

AGENDA ITEM

A&E III B. JULY 2016

DATE: July 21, 2016
TO: Members, Admissions and Education Committee
FROM: Elizabeth R. Parker, Executive Director
SUBJECT: TFARR Pro Bono Practice Requirement

EXECUTIVE SUMMARY

Concurrent with staff efforts to modify Task Force on Admissions Regulation Reform (TFAAR) II recommendations based on a Board of Trustee directive to reassess those recommendations' fiscal and human resource implications, Senator Marty Block introduced Senate Bill 1257 (SB1257), legislation that would codify a 50 hour pro bono admissions requirement.

If the legislation passes and is signed by the Governor, it would be applicable to all applicants who enter law school on or after January 1, 2018. It would become a statutorily mandated pro bono program for the State Bar to implement. Given that SB 1257 is consistent with both the intent and spirit of the original TFARR recommendations, staff recommends Board approval of a pro bono admissions requirement that matches the provisions of SB 1257.

Staff does not recommend pursuing a parallel or potentially conflicting alternative set of pro bono admissions requirements.

BACKGROUND and DISCUSSION: PRO BONO PRACTICE REQUIREMENT

Original TFAAR II Approach: Prior to admission or by the end of one year following admission, each new admittee must devote at least 50 hours of legal services to pro bono or modest means clients.

SB 1257 Approach: This bill mirrors TFARR recommendations in many ways; noted below are key statutory provisions with TFARR distinctions highlighted where relevant:

- 1) establishes a new admissions requirement mandating 50 hours of supervised pro bono legal service designed "to supplement the applicant's legal education with practical legal work experience;"
- 2) allows for pro bono service in a wide variety of contexts within or outside of California including legal aid organizations; nonprofits; and charitable, civic, community, governmental, or educational organizations;
- 3) requires applicants to certify compliance through submission of a form signed by the applicant and the supervising attorney;

- 4) does not apply to LLM students or applicants who already are admitted to practice in another jurisdiction;
- 5) requires completion prior to admission (the original TFARR proposal allowed for completion through the end of the first year of practice);
- 6) is limited to uncompensated work (the original TFARR proposal allowed reduced-fee legal services as well as pro bono services);
- 7) exempts all out-of-state attorneys without regard to their years of practice (the original TFARR exemption was for out-of-state attorneys who had been admitted and active for four or more years immediately preceding application);
- 8) does not include any exemptions or modifications for individuals who do not fulfill the requirement (the original TFARR proposal allowed applicants to apply for good cause modification of the requirement);
- 9) requires law schools and the State Bar to post information about the requirements and pro bono opportunities on their web sites; and
- 10) includes an explicit requirement for the State Bar to conduct random compliance audits.

A side-by-side comparison of TFARR and SB 1257 is provided as an attachment to this memorandum, as is the legislation itself.

SB 1257 has passed both the Assembly and Senate Judiciary committees. According to the Assembly Judiciary legislative analysis, the bill is supported by the Conference of California Bar Associations, Monterey College of Law, the American Civil Liberties Union of California, and has no opposition on file. The legislative analysis notes that former members of the TFARR provided valuable input on the bill, resulting in more flexible provisions.

If the legislation passes and is signed by the Governor, it would be applicable to all applicants who enter law school on or after January 1, 2018. It would become a statutorily mandated pro bono program for the State Bar to implement. Given that SB 1257 is consistent with both the intent and spirit of the original TFARR recommendations, staff recommends Board approval of a pro bono admissions requirement that matches the provisions of SB 1257.

Staff does not recommend pursuing a parallel or potentially conflicting alternative set of pro bono admissions requirements. If, however, SB 1257 does not become law, a modified TFARR proposal for a 50-hour pro bono admissions requirement would be placed before the Board for further consideration.

FISCAL/PERSONNEL IMPACT

Staffing and information technology resources will be required to develop and implement a system for tracking and auditing this new admissions requirement. Total estimated ongoing costs range from \$350,000 to \$700,000, depending on the nature of the audit function; given that at this time only a limited scope audit is contemplated, the lower-end estimate is likely more reasonable. Estimated costs include one-time and on-going expenses as follows:

Category	One-Time	Ongoing
Software for Online Submission	\$50,000	
Permanent Staff @ 2 FTEs ¹		\$250,000
Temporary Staff ²		\$150,000

RULE AMENDMENTS

None at this time. If SB 1257 becomes law, new Admissions rules and guidelines will be drafted and presented to the Board Committee with a recommendation that they be circulated for a public comment period prior to adoption.

BOARD BOOK IMPACT

None

BOARD GOALS & OBJECTIVES

Goal 1.e.: *Expediently refine, adopt and implement phased-in and/or modified Task Force on Admissions Regulation Reform recommendations.*

BOARD COMMITTEE RECOMMENDATIONS

RESOLVED, that the Admissions and Education Committee recommends that staff is directed to monitor the progress of SB 1257. In the event the legislation passes and is signed in to law, staff is directed to prepare an implementation plan within 180 days of the law's enactment.

FURTHER RESOLVED, that In the event the legislation does not become law, staff is directed to pursue an alternate path towards a pro bono admissions requirement that incorporates the provisions of SB 1257 and is consistent with the intentions of the Task Force on Admissions Regulation Reform's proposal regarding a 50 hour pro bono requirement for applicants seeking admission to practice law in California.

ATTACHMENT(S) LIST

- A.** TFARR v. SB 1257 Comparison Chart
- B.** SB 1257

¹ Represents a composite of line staff and supervisors totaling 2 FTE. Assumes one full-time dedicated position and portions of supervisor and additional line staff positions.

² Based on estimates derived from review of annual cost of MCLE audit: 4,000-6,000 members audited annually.