

**SMCBA Policy on Public Comment**  
**(as approved November 16, 2022)**

- I. The Board of Directors may not disseminate a positional statement or public comment on behalf of the Association. A positional statement or public comment shall only be made in accordance with the foregoing Policy on Public Comment (“Policy”).
- II. For purposes of this Policy, “positional statement” and “public comment” shall be used interchangeably and be defined as statements, whether made orally, written, or electronically transmitted, on behalf of the Association concerning the following topics:
  - a. Proposed changes of substantive or procedural law;
  - b. Matters involving the rule of law or professional ethics;
  - c. Matters which affect the public confidence in the judiciary and the Bar;
  - d. Matters which affect the public interest in the administration of justice;
  - e. Matters affecting business of the Association.
- III. While the Board of Directors is not permitted to disseminate positional statements or public comments on behalf of the SMCBA, SMCBA Committees, Sections, and the PDP may make positional statements to the general membership by publishing the statement via a regular publication of the SMCBA or via email (by emailing the Executive Director and Chief Defender), without prior Board approval, as long as the following procedure is followed:
  - a. Any proposed positional statement or public comment shall first be presented to the Chair of the Committee/Section or Chief Defender of the PDP by a member of that Committee/Section/PDP in good standing.
  - b. The Committee/Section/PDP shall then vote on the following:
    - i. Whether said issue falls within the limits established under Section II, above;
    - ii. If said issue is of sufficient significance to be presented to the general SMCBA membership;
    - iii. Whether the proposed positional statement or public comment is consistent with and permitted by the Association’s bylaws and mission statement; and
    - iv. Whether the proposed positional statement should be disseminated as written to the SMCBA general membership.
  - c. If the Committee/Section/PDP finds in the affirmative on all of subsections i, ii, iii, and iv by a  $\frac{3}{4}$  majority vote of its voting members, the statement shall be emailed to [SMCountyBar@smcba.org](mailto:SMCountyBar@smcba.org) for Bar staff to disseminate to the general membership, in either one of SMCBA’s regular publications or via special email to the membership, at the Chair/Chief Defender of the Committee/Section/PDP’s preference.

- d. The following disclaimer must be included at the end of the statement when disseminated to the general membership:

“These statements have not been reviewed or approved by the SMCBA Board of Directors and are made solely on behalf of the \_\_\_\_\_ (name of Committee/Section/PDP) members, as approved by a  $\frac{3}{4}$  majority vote of the voting members of the Committee/Section/PDP. These statements may not reflect the opinions or views of the SMCBA, its Board of Directors, or other SMCBA programs, committees, or sections, and should not be interpreted as such.”

- IV. This Policy is not intended to preclude or restrict the Board or the Association from disseminating statements that do not constitute positional statements or public comments, including but not limited to the dissemination of Association news, obituaries, information about events, or congratulatory statements.