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ABA Model Sustainability Policy and Implementation Guidelines
For Law Organizations

(Note: The views expressed herein have not been approved by the House of Delegates of the Board of Governors of the American Bar Association and, accordingly, should not be construed as representing the policy of the American Bar Association. This document has been approved by the ABA Section of Environment, Energy and Resources (SEER) and is supported by the ABA Standing Committee on Environment Law as well as the Law Practice Management Section.)

Overview of Contents

This Model Sustainability Policy and Implementation Guideline can be found on the ABA Web site at <http://www.abanet.org/envIRON/committees/climatechange/>. This tool shows how sustainable development relates to lawyers and their individual firms, corporate law departments, and other law organizations (“firms”). It is designed to allow such entities to demonstrate in a meaningful way what they are doing to be good organizational citizens in fulfilling the economic, social and environmental responsibilities that sustainability entails.

The policy tool is designed for flexible use. Firms and other law organizations desiring to adopt a public policy on only environmental or social aspects of sustainability may find those parts of the tool useful for that purpose. Other firms, such as the dozen that have already piloted the model policy, may want to embrace sustainability’s full *Triple Bottom Line* of economic, social and environmental responsibility. Starting in September 2009, firms that declare support for the broad concept of economic, social and environmental responsibility substantially as outlined in the model policy will be publicly recognized as *Law Sustainability Supporters* on SEER’s website. Supporters need not commit to developing an implementation plan or reporting progress. Firms will be recognized as *Law Sustainability Leaders* if they (1) adopt their own Triple Bottom Line policy substantially similar to the model; (2) develop a plan for improving performance under their policy; and (3) commit to report their progress via the web or otherwise at least every two years after committing to leadership status. The reporting requirement may be addressed in many ways, including through an ongoing link from SEER’s website to the firm’s own periodically updated website where information on its sustainability program is provided. In any event, information about each Leader’s programs will be posted on the SEER website.

This tool contains the following parts:

- A. Background; Frequently Asked Questions.** This provides background information on the sustainability concept, on why and how this initiative was developed, and on how it relates to other ABA initiatives.
- B. Model Sustainability Policy.** This is a one-page policy that covers the economic, social and environmental elements that law firms have found practical and many firms are already following. It was based on the elements of sustainability now embraced by leading corporations, non-governmental organizations and standards-setting bodies. The intention is that the model be adjusted by each endorsing law organization, producing a version of a commitment to sustainability’s Triple Bottom Line of economic, social and environmental responsibility that best fits the organization’s own location, structure, nature, values and culture.
- C. Implementation Guidelines.** The Guidelines provide suggestions on how a firm might use the policy and make it an effective instrument for driving constructive change within the organization. Special guidance is provided on how the approach may be simplified for sole practitioners. In order to qualify as a Law Sustainability Leader under this program, a firm must develop its own plan for implementing its sustainability policy. The resources mentioned in the References section of this document can be used to help identify measures to be taken by these leaders. They should also prove helpful for supporters and others interested in improving certain aspects of their sustainability performance. Among the more useful tools cited are those developed by various ABA sections; bar organizations from

California, Oregon and Massachusetts; and the cities of Philadelphia and San Francisco. In addition, a document entitled *Shared Ideas for Implementing the ABA Model Sustainability Policy* (“Shared Ideas for Implementation”) is provided on the SEER website. This posting is a periodically updated collection of practices used by various law firms and other service-type organizations to fulfill their economic, social and environmental responsibilities. Bear in mind some listed practices will likely be inappropriate for some firms, and none of the practices are required to be included in the plan. The purpose of the list is simply to stimulate ideas. Each law organization should implement its sustainability policy in a practical way, in a way that is most suitable to its resources, location, structure, values, culture, and nature of operations, and services.

- D. References.** This is provided to help those who seek more insight and help on various sustainability topics related to the practice of law. It mentions other ABA tools and groups, those from a number of state bar organizations, as well as other resources.

A. Background: Frequently Asked Questions

1. Why should a law firm or other law organization adopt the model sustainability policy initiative, especially during tough economic times?

As further explained in the answer to question 6, below, sustainability entails the balance of economic, social and environmental responsibility. It reminds us that in tough economic times, we have a responsibility to sustain the financial viability of our law organization while doing what we can to demonstrate social and environmental actions that help fulfill the expectations of our stakeholders—our partners, employees, clients, suppliers, communities, governments, and others. Indeed, during periods of economic stress, a number of sustainability issues become of paramount importance, such as employee relations, ethical compliance, waste and cost reduction (such as through energy conservation, paper savings, e-communications in lieu of travel, etc.), assistance for the unfortunate, and the counseling of clients on all these matters. As reported in the *Wall Street Journal* (Mar.20, 2009), some major firms are coping with a drop-off of business by paying their lawyers a reduced salary to perform public service.

Whether in good times or bad, the adoption and implementation of the policy should not only strengthen a firm’s reputation or “brand,” but its efficiency, productivity and employee recruitment and retention. It will more closely align the firm with the growing legions of current and potential clients who are now embracing the Triple Bottom Line of sustainability. Such alignment should enable the firm to better understand and reflect the values of such clients and provide more effective counsel. Moreover, the tool should improve the firm’s appreciation for the critical social, environmental and economic issues that lie ahead for society as a whole, and ultimately, for its clients and itself. Finally, the adoption and implementation of the policy by many ABA members should show others that the association, which has long supported sustainability, is willing to “walk the talk” and enhance the reputation of the US legal profession as a responsible, caring contributor to the public good.

2. Why is the ABA involved in this initiative?

Sustainability is not new to the ABA. As far back as 1992, the association made a commitment to sustainable development, reaffirming that commitment in a formal resolution adopted in August 2003. A year before the resolution, ABA President Robert Hirshon wrote Secretary of State Colin Powell expressing the ABA’s desire that the US support the ideas of domestic good governance and the application of the rule of law in negotiations at the then-upcoming World Summit on Sustainable Development in Johannesburg. Indeed, as noted in the report supporting the 2003 resolution:

“Laws and effective governance are central to sustainable development. Because governance is based largely on law, sustainable development raises profound challenges—and opportunities—for the rule of law and for lawyers.”

The report went on to say:

“Applying sustainable development from a legal perspective means understanding, developing, and applying legal mechanisms that are relevant to the complex relationships among economic, social, and environmental priorities. This suggests a cross sectional approach...that integrates a variety of legal specialties, including environmental, labor, property, tax, corporate, finance, international trade, and risk management.”

The model sustainability policy offers firms a way to reflect the ABA’s commitment to sustainability in their own operations—to “walk the talk.” In so doing, endorsing firms will no doubt be drawing on and showcasing a range of ABA initiatives and policies they are using, such as those dealing with the environment, diversity, pro-bono services, and ethics.

3. My law firm would like to adopt the model sustainability policy program. What do we have to do?

Starting in September 2009, firms that declare support for the broad concept of economic, social and environmental responsibility substantially as outlined in the model policy, and communicate that to SEER’s Committee on Climate Change, Sustainable Development and Ecosystems (CCSDE) will be listed on SEER’s website as *Law Sustainability Supporters*. Supporters need not commit to developing an implementation plan or reporting progress. Firms will be recognized as *Law Sustainability Leaders* if they (1) adopt their own Triple Bottom Line policy substantially similar to the model; (2) develop a plan for improving performance under their policy; and (3) commit to report their progress via the web or otherwise at least every two years after committing to leadership status. The reporting requirement may be addressed in many ways, including through an ongoing link from SEER’s website to the firm’s own periodically updated website where information on its sustainability program is provided. In any event, information about each Leader’s programs will be posted on the SEER website.

4. Why was the model sustainability policy program developed?

The policy initiative was developed to give practical effect to the resolutions on sustainability previously adopted by the ABA and to show that the legal profession was willing to share leadership in the march toward sustainability with corporations, NGOs, governments and other sectors of society that have already embraced the Triple Bottom Line of economic, social and environmental responsibility. It responded to law firms that wanted a vehicle by which they could demonstrate their commitment to sustainability to their corporate clients and communities.

5. How was the sustainability policy initiative developed? Who was involved?

The model policy and guidelines were developed by SEER’s CCSDE Committee working for two years with a special team of ABA members from over 20 firms; with the SEER Council, the Law Practice Management Section and the Standing Committee on Environmental Law (SCEL); and with numerous other groups within the ABA. Sustainability practices tools developed by bar organizations in California, Oregon, and Massachusetts and the cities of Philadelphia and San Francisco are cited in the References section.

As a starting point, the CCSDE group used another model sustainability policy, one accepted by 16 major companies in a study commissioned by The Conference Board, a leading US business association. (See The Conference Board, *Going Green: Corporate Commitment to Citizenship and Sustainability Issues Takes on a Greater Role*, Executive Action Series no. 260, p. 7). That model was modified by the working team through nine rounds of comments and revisions to make it suitable for law organizations.

The tool was vetted through an extensive review process, which included ongoing oversight and support by the SEER Council and SCEL and review at three SEER section meetings. In addition, the document was distributed

for comment to the state bar associations and a broad range of ABA groups, including those involved with ethics, labor, diversity, pro bono legal services, students, young lawyers, and women. The following law firms piloted the tool:

- Ballard Spahr Andrews & Ingersoll, LLP
- Berg Hill Greenleaf & Ruscitti LLP
- Giarmarco, Mullins & Horton
- Holland + Knight
- Levenfeld Pearlstein, LLC
- Manko, Gold, Katcher & Fox, LLP
- McMahon DeGulis, LLP
- Robinson & Cole LLP
- Porter Wright Morris & Arthur LLP
- Schwabe Williamson & Wyatt
- Sonnenschein Nath & Rosenthal, LLP
- Nixon Peabody LLP

Many of these firms shared their progress and lessons at a workshop in Chicago in April 2008, and their feedback prompted further improvements to the tool.

6. I thought sustainability was about environmental issues. If so, why does this initiative also cover matters related to economic, staff, community, philanthropic and ethical topics?

Environmental responsibility is just one aspect of sustainability as it applies to organizations, the other being social and economic. Together, these three aspects are commonly referred to as the “Triple Bottom Line” of organizational responsibility. Philanthropic initiatives, employee safety and development, diversity, legal and ethical compliance and other topics covered by the model policy for law organizations are consistent with the scope of sustainability as covered by the Global Reporting Initiative’s Sustainability Reporting Guidelines, currently used by three-fourths of the world’s largest companies as the framework for their public sustainability reports. (Such reporting by the 100 top US companies has doubled from 37 % in 2005 to 74% in 2008.) The social and environmental content of the model policy are also consistent with the topics addressed in the new ISO 26000 guideline standard on social responsibility due out in 2010, which is intended to apply to organizations of all types and sizes. As noted above, the model policy also very closely tracks one that was accepted by 16 leading North American companies as a reflection of the scope of organizational sustainability.

Moreover, the scope of the model policy is consistent with the vision of sustainable development already acknowledged by the House of Delegates (HOD) of the ABA. In its 2003 resolution on sustainable development, the HOD adopted “the internationally accepted concept of sustainable development, as recognized at the United Nations Conference on Environment and Development in 1992 and subsequent international conferences: simultaneous achievement of environmental protection, economic development, social development, and peace, for present and future generations.”

7. How does this initiative relate to other ABA environmental and social programs concerning law firm practices, such as the Climate Challenge, and ABA’s pro bono, ethical and diversity programs?

The model sustainability policy and guidelines (“policy tool”) serves as an umbrella which can sweep in many other ABA groups and initiatives. For example, a number of firms that piloted the model policy are using the ABA-EPA Climate Challenge initiative, which was endorsed by the ABA House of Delegates in its February 2009 resolution, to help address their commitment to environmental responsibility. The policy tool is also intended to be consistent with and support the ABA’s initiatives on diversity, pro bono legal services, business development, and professional responsibility, among other areas. It can serve as a vehicle through which firms can showcase their work in these many

areas. See the section on References, below, which provides further information on these other ABA programs and groups.

8. If my firm adopts the model policy tool, will we be expected to make changes in it if the tool later changes?

Given the extensive review process that led to the development of the policy tool, it is not anticipated that the tool will change in any significant way in the future. Of course, new ideas for implementation will be added as firms and ABA and state bar groups contribute them. In any event, firms designated as sustainability leaders are not expected to adopt the policy verbatim or to absolutely adhere to the guidelines, and therefore will not lose their status even if adjustments are made to the tool later. Nor will supporters be affected by any changes.
