



THE STATE BAR OF CALIFORNIA

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To: Members, Board Committee on Member Involvement Relations and Services Committee (MIRS)

From: Karen Hagelund, Appointments Administrator

Re: Description of the MIRS Annual Appointment Process

BACKGROUND

This year, the Board has charged the Board Committee on Member Involvement Relations and Services (MIRS) with the review of the non-disciplinary appointment recommendations for all State Bar sub-entities and external groups (55+ entities).

The appointment process is cyclical, with the board review determined by the dates that the appointment terms end and the board's meeting schedule. Most appointments must be made between March and July, and therefore, the bulk of the MIRS appointment review will be at this time.

Except for outreach issues and policy discussions, the appointment issues for MIRS will be conducted in closed session. Only the Board of Governors is authorized to make the appointments, and every appointment is confidential until the full Board makes the appointment. In addition, the fact that someone applied for appointment is confidential. Information concerning applications is released only to those involved in the appointment process such as board members and authorized committee members and staff.

State Bar committee appointments are governed by the Board's appointment policies and procedures (found in the Board Book at Tab 15) and by statutory provisions. The appointments to external groups are governed by the policies of the external organization and by Board policy.

Attached are the list of State Bar and external entities (Attachment 1), and the schedule for the coming year (Attachment 2).

TYPES OF APPOINTMENTS

A. Interim Appointments

Interim appointments are appointments to fill unexpected mid-year vacancies and they differ from regular appointments in that the terms become effective immediately and retain the original expiration dates of the members being replaced (i.e., those appointed to these positions fill only the remaining portion of the term). The vacancies are generally due to members who've resigned or declined an appointment.

Each year, approximately 6% of the State Bar committee members are unable to continue to serve or to make the time commitment because of a change in job or personal circumstances. Depending on the specific circumstances, for these appointments, Board policy permits committees to recommend an applicant from the most recent applicant pool or a newly recruited applicant. Applicants filling unexpired terms of one year or less are eligible for reappointment to a full three-year term.

Interim appointments are considered on the consent agenda unless there is a policy issue or a previous board committee ranking to consider, or if a board committee member requests discussion of the item. Interim appointments occur throughout the year, but the most appear on the November, January, and March agendas.

B. Annual Appointments to Standing, Special and Section Executive Committees

February 1, 2010 is the application deadline for most standing, special and section executive committees. All applications and letters of recommendation must be submitted to the Appointments Office for processing. The applications, instructions and policies are distributed to the individual committees no later than March 1.

For most committees, either the committee's leadership and/or a nominating sub-committee initially review the applications. The committees review all aspects of the application, weighing the qualifications of the applicant, the letters of recommendation, the committee's requirements and needs for the coming year, and the Board's policies regarding appointment.

By mid-April, each committee chair submits a ranking of the new applicant pool and a letter to MIRS describing the committee's nominations for officers, reappointments (if any), and new members. Upon receipt of the committee's recommendation, staff reviews the nominations for potential policy conflicts (e.g., same firm, prior service, discipline, or nomination to more than one committee).

Unless there is a policy issue or a request from a MIRS member to discuss a particular committee's recommendations, all annual committee recommendations are placed on the MIRS Closed Consent agenda.

C. Annual Appointments Requiring Application Ranking by MIRS Members

Pursuant to historical practice and the Board's adopted procedures, MIRS reviews and ranks applicants for the following entities:

State Bar entities

1. Committee of Bar Examiners (CBE)
2. Commission on Judicial Nominees Evaluation (JNE)
3. JNE Review Committee (RJNE)
4. Lawyer Assistance Program (LAP) Oversight Committee

External entities

5. ABA House of Delegates
6. Judicial Council

MIRS members typically have two-three weeks after receiving the applications to review and rank the applications for the above entities. The rankings are submitted to the Appointments Office and then compiled for discussion and final action at the next MIRS meeting.

In addition, for the State Bar committees (CBE, JNE, and LAP), prior to the MIRS meeting, the MIRS subcommittee may schedule its interviews of the chair and vice chair candidates, preferably in conjunction with a committee meeting.

1. *CBE*: CBE reviews the applications and submits its written recommendation to MIRS. MIRS members review CBE's written recommendation and rank the applications, usually between the May and July meetings, with final action taken at the July meeting. The number of CBE vacancies varies between one and three seats each year. The officer interviews, if needed, are generally conducted at CBE's June or July meeting. The CBE chair sits as a member of the MIRS interview subcommittee.
2. *JNE*: The application deadline for JNE is June 1, 2010. JNE terms are one year and the members typically serve three one-year terms. Each year the applicant pool consists of approximately 20-25 commissioners up for reappointment and 30-50 new applicants. Depending on the number of reappointments, there are approximately 10-15 positions for new members. In addition to the applications, MIRS members receive a written recommendation and ranking from the JNE leadership. Historically, the board committee has required one or more hours to select the final JNE slate. Therefore, an additional meeting usually is scheduled in either June or July for the JNE appointments. The JNE leadership is invited to this meeting to participate in the discussion.
3. *JNE Review Committee (RJNE)*: The JNE rules provide for the appointment of a three-member Review Committee (RJNE) to review requests for reconsideration of the JNE Commission rating of "not qualified." RJNE consists of three

members: one former attorney member of the JNE Commission, one former public member of the JNE Commission, and one Board member who must also be a current liaison to the JNE Commission. The committee focuses its investigation on possible violations of the rules of procedures; the committee does not evaluate the qualifications of the candidate. Members serve staggered three-year terms, and each serves as the RJNE Chair in his/her third year. In 2010, there will be a public member vacancy and the Board liaison seat will also be open. MIRS members will rank the public member applications. All appointments (chair, public member and Board member) are made at the July meeting.

4. *LAP*: The LAP terms are set by statute. Members serve four-year renewable terms and all terms expire on December 31. Because the committee membership must meet specific criteria set by statute and because of the extensive learning curve, members usually serve multiple terms. The State Bar appoints six of the 12 members, the Governor appoints four members and the Senate Rules Committee and the Assembly Speaker each appoint a member.

Generally, there are one or two renewal appointments each year, and on average, every two years, MIRS members will have new applications to review and rank. For the officers, MIRS appoints a subcommittee to conduct interviews. However, if there is only one candidate for chair or vice chair, the interviews may be waived.

In 2010, the terms of two LAP members expire. The positions are to be filled by: 1) a licensed mental health professional with knowledge and expertise in identification/treatment of substance abuse and mental illness; or 2) a member of the board of directors of a statewide nonprofit organization established for the purpose of assisting lawyers with alcohol or substance abuse problems, which has been in continuous operation for a minimum of five years (i.e., The Other Bar). The two incumbents are eligible for renewal appointment. The application deadline is June 1, 2010.

5. *ABA House of Delegates*: ABA and Board policies govern these appointments. The application deadline for the annual appointments to the ABA is February 1, 2010. The terms of six delegates expire in 2010, and pursuant to board policy, three of these six delegates are eligible for reappointment. The ABA House of Delegates is the policy-making body of the ABA, and pursuant to its rules, the State Bar appoints 11 delegates. The State Bar's delegates to the California delegation, which consists of approximately 24 other delegates appointed by ten local bar associations, ABA sections and divisions, and former officers and board members. The elected State Delegate, John L. McDonnell, Jr. of Oakland, currently heads the California delegation. The Bar does not reimburse its delegates for any expenses associated with their service in the ABA House of Delegates.

All applications typically are made available to MIRS members by mid-February, and members have approximately two-three weeks to review and rank the

applicants. MIRS is scheduled to discuss the rankings and make its final selection at the March meeting.

6. *Judicial Council:* The Judicial Council is a state constitutional agency that provides policy direction to the courts, the Governor, and the Legislature concerning court practice, procedure and administration. The council consists of 27 members— four lawyer members appointed by the State Bar, the Chief Justice, fourteen judges appointed by the Chief Justice, one member from each house of the Legislature, and six advisory members, including representatives of the California Judges Association and state court administrative agencies. The four current State Bar's appointments to the Council are: Tony Capozzi, Joel Miliband, Jim Penrod, and Miriam Krinsky.

The application deadline for the Judicial Council is February 1, 2010. In 2010 the State Bar will have one appointment to make (replacing Mr. Capozzi). The applications will be made available to MIRS members, along with the ABA applications, and members will have approximately two-three weeks to review and rank the applications. MIRS is scheduled to discuss the rankings and make its final recommendation at the March meeting.

D. Other Appointments

Fee Arbitration Panel and Presiding Arbitrator. Each year MIRS also considers the appointments and reappointments to the Bar's fee arbitration panel, including the Presiding Arbitrator. The fee arbitration panel consists of approximately 450-500 volunteer lawyer and non-lawyer arbitrators. The arbitrators serve one-year terms, ending December 31st, and are annually reappointed at the November or December meeting. Arbitrators may serve as long as they meet the qualifications. The Committee on Mandatory Fee Arbitration recruits volunteers for the panel throughout the year, and a few new appointments generally are made at every Board meeting.

External Entities. MIRS also monitors the annual or bi-annual appointment recommendations for certain external organizations whose bylaws or rules require that the State Bar appoint one or more of its members. The appointments to these groups are governed by the by-laws and policies of the external organization. The external entities include:

- California Bar Foundation Board of Directors
- CaliforniaALL Board of Directors
- Center for Civic Education Board of Directors
- Law School Council
- Legal Services Corporation (LSC) Boards of Directors of five entities:
 1. California Indian Legal Services (CILS)
 2. California Rural Legal Assistance (CRLA)
 3. Legal Aid Foundation of Los Angeles (LAFLA)
 4. Legal Aid Society of Orange County (LASOC)
 5. Legal Services of Northern California (LSNC)