



Attorney Licensure & Professionalism

Developing a Tribal Bar Association

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Introduction

This paper briefly examines a subtitle of the Tribal Law and Order Act of 2010 (TLOA) to show how instituting a tribal bar association could benefit a tribal nation under the prevailing environment.

This paper has two parts. First, the paper focuses on how to develop a tribal bar association, however, to provide context, the paper first presents background information about bar associations in general by briefly tracing the origin of bar associations, their types and nature, and the ends bar associations seek to serve. In doing this, the paper draws on information and examples from a sampling of traditional, minority and tribal bar associations. Second, the paper examines the process and detail of starting a mandatory and voluntary tribal bar association. The paper uses examples to illuminate the nature and structure of the two types of bar associations.



Origin of Bar Associations

In the United States, the origin of bar association dates back to the formation of the Association of the Bar of the City of New York in 1869.¹ But lawyers had been banding together for reasons ranging from preservation and regulation of the profession to promoting the public interest before then.² For instance, between 1744 and 1770, lawyers organized in New York for the “purpose of resistance to the encroachment of the British Crown in the exercise of the King’s prerogative;”³ and in 1846, lawyers in Kentucky organized to defeat a constitutional amendment that threatened to imperil the profession.⁴

However, in keeping with the realities and policies of the day, the bar associations were not welcoming of minorities early on.⁵ The bar associations either excluded or did not cater to minority lawyers’ interests. For instance, the Chicago Bar Association excluded Black attorneys from its rank outright.⁶ And, granted that the first wave of Native attorneys did not arrive until Native veterans started entering the profession on the GI Bill,⁷ the ABA did not permit tribal court practitioners to be full members of the ABA until 2014.⁸

¹ Marvelle Webber, Origin and Uses of Bar Associations, 7 A.B.A Journal 297 (1921), available at http://www.jstor.org/stable/25700871?seq=1#page_scan_tab_contents

² Id.

³ Id.

⁴ Id.

⁵ Haley Licata, Minority Bar groups Provide Important Outreach, available at <http://www.chicagolawyer magazine.com/Archives/2012/10/Minority-Bar-Groups.aspx>

⁶ Haley Licata, Minority Bar Groups Provide Important Outreach, available at <http://www.chicagolawyer magazine.com/Archives/2012/10/Minority-Bar-Groups.aspx>

⁷ Stacy Leeds, Pipeline into Law School/Legal Profession in ‘The Pursuit of Inclusion: An In-Depth Exploration of the Experiences and Perspectives of Native American Attorneys in the Legal Profession,’ available at http://www.nativeamericanbar.org/wp-content/uploads/2014/01/2015-02-11-final-NNABA_report_pp6.pdf

⁸ Kirsten Matoy Carlson, ABA Now Recognizes Members of Tribal Bar Associations, available at <https://turtletalk.wordpress.com/2014/08/13/aba-now-recognizes-members-of-tribal-bar-associations/>

This exclusionary tendency informed the need for the creation of minority bar associations.⁹ The Cook County Bar Association (CCBA) in Chicago was the first minority bar association started. The CCBA was started in 1914, although the group started working together after 1896 “when 32 Black lawyers began to meet informally to plan protests against discrimination in hotels, theaters, and restaurants, and to address judicial elections and school desegregation.”¹⁰ The CCBA provided black attorneys a formal vehicle to work together to advance causes that were ignored by the traditional bar associations at the time.

While some of the CCBA’s original concerns may no longer exist, the need for minority bar associations in general persists since minority bar associations typically address niche interests.¹¹ That is one main reason several other minority bar associations have formed since the CCBA to cater to manifold niche interests. The National Bar Association, Hispanic National Bar association, Hmong American Bar Association, National Native American Bar Association, and the Navajo Nation Bar Association are some examples.

Tribal bar associations are a manifestation of minority bar associations.¹² They cater to niche interests of tribal law practitioners and their communities. For instance, the National Native American Bar Association (NNABA) seeks to among other things protect “the governmental sovereignty of the more than 560 independent Native American Tribal

⁹ Haley Licata, Minority Bar Groups Provide Important Outreach, available at

<http://www.chicagolawyermagazine.com/Archives/2012/10/Minority-Bar-Groups.aspx>

¹⁰ The History of the Cook County Bar Association, <http://cookcountybar.org/our-history-2/>

¹¹ Haley Licata, Minority Bar Groups Provide Important Outreach, available at

<http://www.chicagolawyermagazine.com/Archives/2012/10/Minority-Bar-Groups.aspx>

¹² <http://www.nativeamericanbar.org/the-mission-of-nnaba/>

governments in the United States.”¹³ The bar associations are also purveyors of practice standards, professionalism, discipline, and entry regulations.

In accordance with sections 2 and 3 of Chapter 45 of the Oglala Sioux Tribe Law and Order Code,¹ the bar association:

[R]egulates the conduct of all practicing attorneys before the Oglala Sioux Tribal Courts in the administration of justice and in maintaining a high standard of professional conduct at the Bar, to uphold the honor of the profession of the law, and to encourage adequate preparation for its practice before the Court of the Oglala Sioux Tribe. . . .[Has] the power to enact bylaws and rules of practice . . . as may be deemed necessary for tribal Bar government, including the establishment of an annual membership fee . . . [And] the power to . . . formulate rules of professional conduct of all its members.

¹³ The Mission of NNABA. available at <http://www.nativeamericanbar.org/the-mission-of-nnaba/>

Mandatory and Voluntary Bar Associations: History, Nature and Current Issues

Bar associations are either mandatory or voluntary.¹⁴ Mandatory bar associations, also called “integrated,” “unified,” or “state bars,”¹⁵ are characterized by two major elements: dues-paying membership is a precondition to practice in the jurisdiction, and the bar is created by court rule or legislation.¹⁶ This is achieved by enacting a statute giving the highest court in the jurisdiction the authority to integrate the bar, or by rule of the court in the exercise of its inherent power.¹⁷ The State Bar of North Dakota (SBAND) and the Oglala Sioux Tribal Bar Association are two examples of mandatory bar associations. The SBAND was the first integrated bar association.¹⁸ The bar association was integrated by legislative enactment in 1921.¹⁹ The Oglala

¹⁴ Bar Association, https://en.wikipedia.org/wiki/Bar_association

¹⁵ Peter Martin, A Reassessment of Mandatory State Bar Membership in Light of *Levine v. Heffernan*, 73 (1) Marq. L. Rev, 144 n.1 (1989), available at:

<http://scholarship.law.marquette.edu/cgi/viewcontent.cgi?article=1730&context=mulr>

¹⁶ Peter Martin, A Reassessment of Mandatory State Bar Membership in Light of *Levine v. Heffernan*, 73 (1) Marq. L. Rev, 144 n.1 (1989), available

at:<http://scholarship.law.marquette.edu/cgi/viewcontent.cgi?article=1730&context=mulr>

¹⁷ Bar Association, available at <http://legal-dictionary.thefreedictionary.com/Bar+%28law%29>

¹⁸ Peter Martin, A Reassessment of Mandatory State Bar Membership in Light of *Levine v. Heffernan*, 73 (1) Marq. L. Rev, 144 n.2 (1989), available at

<http://scholarship.law.marquette.edu/cgi/viewcontent.cgi?article=1730&context=mulr>

¹⁹ Peter Martin, A Reassessment of Mandatory State Bar Membership in Light of *Levine v. Heffernan*, 73 (1) Marq. L. Rev, 144 n.2 (1989), available

<http://scholarship.law.marquette.edu/cgi/viewcontent.cgi?article=1730&context=mulr>

Sioux Tribal Council through the tribal code established the Oglala Sioux Tribal Bar Association.²⁰ To practice in both jurisdictions, one must be a dues-paying member of the bar.

Voluntary bar associations do not mandate membership or make membership a precondition to practice. For instance, membership of the Minnesota State Bar Association is “open to any attorney licensed to practice law in any state.”²¹ Neither does a voluntary bar primarily regulate the practice of law or admit lawyers to practice. A voluntary bar is essentially a private organization of lawyers. Members join because they are drawn to the bar’s espoused goals, interests, and practices. The Minnesota State Bar Association, the American Bar Association, and the National Native American Bar Association are examples of voluntary bars.

The earliest bar associations were voluntary bars.²² Lawyers privately organized to tackle issues of common interests and concerns and practice was not conditioned on membership of the bar. But as concerns surfaced and grew about professionalism and discipline, many such as the Georgia Bar Association morphed into integrated bars to in part foster the uniform enforcement and regulation of the profession. Here is how the State Bar of Georgia captured its transition to a unified bar²³:

In 1883, a small group of lawyers established the Georgia Bar Association. This new professional organization proved beneficial to its members but, since membership was

²⁰ Chapter 45, Oglala Sioux Tribal Bar Association, Oglala Sioux Tribe: Law and Order Code, available at http://www.narf.org/nill/codes/ogla_la_sioux/chapter45-bar.html

²¹ <http://www.mnbar.org/members/member-benefits#.VZHg3kaxUdk>

²² Voluntary bars existed before Herbert Harley, the founder and executive secretary of American Judicature Society, stoked the fire for bar unification with his 1914 speech to the Lancaster County Bar Association in Lincoln, Nebraska. See Peter Martin, A Reassessment of Mandatory State Bar Membership in Light of *Levine v. Heffernan*, 73 (1) Marq. L. Rev, 146 n.16 (1989), available at <http://scholarship.law.marquette.edu/cgi/viewcontent.cgi?article=1730&context=mulr>

²³ <http://www.gabar.org/aboutthebar/historyofthebar.cfm>

not required of all Georgia lawyers, it lacked power. "Because of its nature as a voluntary association not comprised of all the lawyers in this state," explained 1946 Georgia Bar President Charles Gowen, "the Georgia Bar Association was unable to address significant needs including uniform discipline throughout the state and the passage of important legislation."

By 1925, a trend toward unification became evident in state bars across the country, including the Georgia Bar Association, which would struggle for conversion over the next 40 years, enlisting the aid and support of many of Georgia's most prominent legal minds. The bill to create an integrated bar was finally passed by the Georgia House and Senate in 1963, a move motivated primarily by the concept of regulated self-discipline. "The capstone of the State Bar," said 1964-65 Bar President Hugh M. Dorsey, Jr., "is the power of self-discipline, which has been sought so long and is needed so badly. For the first time, all of us can and will be held to answer to the public for the conduct and character of our profession, and here we must not, and cannot, fail."

Additional to the disciplinary end the Georgia bar identified, two intertwined benefits also contributed to the unification of bar associations: stable membership and enhanced revenue base through membership.²⁴

Increasingly, lawyers are pushing back against unified bars on First Amendment grounds. They are challenging unified bar's use of mandatory membership dues for reasons or ends to which a slice or even an individual member may be averse.²⁵ In a 2015 case in North Dakota, an attorney sued the state's bar association asking federal court for ability to opt out of the mandatory state bar membership.²⁶ The attorney claimed the bar undermined individual

²⁴ Mandatory membership meant the unified bars did not have to deal with fluctuating membership and, by extension, revenue that was a common feature of voluntary bars at the time. See, Peter Martin, A Reassessment of Mandatory State Bar Membership in Light of *Levine v. Heffernan*, 73 (1) Marq. L. Rev, 147-48 (1989), available at <http://scholarship.law.marquette.edu/cgi/viewcontent.cgi?article=1730&context=mulr>

²⁵ State Bar of Michigan membership should remain mandatory, task force tells supreme court by [Brian Smith](#) June 03, 2014 at 4:56 PM. available at: http://www.mlive.com/lansing-news/index.ssf/2014/06/state_bar_of_michigan_membersh.html

²⁶ Aebra Coe, Atty Sues ND Bar For Spending Dues On Political Donations, available at <http://www.law360.com/articles/618314>

member's free speech rights when the bar used dues for political donations the member did not favor.²⁷

The pushback is redefining the contours of mandatory bars.²⁸ In a 2013 case²⁹, the Nebraska Supreme Court reaffirmed mandatory membership in the state bar association as a precondition to practice. However, the court said the state bar may only use mandatory dues for activities relevant to regulation of the legal profession and made dues for all other bar activities voluntary.³⁰

So far, it appears the pushback has not crept into the mandatory tribal bar association fold. Given that tribal bars are bound by First Amendment standards, it should amount to savvy practice for the bars to keep an eye on developments in the general mandatory bar landscape or even to act to preempt potential First Amendment breaches.

²⁷ Id.

²⁸ Joan C. Rogers, Nebraska Reaffirms Mandatory Bar But Puts Limits on Compulsory Dues, available at <http://www.bna.com/nebraska-reaffirms-mandatory-n17179880858/http://www.bna.com/nebraska-reaffirms-mandatory-n17179880858>

²⁹ Id.

³⁰ Id.

Need For Tribal Bar Associations

Recently, the National Native Tribal Bar Association released the first comprehensive study of Native American attorneys.³¹ The study found four unique challenges of the Native attorney: the extraordinary complexities and challenges of identifying and living as a Native American lawyer; the dearth of Native American representation in the law due to the lack of attention and resources dedicated to the full inclusion of Native Americans in the legal profession; the particular professional development opportunities and challenges faced by Native American lawyers; and the specific personal satisfaction, inclusion and alienation experienced by Native American lawyers in the legal profession.³²

Stacking up these challenges against the historical and contemporary role, mission and activities of bar associations showcases the need for tribal bars. For instance, the creation of the Minnesota American Indian Bar Association (MAIBA) provided “a formal network, support system, and a sense of collegiality for American Indians practicing law in Minnesota and those with an interest in Indian law.”³³ The California Indian Law Association (CILA) mission³⁴ statement provides another example of how a tribal bar association is working toward the four NNABA study challenges:

³¹ Mary Smith, Introduction, *The Pursuit of Inclusion: An In-Depth Exploration of the Experiences and Perspectives of Native American Attorneys in the Legal Profession*, page 19, available at http://www.nativeamericanbar.org/wp-content/uploads/2014/01/2015-02-11-final-NNABA_report_pp6.pdf

³² *The Pursuit of Inclusion: An In-Depth Exploration of the Experiences and Perspectives of Native American Attorneys in the Legal Profession*, Executive Summary pp. 5-6, available at http://www.nativeamericanbar.org/wp-content/uploads/2014/01/2015-02-11-NNABA_execSummary_6.pdf

³³ See, “MAIBA History” under “Membership Category,” available at <http://maiba.org/about/>

³⁴ <http://www.calindianlaw.org/our-mission.html>

CILA is dedicated to enhancing the legal profession and tribal justice systems in California by promoting professional growth, high standards of professional competence and ethical conduct. CILA seeks to provide quality educational programs to Indian law practitioners, tribal justice personnel, law students and the public. The organization also works to promote the study of Indian law and related topics in public and higher education and to provide guidance and assistance, through mentoring, scholarships and other activities, to Native American students in their pursuit of law studies and the legal profession. CILA strives to promote the sound administration of justice to advance the status of Indian tribes and American people in the law. CILA is dedicated to helping Indian tribes in California achieve self-determination, self-sufficiency and to protect tribal sovereignty.

Essentially, then, tribal bar associations have an important role to play in addressing the stated challenges Native American attorneys face. The bar associations offer a vehicle to advance the Native American attorney cause in particular and Indian Country challenges in general since the associations help create and leverage collegiality and camaraderie, while promoting professionalism and discipline, and attending to uniquely Indian Country issues.

In addition to the foregoing, tribal bar associations have an important role to play under the prevailing Tribal Law and Order Act of 2010 (TLOA) environment. Subtitle B of the TLOA covers criminal jurisdiction and increased sentencing authority for tribal courts, and has six provisions³⁵:

- 1) Concurrent jurisdiction of the federal government and Indian tribes over the prosecution of federal crimes in Indian Country at the request of an Indian tribe, and after consultation with and consent by the Attorney General.
- 2) Cooperation and cross-deputization between tribal, state, and federal law enforcement agencies.
- 3) Tribal courts have authority to punish criminals with up to 3 years in prison or a fine of \$15,000, or both, if the tribe complies with six requirements. For offenses subject to greater than one (1) year imprisonment or a fine greater than \$5,000, a tribe must:
 - a) provide the defendant the right to effective counsel,
 - b) provide an indigent defendant with a licensed attorney at the tribe's expense,

³⁵ Summary of the tribal law and order act of 2010. Available at, <http://outreach.asu.edu/book/resource-guide/summary-tribal-law-and-order-act-2010-tloa>

- c) require that the presiding judge have sufficient legal training and be licensed to practice law,
 - d) make criminal laws and rules available to the public,
 - e) maintain a recording of the trial proceeding, and
 - f) house those convicted in BIA approved jails, federal or state prisons, or in a tribal alternative rehabilitation center.
- 4) Prevents tribes from sentencing a defendant to greater than nine years in prison.
 - 5) Directs the Bureau of Prisons to establish a pilot program in which a limited number of offenders convicted in tribal court can be housed in federal prisons at no cost to the tribe.
 - 6) Creates the Indian Law and Order Commission to study the criminal justice system in Indian Country.

While a welcome development, together these provisions beset tribes with onerous technical and financial responsibilities. Particularly, the requirements to have tribal authorities provide an indigent defendant with “licensed attorney at the tribe’s expense” and to ensure a presiding judge has “sufficient legal training” and is “ licensed to practice law” make for unfunded mandate by the federal government. Additionally, the licensure requirement raises questions about the source, cost and terms of licensure. For instance, should a state bar, tribal bar, or both license attorneys and judges?

Nonetheless, this situation provides an opportunity for tribes to protect their sovereignty. Since the law is vague as to licensure and training, tribes could institute a tribal bar association to license attorneys and judges according to their national need while fulfilling the TLOA requirement. The bar association created would likely be a mandatory bar since it would need to tie practice in the jurisdiction to licensure.

How to Start a Tribal Bar Association

The mission or end envisioned drives the decision to start up a tribal bar association. If the goal is to have a tribal bar that regulates the practice of law and is responsible for attorney admission, oversee discipline and allied matters, then a mandatory or unified bar is intended. But if the goal is primarily to advance common interests of attorneys and legal practitioners and especially if attorney practice, regulation, discipline, and admission are not contemplated as primary responsibility, a voluntary bar would be ideal.

A. Formation of Mandatory Tribal Bar

Generally, mandatory bars come into existence following the enactment of an enabling statute or court rule. In a tribal setting, typically the tribal council prescribes the process or requirements through code or enables the highest court to do so through court rule. Chapter 45³⁶ of the Oglala Sioux Tribe Law and Order Code provides an example. It offers a detailed prescription of the mission, nature, structure and governance of the tribal bar association:

SECTION 1. Establishment.

The Oglala Sioux Tribal Council hereby establishes the Oglala Sioux Tribal Bar Association for the purposes and responsibilities stated herein. The Oglala-Sioux Tribal Bar Association, hereinafter the Tribal Bar, is hereby created, established and constituted by law as a public association.

SECTION 2. Purpose.

The [purpose of the] Oglala Sioux Tribal Bar shall be to regulate the conduct of all practicing attorneys before the Oglala Sioux Tribal Courts in the administration of justice

³⁶ Chapter 45, Oglala Sioux Tribal Bar Association, Oglala Sioux Tribe: Law and Order Code, available at http://www.narf.org/nill/codes/oglaala_sioux/chapter45-bar.html

and in maintaining a high standard of professional conduct at the Bar, to uphold the honor of the profession of the law, and to encourage adequate preparation for its practice before the Court of the Oglala Sioux Tribe.

SECTION 3. Authorization.

The Tribal Bar is authorized and shall have the power to enact bylaws and rules of practice not inconsistent with tribal law, as may be deemed necessary for tribal bar government, including the establishment of an annual membership fee. However, no such bylaws or rules of practice shall become effective until recommended for approval by the Supreme Court of the Oglala Sioux Nation and adopted by the Oglala Sioux Tribal Council.

The Tribal Bar shall have the power from time to time, subject to the approval of the Supreme Court to formulate rules of professional conduct of all its members.

SECTION 4. By-laws, Rules and Regulations.

The-by-laws, rules and regulations adopted by the Tribal Bar and approved by the Supreme Court and which may be hereafter adopted and approved as provided by law, or the willful violation of any such by-law, rule or regulation .by any member of the Tribal Bar shall constitute sufficient grounds for the discipline of such member before the Tribal Bar and Supreme Court.

SECTION 5. Clerk of the Supreme Court.

The Clerk of the Supreme Court shall be the secretary to and maintain the records of the Tribal Bar and shall maintain a list of all active members of the Bar in good standing, and for the collection and maintenance of fees thereof. Said lists shall be provided on the first day of each month.

SECTION 6. Attorney admitted to practice law.

Any attorney admitted to practice law before the Courts of the Oglala Sioux Tribe and any attorney specifically admitted by the Oglala Sioux Tribal Courts for a particular purpose or proceeding is subject to the exclusive disciplinary jurisdiction of the Supreme Court and the disciplinary Board of the Tribal Bar.

SECTION 7. Attorney list.

The Supreme Court shall have sole power to strike from the list of attorneys licensed to practice before the Courts of the Oglala Sioux Tribe the name of any attorney and counselor at law and to revoke their license or to suspend such attorney from the practice for such time as shall deem just for cause shown.

SECTION 8. Contempt.

Nothing contained in this chapter shall be construed to deny to any Oglala Sioux Tribal Court such powers as are necessary for that Court to maintain control over proceedings conducted before it, such as the power of contempt.

SECTION 9. Interim Board of Commissioners.

An Interim Board of Commissioners, Oglala Sioux Tribal Bar Association, composed of five (5) members shall be appointed by the Judiciary Committee. A minimum of three such members shall possess Juris Doctorate degrees. The chairman of the Interim Commissioners shall be selected from within the Board. The Judiciary Committee shall work with said Board.

The Interim Commission shall present to the Oglala Sioux Tribal Council for approval by-laws, rules and regulations governing the Tribal Bar Association.

The provisions of the code/court rule guide mandatory bars in establishing policies, structure, and practices. The provisions of the Navajo Nation Bar Association's (NNBA) bylaws³⁷ show one way the bar association could undertake this. Its ten articles cover: membership, fees, pro hac vice admissions, qualifications for admissions, bar examination, requirements for admission, officers, board of bar admissions, committees, and amendments.³⁸

In terms of membership and qualifications for membership, the bylaws itemize seven³⁹ requirements that must be met to become a member of the NNBA. And, although the bylaws

³⁷ Bylaws, <http://navajolaw.org/New2008/bylaws.htm>

³⁸ Id.

³⁹ Id.

- A. Achieve a passing score on the NNBA Bar Examination;
- B. Provide updated or additional application information, including background information and consent for a background check, as required by the Admissions Committee;
- C. If permitted to take the NNBA Bar Examination pursuant to Section IV.B, then provide proof of admission to practice in any state;
- D. Provide proof of residence within, or employment by an organization having a place of business within, the states of Arizona, Colorado, New Mexico, or Utah;
- E. Complete an NNBA-approved course in Navajo law, culture, traditions, and history, prior to or subsequent to the Bar Examination, which course must have been completed within five (5) years prior to admission;
- F. Execute a written pledge that the applicant, if admitted to the privileges of membership, shall at all times comply with the pro bono requirements of the Courts of the Navajo Nation; and

provide four classes of membership, only “regular members” are considered active members of the bar association.⁴⁰ And only “regular members in good standing may appear in the Courts of the Navajo Nation or before any quasi-judicial, administrative or legislative body of the Navajo Nation, or otherwise engage in the practice of law within the Navajo Nation.”⁴¹ Additionally, only regular members may be voting members.⁴²

To write the NNBA bar examination, three separate requirements apply.⁴³ The first set applies to all applicants; the second to persons who are not enrolled members of any Indian tribe; and the third to persons who are enrolled members of any Indian tribe.

The Cherokee Nation Bar Association bylaws⁴⁴ present another example of how a mandatory tribal bar associations may organize.

B. Formation of Voluntary Tribal Bar

A voluntary bar’s existence follows a different arc. Like-minded private individuals, typically attorneys, start or organize the bar based on jurisdiction-dependent incorporation processes and procedures. The organizers’ hands are not forced by a prescriptive enabling statute or court rule. The organizers get to determine entity formation matters such as mission, business

G. Be admitted by Order of the Supreme Court of the Navajo Nation, upon the filing of a Petition by the NNBA, within five (5) years of passing the NNBA Bar Examination.

⁴⁰ Id.

⁴¹ Id.

⁴² Id.

⁴³ Id.

⁴⁴Rule 140, Cherokee Nation Bar Association By-Laws, available at,

http://www.cherokeecourts.org/Portals/73/Documents/Supreme_Court/Opinions/AD%20Orders/SC-AD-15-01%20CNBA%20By-laws.pdf

name, governance, structure, and membership in line with the jurisdiction's general incorporation laws. Typically, the bar centers its work on networking and professional development, aid and assistance, and public service.

The Minnesota American Indian Bar Association (MAIBA) provides an example of how a voluntary tribal bar organizes. MAIBA is organized as “a non-profit organization of American Indian attorneys, law students, and officers of tribal courts.”⁴⁵ The organization's bylaws⁴⁶ spell out matters such as the organization's mission statements, name, membership, dues, and governance. Unlike the Oglala Sioux Tribal Bar Association or the Cherokee Nation Bar Association, MAIBA does not regulate the conduct of attorneys; neither does MAIBA concern itself with discipline. MAIBA's mission is to promote unity, cooperation, and the interchange of ideas among persons associated with Indian law; promote the education of the public in regards to the legal issues affecting Indian people and Tribal governments; and to promote justice and the effective legal representation of all Indian people.⁴⁷

The Native American Bar Association of D.C. is another example of a voluntary bar association. The bar association works to promote “the educational and professional advancement of Native American attorneys;” “provide community outreach and education about legal rights of Native Americans, their Communities and Tribes;” and “to promote the cultural heritage of Native Americans and their Communities and Tribes.”⁴⁸

⁴⁵ What is MAIBA, <http://maiba.org/about/>

⁴⁶ <http://maiba.org/wp-content/uploads/2013/10/MAIBABylaws.pdf>

⁴⁷ Mission Statement. <http://maiba.org/about/>

⁴⁸ “About,” available at, <http://nabadc.com/about/>

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