year the Section sponsors the R. Kelly Hocker Employment and Labor Law Scholarship for law students in Arizona. It is open to J.D. candidates at the University of Arizona James E. Rogers College of Law, the Arizona State University Sandra Day O'Connor College of Law, and the Phoenix School of Law who are enrolled in any employment and/or labor-related class (other than First Year classes), or are engaged in substantive legal scholarship in the employment and/or labor law field.

The Section awards a \$500.00 scholarship to one selected scholar at each school based on a combination of the following criteria, as determined by a designated labor or employment law professor at each school:

- Legal scholarship in the field of labor and employment law;
- Commitment to the practice of labor and employment law; and
- Overall contribution to the development of labor and employment law.

VII. THE EMPLOYMENT & LABOR LAW SECTION & EXECUTIVE COUNCIL POLICIES

A. Non-Involvement in Partisan Politics

The Employment & Labor Law Section's membership reflects a non-partisan profile. Therefore, the Section has carefully avoided taking positions or supporting activities that would identify the Section with a particular political affiliation.

B. Legislative Activities

In accordance with the United States Supreme Court decision in *Keller v. State Bar of California*, the State Bar of Arizona Board of Governors has voted not to engage in any legislative activities that have a "political or ideological coloration." Therefore, to the extent that the Employment & Labor Law Section is involved in legislative activities, they are limited to "activities reasonably related to the purpose of regulating the profession or improving the quality of legal services."