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**Article 1  
GENERAL**

**Section 1 Authority and Duties of Committees: Statement of General Policy**

Committees of the State Bar are subject to the Rules of the State Bar of California, including Rules 6.20 and 6.21.

(Source: Board of Governors' Resolution, September 1972, State Bar Rules 6.20 and 6.21 adopted effective May 16, 2008.)

**Historical Note**

State Bar Rules 6.20 and 6.21 supersede Article XIV of the Rules and Regulations of the State Bar, repealed effective May 16, 2008.

**Section 2 Appointment of Advisors, Ex Officio Members and Consultants**

Unless expressly authorized by the Board of Trustees, advisors, ex officio members and consultants shall not be appointed to State Bar committees.

(Source: Board of Governors' Resolution, September 1981.)

**Section 3 Number of Committees**

The number of committees shall be determined by the work to be done immediately or within the foreseeable future. The determination of the number of committees shall be controlled by the following statement of policy: A committee shall not be created nor continued, or if created or continued, no persons shall be appointed to membership on it, unless at the time of creation, continuance, or appointment there is reasonable certainty that without delay important work will be assigned to it.

(Source: Board of Governors' Resolution, September 1972.)

**Section 4 The Committee Year**

The normal committee year commences with the close of the annual meeting and continues until the close of the annual meeting of the following year.

(Source: Board of Governors' Resolutions, September 1972, July 1986, August 1992.)

**Section 5 Term of Membership**

The terms of office for all members of section executive committees and standing and special committees shall be three (3) years, with terms to be staggered.

Exceptions:

*Committee on Professional Liability Insurance (COPLI)*. Members serve four-year terms and may serve two consecutive four-year terms.

*California Commission on Access to Justice.* Pursuant to board policy adopted September 1996, terms are two years and members may serve two consecutive terms. Officer terms run from January 1, to December 31.

*California Board of Legal Specialization and its Advisory Commissions.* Pursuant to board policy adopted in November 2013, terms are four years.

*Committee of Bar Examiners.* Pursuant to B & P code §6046, the term of office is four years.

*Continuing Education of the Bar (CEB) Governing Committee.* Pursuant to the Agreement between the State Bar and the University of California Continuing Education of the Bar, terms are two years and are renewable.

*Lawyer Assistance Program (LAP) Oversight Committee.* Pursuant to B & P code §6230, terms are four years and are renewable.

*Maximum Term for Chairs, Chairs -Elect and Vice Chairs.* Pursuant to State Bar Rule 3.54 and board policy adopted in July 1989, in order to maximize diversity and participation on section executive committees, it is the policy of the Board of Trustees that executive committee members serve no more than three years, except to permit service as an officer in a fourth year; or Chair, Vice Chair or Chair-elect in a fifth year, or Chair in a sixth year.

*Reappointment of Members Filling Unexpired Vacancies.* Pursuant to board policy adopted April 1993, members appointed to fill unexpired terms of one year or less may be reappointed for a full three-year term. Members appointed to fill unexpired vacancies of more than one year are not eligible for reappointment, except to serve as an officer. This reappointment limitation does not apply to members of the Committee of Bar Examiners, LAP Oversight Committee, California Commission on Access to Justice, California Board of Legal Specialization and its Advisory Commissions, or the CEB Governing Committee.

**(Board of Governors' Resolutions, September 1972, August 1982, July 1986, July 1989, December 1991, April 1993, September 1996; December 2001, July 2004, July 2010, November 2013; Agreement between the State Bar of California and the University of California Continuing Education of the Bar, September 2001; State Bar Rule 3.54 adopted effective May 16, 2008; B & P Code §§6046; 6230 et seq.)**

#### **Historical Note**

State Bar Rule 3.54(A) supersedes Article XIII, § 4B of the Rules and Regulations of the State Bar of California (Sections of the State Bar of California), repealed May 16, 2008.

**Section 6 Missed Meetings**

Any standing committee member who misses more than one-third (1/3) of the regularly scheduled meetings during a committee year, without good cause may be deemed to have resigned. Policies adopted by section executive committees shall prevail.

(Source: Board of Governors' Resolution, July 1986, September 2004.)

**Section 7 Size of Committees**

The membership of each committee shall be limited to the number that will enable it to perform its work promptly and thoroughly. The board, in determining the size of a committee, shall take into consideration (a) the scope, nature, and quantity of work which it must perform; (b) the time within which the work must be performed; and (c) the expense incident to the performance of the work.

(Source: Board of Governors' Resolution, September 1972.)

**Section 8 Reports to the Board**

No committee of the State Bar is authorized to transmit any report by it except to the board.

(Source: Board of Governors' Resolution, September 1972.)

**Section 9 Annual Reports**

- (a) Filing Dates Annual reports are due by January 31, of each year. Any section or committee that has not filed its annual report on or before January 31 shall be prohibited from conducting any business requiring reimbursement from State Bar general or special funds until the annual report has been filed.

(Source: Board of Governors' Resolutions, August 1971, February 1984, July 1986.)

- (b) **Committee and Staff Reports:** Staff will develop plans for State Bar operations as determined and directed by the Executive Director. The Board Planning Program Development and Budget Committee and planning staff are responsible for developing work plan templates and instructions, training materials and other information and tools needed to guide the development of plans.

(Source: Board of Governors' Resolutions, Adoption of Board Planning Policies, August 2002, July 2008.)

**Section 10 Duties of Chairpersons<sup>1</sup>**

The chairperson of each committee (commission and section executive committee) of the State Bar:

- (a) Shall preside at each meeting of the committee or a subcommittee thereof at which he or she is present unless under the rules of parliamentary procedure it is necessary for him or her to leave the chair temporarily.
- (b) To enable the board to coordinate State Bar policy and the valuable work of all nondisciplinary committees, the chairperson of each said committee shall cause to be furnished to Board ~~Operations-Executive~~ Committee of the Board of Trustees and to the San Francisco office of the State Bar a brief statement concerning the subject of any resolution adopted by the committee which, in the opinion of the chairman, provides for action which involves State Bar policy or which is within the scope of State Bar Rules 6.20 and 6.21. When the chairperson rules that a matter shall be referred as per the foregoing, the committee shall take no further action thereon pending instructions from the board.
- (c) Shall administer the general policy of the State Bar with respect to Open/Closed Sessions of the committee as set forth in section 7a of this article.
- (d) Shall administer the general policy of the State Bar that no committee shall transmit any report by it except to the Board of Trustees or as authorized by the board.
- (e) Shall keep the Board and the Director of Sections and Meeting Services and ~~Deputy Executive Director~~ Chief Operating Officer advised of all nondisciplinary matters within its area of expertise undertaken by the committee without prior reference by the board, the Secretary of the State Bar or the legislative representative.
- (f) Shall provide the State Bar office with a copy of all records disclosed in section 7b of this article.

**(Source: Board of Governors' Resolution August 1971, September 1972, January 1989, January 2003, State Bar Rules 6.20 and 6.21 adopted effective May 16, 2008.)**

**Historical Note**

State Bar Rules 6.20 and 6.21 supersede Article XIV of the Rules and Regulations of the State Bar of California, repealed May 16, 2008.

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<sup>1</sup> PHASE I PROPOSED CHANGE: Language revised to update according to current board policy.

**Section 11 Board Referral to Committees**

Each committee to which the board refers a proposal which may ultimately be part of the State Bar's legislative program shall be advised generally in respect of said matters as follows:

- (a) The mere referral does not indicate that the board (1) approves of the underlying policy of the proposal or (2) believes there is a need for the change proposed; and
- (b) The board requests the committee's views concerning:
  - (1) The policy underlying the proposal, the need for the proposed change and, if appropriate, the form or wording of the proposed legislation.
  - (2) The relative importance of the proposal and its priority among other measures, if any, the committee may recommend for inclusion in the legislative program.
  - (3) Whether the proposal should be made a part of a larger study or combined with related proposals as part of a general overhaul of the relevant statutes.
  - (4) Whether there are other organizations, agencies or groups interested in the same subject matter as that proposed; and, if so, whether it would be advisable to refer the proposal to such an organization, agency or group.
  - (5) Whether the proposal pertains to the advancement of the science of jurisprudence or to the improvement of the administration of justice.

If the referred proposal is a resolution of the Conference of Delegates of California Bar Associations (CDCBA) or a report of a committee of the conference, the board requests that the standing committee's report include a statement of specific reasons for any recommendation at variance with the position of the CDCBA.

**(Source: Board of Governors' Resolution, November 1971.)**

**Article 2**  
**THE STANDING COMMITTEE ON PROFESSIONAL RESPONSIBILITY AND CONDUCT**

**Section 1    *Establishment***

The Standing Committee on Professional Responsibility and Conduct (hereinafter "the committee") is the successor to the Committee on Professional Ethics established by resolution of the Board of Trustees of the State Bar of California adopted September 29, 1964. The charge of the Committee on Professional Responsibility and Conduct may be found at [article 11 section 15 of article 4<sup>2</sup>](#) of this chapter.

(Source: Board of Governors' Resolutions, September 1964, July 1979, October 1994, December 2004.)

**Section 2    *Members and Advisors***

- (a) The membership of the committee shall consist of fifteen (15) members (including a chair and vice-chair) and an advisor. Members shall be appointed by the board for a three (3) year term of office. The chair, vice-chair and advisor shall be appointed or reappointed by the Board of Trustees for a one (1) year term of office. The advisor shall be selected from former officers of the committee.
- (b) Each Committee year, the Committee shall select a Nominations Subcommittee. The Subcommittee shall consist of the Chair and Vice-Chair and three other members of the Committee selected by Chair.
  - (1) Any materials submitted by applicants shall be made available for review by Committee members at the offices of the State Bar in Los Angeles and San Francisco at the same time the materials are distributed to the Nominations Subcommittee. Staff shall advise the entire Committee when such materials are available for review. In addition, one set of applicant materials shall be presented to the Committee's membership for review at the first Committee meeting each year which follows the materials' distribution to the Nominations Subcommittee and also at any meeting where nominations are to be discussed.
  - (2) Following any interviews the Subcommittee may conduct, the Subcommittee will rank the applicants in order of preference and shall submit those applicant rankings to the Committee for its consideration at a regularly scheduled meeting or as otherwise directed by the Committee. After considering the Subcommittee's recommendations, the Committee shall rank the applicants in order of preference and

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<sup>2</sup> PHASE I PROPOSED CHANGE: Cite/reference corrected.

submit those rankings to the Board Committee. In evaluating potential members, the Committee uses the following criteria, though no one factor is dispositive: (1) prior experience in the legal ethics field; (2) time and energy to undertake the significant responsibilities of Committee membership; (3) written and oral communication skills; (4) factors lending diversity to the Committee, including diversity based on race, sex, color, national origin and sexual orientation, as well as location and field of practice, years in practice (including status as a California Young Lawyer), and size of firm (if applicable); and (5) prior volunteer experience, particularly involvement in legal and other professional groups. For public members, the Committee values the ability to contribute a client perspective to the committee's deliberations.

- (c) Any member who fails to attend more than one-third of the regularly scheduled meetings during a committee year, without good cause, will be deemed to have resigned. A member is considered to have attended a meeting when the member is physically present for at least two thirds of the actual duration of the meeting, unless excused for good cause. When a member fails timely to complete an assignment for a meeting, without good cause, the member will be deemed to have missed the meeting, given the importance of pre-meeting preparation to the Committee's business. The Chair and Vice-Chair, in consultation with staff and in accordance with State Bar procedures, shall decide jointly whether and when to deem a member to have resigned.

(Source: Board of Governors' Resolutions, July 1979, July 1988, March 1992, October 1994, September 1999, December 2004.)

### **Section 3    Officers**

The officers of the committee shall be the chair and vice-chair appointed or reappointed by the Board of Trustees from the committee.

(Source: Board of Governors' Resolutions, July 1979, March 1992, December 2004.)

### **Section 4    Meetings**

Committee meetings shall be held in northern and southern California on the call of the chair. Subject to budget constraints, no fewer than four (4) meetings shall be held annually. At the discretion of the chair, meetings may be held by video-conference or other real-time electronic means of communication. A quorum shall consist of eight (8) members of the committee. A majority vote of those members voting shall control, except for formal ethics opinions, which require the affirmative vote of a majority of the entire Committee (see section 6(i)).

(Source: Board of Governors' Resolution, July 1979, September 1999, December 2004.)

### **Section 5 Voting**

Each member has one vote. The advisor may not vote but may participate in all of the committee's deliberations. Proxy voting shall not be allowed. Members shall be allowed to vote at a meeting by telephone, if telephone communication is reasonably available. Votes by mail, e-mail or other polling method outside a meeting may be conducted provided that the procedure to be used is either announced in advance at the immediately preceding committee meeting or in writing at least ten business days in advance of the deadline for voting<sup>3</sup>.

(Source: Board of Governors' Resolution, December 2004.)

### **Section 6 Responding to opinion requests**

- (a) Committee's options for responding to opinion requests. When presented with a request that the committee issue a formal opinion, the committee may elect (a) not to opine; (b) to issue a private letter opinion to the requestor; or (c) to issue a formal, published opinion. The committee may accept requests for an opinion from anyone, including the public, members of the Bar, the committee's own members and persons affiliated with the Bar, such as members of Board of Trustees and State Bar staff. Requests shall be presented to the committee for resolution along with a recommendation from the chair, if the chair so elects.
  
- (b) Criteria for issuing formal opinions. The committee may determine to proceed with the development of a formal opinion when a majority of the voting members of the Committee (not just a majority of those present at a meeting) determines that a request setting forth hypothetical facts presents issues of general interest to the Bar and/or the public and that the committee has satisfactorily resolved the issues presented by the hypothetical facts. However, the committee shall not issue a formal opinion when any of the following circumstances exist:
  - (1) The requesting attorney is a member of a local bar association which has an ethics committee, provided that the committee may respond to the inquiry if forwarded by a local bar association ethics committee or if the request concerns an ethics problem on which there is a division of views among local bar association ethics opinions.
  - (2) There is a pending State Bar complaint, investigation, proceeding or litigation concerning the subject of the request.
  - (3) The request constitutes a complaint against member(s) of the State Bar.

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<sup>3</sup> Phase II Proposed Change: Recommend deletion as it is inconsistent with Bagley-Keene.

- (4) The request involves procedures employed by the bar in processing complaints against members of the State Bar.
- (5) The request involves questions or issues, the resolution of which turns principally on law unrelated to the law governing lawyers.
- (6) Where it is known that the request involves a situation in litigation or concerns threatened litigation or involves the propriety of sanctions within the purview of the courts, such as contempt.
- (7) The chair and vice-chair have jointly determined that it would be inadvisable to respond to the request.

**(Source: Board of Governors' Resolution, July 1979, December 2004.)**

- (c) Letter Opinions. If the committee elects not to issue a formal opinion in response to a request, then the committee may issue a private letter opinion or decline to opine. In either event, the requestor shall be notified by letter. The committee typically issues letter opinions when there is no policy reason for the committee to decline comment on the request and the request is simple, routine or otherwise not of general interest to the Bar's members. The letter shall be drafted by the chair or by a member assigned by the chair. The letter may be approved in one of two ways. First, the committee may approve the opinion by affirmative vote as provided in these rules. Alternatively, on approval of the chair, the draft letter may be distributed to the membership and, if there is no objection by two (2) or more of the membership within ten days, the letter opinion shall be deemed approved. If two members register an objection, the matter shall be placed on the agenda for discussion at a succeeding meeting of the committee.

**(Source: Board of Governors' Resolution, July 1979, December 2004.)**

- (d) Changed circumstances. If, at any time after an opinion request has been assigned for drafting as a formal opinion, but before final publication, the committee shall decline to act further on the request and no opinion shall be published if any of the circumstances listed in section (b), subdivisions (1) through (6) above, come to light.
- (e) Format of Formal Opinions. Drafts of formal opinions shall be prepared by the member or members assigned by the chair. The drafter shall ordinarily circulate their draft to the committee in a pre-meeting agenda packet distributed by the staff or otherwise as directed by the chair, such as by e-mail. Each opinion shall set forth:
  - (1) A statement of issue or issues addressed;

- (2) A concise digest summarizing the committee's conclusions and reasoning;
- (3) Hypothetical facts of the ethical question presented in a general manner without identification of the requesting attorney or any details of the request which would permit such identification;
- (4) The Rules of Professional Conduct or other authorities relied upon;
- (5) An analytical discussion of the applicable rules applied to the hypothetical facts; and
- (6) A conclusion.

**(Source: Board of Governors' Resolution, July 1979, December 2004.)**

- (f) Dissenting Opinions. While the Committee typically issues opinions on the basis of consensus, or at least substantial majority vote, a member may elect to have notice of his or her dissent included with the opinion. In this event, the number of dissenters, but not their names, will be noted in the final opinion. In the rarest of cases, a dissenting opinion or opinions explaining the reasons for any dissent may be added to the opinion, in the discretion of the chair. As with the opinion of the Committee, the dissenting opinion will not be attributed to particular authors but will note on how many members' behalf the dissent is filed.
- (g) Publication of Proposed Formal Opinions for Public Comment. The committee shall publish proposed formal opinions, and provide an opportunity for public comment of no less than 60 days, before approving a formal opinion for final publication. Upon a vote of the committee, the formal opinion shall be distributed to members of appropriate committee or committees of the Board of Trustees, key individuals on the State Bar staff who participate in regulatory activities, the chairpersons of local bar association ethics committees and, in the discretion of the chair, other interested persons or entities, advising them that the hypothetical is under consideration by the committee for a formal opinion and requesting their comments. Proposed opinions published for public comment shall be made available to the public through means reasonably available to the committee, such as through the committee staff and the State Bar website.
- (h) Issuance of Formal Opinions Following Public Comment. After considering any public comment received on a draft formal opinion, the committee may vote to issue the opinion as drafted, to modify the opinion and approve the modified opinion for publication, to decline to opine or to issue a private letter opinion. In the event a proposed formal opinion is modified after publication for public comment in such a manner as to reflect the committee's view that

additional ethical duties or obligations apply to the hypothetical facts, then the proposed formal opinion shall be published again for public comment as provided in section (g).

- (i) Majority Vote Required; Telephonic & Mail Ballots. Proposed opinions may be approved pursuant to sections (g) and (h) only by a majority of all voting members of the committee, whether at a meeting or by poll outside of a meeting (such as by telephone or e-mail<sup>4</sup>). If the proposed opinion has been placed on the agenda for a meeting and discussed at a meeting, the committee may approve the opinion with directions to a subcommittee to circulate a revised version outside of a meeting. Unless, within ten (10) days after the draft opinion and ballot are circulated, two (2) or more voting members request discussion at a succeeding meeting of the committee, the opinion will be deemed approved<sup>5</sup>.
- (j) Transmission to Requestor and Board Committee. Once the committee has approved a formal opinion for publication pursuant to section (i), the formal opinion shall be issued to the requesting party and concurrently circulated to members of the Board of Trustees' Committee on Regulation, Admissions and Discipline Oversight. (hereafter "Board Committee"). If within thirty days of circulation, no member of the Board Committee objects to publication, the formal opinion shall be published as hereinafter provided. If within thirty (30) days of circulation, any member of the Board Committee does object, the issue of whether the formal opinion shall be published shall be placed on the agenda of the next succeeding meeting of the Board Committee for decision<sup>6</sup>.
- (k) Publication and Maintenance of Opinions. Once approved pursuant to section (j), formal opinions shall be published in State Bar publications, including the State Bar web site, as space is available, and the committee may cause its formal opinion or a summarization thereof to be published in other appropriate publications. All approved letter and formal advisory opinions shall be maintained on file at all State Bar offices and shall be available to any member of the bench, bar or public upon request. A reasonable charge to defray the costs of reproduction of such opinions and postage may be required.

**(Source: Board of Governors' Resolution, December 2004.)**

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<sup>4</sup> Phase II Proposed Change: Recommend updating to comply with Bagley-Keene.

<sup>5</sup> Phase II Proposed Change: Recommend updating to comply with Bagley-Keene.

<sup>6</sup> Phase II Proposed Change: Procedure for distribution to the Regulation and Discipline committee should be updated to comply with Bagley-Keene.

**Section 7    *Effect of Opinions***

All opinions issued by the committee express only the judgment of the committee and are advisory only. Each letter and formal opinion shall conclude with the following statement:

This opinion is issued by the Standing Committee on Professional Responsibility and Conduct of the State Bar of California. It is advisory only. It is not binding upon the courts, the State Bar of California, its Board of Trustees, any persons or tribunals charged with regulatory responsibilities, or any member of the State Bar.

(Source: Board of Governors' Resolution, July 1979, December 2004.)

**Section 8    *Revision of Rules of Professional Conduct or Other Laws Governing the Conduct of Attorneys***

The committee shall, upon reference of the Board of Trustees or its secretary, or on its own initiative with the concurrence of the Board Committee, study and submit recommendations to the Board of Trustees regarding proposed additions or amendments to or repeal of Rules of Professional Conduct of the State Bar or other laws governing the conduct of attorneys. In formulating its recommendations to the board, the committee shall cause its proposals to be published and solicit written comments thereon and, as directed by the Board of Trustees, conduct public hearings thereon.

(Source: Board of Governors' Resolution, July 1979, December 2004.)

**Section 9    *State Bar Staff***

- (a) The chair shall:
  - (1) Advise the staff of any failure to act pursuant to section 6(a) of this article so that staff can advise the requesting attorney.
  - (2) Cause to be provided to staff a copy of all correspondence by, or to, any committee member or advisor concerning committee work.
  - (3) Provide the staff with copies of draft and final letter opinions.
  - (4) Forward approved formal opinions to the staff for issuance and publication, as appropriate.
  
- (b) The staff shall:
  - (1) Receive requests for opinions from requesting attorneys and references from the Board of Trustees or its secretary and transmit them to the chair, vice-chair and the committee.

- (2) Advise requesting attorneys of the existence, functions and procedures of the committee.
- (3) Provide copies of requests for opinions to the members of the committee.
- (4) Following receipt of approved formal opinions and draft letter opinions, advise the chair:
  - (A) Of any circumstances arising during the period in which the request was being processed requiring or warranting committee inaction pursuant to section 6(b) of this article; and
  - (B) Of any other reasons militating against issuance of the opinion.
- (5) Issue approved formal opinions to the requesting attorney unless the chair withdraws the opinion for committee reconsideration.
- (6) Cause opinions issued by the committee to be published as appropriate.
- (7) Maintain all official files and records of the committee and make such files available to interested members of the bench and bar as appropriate, consistent with the Committee's rules about confidentiality
- (8) Assist the committee in performing its functions.

**(Source: Board of Governors' Resolution, July 1979, December 2004.)**

### ***Section 10 Confidentiality***

Generally, the committee's deliberations are confidential and meeting shall be held in closed session, except (a) the committee may hold open sessions when appropriate, such as to receive input from members of the Bar or the public; or (b) when required by law or State Bar policy requiring the committee to work in open session<sup>7</sup>.

**(Source: Board of Governors' Resolution, December 2004.)**

### ***Section 11 Conflicts***

- (a) Members must disclose to the Committee any relationship with an inquirer.
- (b) Members are encouraged to disclose any other relationship or interest that might have, or appear to have, a significant effect on the Committee's deliberations or decisions.

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<sup>7</sup> Phase II Proposed Change: Should be updated to comply with Bagley-Keene.

- (c) A member may disqualify himself or herself from voting and/or deliberations. However, members are not required to do so. In fact, members are encouraged to participate once any relationship or interest is disclosed to the Committee so that the Committee will have the benefit of all members' participation, input and expertise.

**(Source: Board of Governors' Resolution, December 2004.)**

**Article 3**  
**LAWYER ASSISTANCE PROGRAM OVERSIGHT COMMITTEE**

The Lawyer Assistance Program (LAP) is a statutory program that provides confidential and comprehensive help to members or former members of the State Bar whose personal or professional life is affected by substance abuse or mental health issues. The mission of the LAP is to support recovering attorneys in their rehabilitation and competent practice of law, enhance public protection, and maintain the integrity of the legal profession.

Senate Bill 479 (Burton), which created the Program, established a twelve-member Oversight Committee to oversee the operation of the Program and establish practices and procedures for the acceptance, denial, completion, or termination of attorneys from the Program. Six members of the Committee are appointed by the Board, four by the Governor, one by the President pro tem of the Senate, and one by the Speaker of the Assembly.

The Program is staffed through the Office of the Executive Director. The LAP is not part of the discipline system, but LAP staff work in close cooperation with OCTC staff and with the State Bar Court's Pilot Program to provide attorneys with an opportunity to rehabilitate themselves while resolving their disciplinary charges.

Senate Bill 479 mandates that the Program maintain absolute confidentiality. No information concerning participation in the program will be released to anyone without the attorney's prior written consent.

The LAP offers counseling, consultation, arrangements for treatment, and support groups. Attorneys may self-refer into the Program or may be referred by friends, family, the judiciary, or State Bar discipline. Financial assistance is available so that no one is prevented from participating in the program due to financial limitations.

**ATTORNEY DIVERSION AND ASSISTANCE ACT**  
**Business And Professions Code**  
**§§6140.9, 6230-6238**

(Added by SB 479 (Burton), Chapter 129, Statutes of 2001;  
Amended by AB 1708 (Assm. Judiciary Committee,  
Chapter 334, Statutes of 2003)

***SECTION 1. Section 6140.9 of the Business and Professions Code is amended to read:***

6140.9. Moneys for the support of the program established pursuant to Article 15 (commencing with Section 6230) and related programs approved by the committee established pursuant to Section 6231 shall be paid in whole or part by a fee of ten dollars (\$10) per active member per year.

The board may seek alternative sources for funding the program. To the extent that funds from alternative sources are obtained and used for the support of the program, and provided that at least ten dollars (\$10) per active member is available for support of the program each year, funds provided by the fee established by this section may be applied to the costs of State Bar general fund programs.

***SECTION 2. Article 15 (commencing with Section 6230) is added to Chapter 4 of Division 3 of the Business and Professions Code, to read:***

Article 15. Attorney Diversion and Assistance Act

6230. It is the intent of the Legislature that the State Bar of California seek ways and means to identify and rehabilitate attorneys with impairment due to abuse of drugs or alcohol, or due to mental illness, affecting competency so that attorneys so afflicted may be treated and returned to the practice of law in a manner that will not endanger the public health and safety.

6231. (a) The board shall establish and administer an Attorney Diversion and Assistance Program, and shall establish a committee to oversee the operation of the program. The committee shall be comprised of 12 members who shall be appointed as follows:

- (1) Six members appointed by the Board of Trustees, including the following:
  - (A) Two members who are licensed mental health professionals with knowledge and expertise in the identification and treatment of substance abuse and mental illness.
  - (B) One member who is a physician with knowledge and expertise in the identification and treatment of alcoholism and substance abuse.
  - (C) One 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.

- (D) Two members who are attorneys, at least one of which is in recovery and has at least five years of continuous sobriety.
- (2) Four members appointed by the Governor, including the following:
  - (A) Two members who are attorneys.
  - (B) Two members of the public.
- (3) One member of the public appointed by the Speaker of the Assembly.
- (4) One member of the public appointed by the Senate Rules Committee.
  - (A) Committee members shall serve terms of four years, and may be reappointed as many times as desired. The board shall stagger the terms of the initial members appointed.
  - (B) Subject to the approval of the board, the committee may adopt reasonable rules and regulations as may be necessary or advisable for the purpose of implementing and operating the program.

6232. (a) The committee shall establish practices and procedures for the acceptance, denial, completion, or termination of attorneys in the Attorney Diversion and Assistance Program, and may recommend rehabilitative criteria for adoption by the board for acceptance, denial, completion of, or termination from, the program.

(b) An attorney currently under investigation by the State Bar may enter the program in the following ways:

(1) By referral of the Office of the Chief Trial Counsel.

(2) By referral of the State Bar Court following the initiation of a disciplinary proceeding.

(3) Voluntarily, and in accordance with terms and conditions agreed upon by the attorney participant with the Office of the Chief Trial Counsel or upon approval by the State Bar Court, as long as the investigation is based primarily on the self-administration of drugs or alcohol or the illegal possession, prescription, or nonviolent procurement of drugs for self-administration, or on mental illness, and does not involve actual harm to the public or his or her clients. An attorney seeking entry under this paragraph may be required to execute an agreement that violations of this chapter, or other statutes that would otherwise be the basis for discipline, may nevertheless be prosecuted if the attorney is terminated from the program for failure to comply with program requirements.

(c) Neither acceptance into nor participation in the Attorney Diversion and Assistance Program shall relieve the attorney of any lawful duties and obligations otherwise required by any agreements or stipulations with the Office of the Chief Trial Counsel, court orders, or applicable statutes relating to attorney discipline.

(d) An attorney who is not the subject of a current investigation may voluntarily enter, whether by self-referral or referral by a third party, the diversion and assistance program on a confidential basis. Confidentiality pursuant to this subdivision shall be absolute unless waived by the attorney.

6233. An attorney entering the diversion and assistance program pursuant to subdivision (b) of Section 6232 may be enrolled as an inactive member of the State Bar

and not be entitled to practice law, or may be required to agree to various practice restrictions, including, where appropriate, restrictions on scope of practice and monetary accounting procedures. Upon the successful completion of the program, those attorney participants on inactive status who complied with any and all conditions of probation shall be eligible for reinstatement to active status and a dismissal of the underlying allegations or a reduction in the recommended discipline. Those attorneys who participated in the program with practice restrictions shall be eligible to have those restrictions removed and to a dismissal of the underlying allegations or a reduction in the recommended discipline.

6234. Any information provided to or obtained by the Attorney Diversion and Assistance Program, or any subcommittee or agent thereof, shall be as follows:

(a) Confidential and this confidentiality shall be absolute unless waived by the attorney.

(b) Exempt from the provisions of Section 6086.1.

(c) Not discoverable or admissible in any civil proceeding without the written consent of the attorney to whom the information pertains.

(d) Not discoverable or admissible in any disciplinary proceeding without the written consent of the attorney to whom the information pertains.

(e) Except with respect to the provisions of subdivision (d) of Section 6232, the limitations on the disclosure and admissibility of information in this section shall not apply to information relating to an attorney's noncooperation with, or unsuccessful completion of, the Attorney Diversion and Assistance Program, or any subcommittee or agent thereof, or to information otherwise obtained by the Office of the Chief Trial Counsel, by independent means, or from any other lawful source.

6235. (a) Participants in the Attorney Diversion and Assistance Program shall be responsible for all expenses relating to treatment and recovery. In addition, the State Bar may charge a reasonable administrative fee to participants for the purpose of offsetting the costs of maintaining the program.

(b) Notwithstanding subdivision (a), the State Bar shall establish a financial assistance program to ensure that no member is denied acceptance into the program solely due to the lack of ability to pay.

6236. The State Bar shall actively engage in outreach activities to make members, the legal community, and the general public aware of the existence and availability of the Attorney Diversion and Assistance Program. Outreach shall include, but not be limited to, the development and certification of minimum continuing legal education courses relating to the prevention, detection, and treatment of substance abuse, including no-cost and low-cost programs and materials pursuant to subdivision (d) of Section 6070, informing all members of the State Bar of the program's existence and benefits through both direct communication and targeted advertising, working in coordination with the judicial branch to inform the state's judges of the program's existence and availability as a disciplinary option, and working in cooperation with

organizations that provide services and support to attorneys with issues related to substance abuse.

6237. It is the intent of the Legislature that the authorization of an Attorney Diversion and Assistance Program not be construed as limiting or altering the powers of the Supreme Court of this state to disbar or discipline members of the State Bar.

6238. The committee shall report to the Board of Trustees and to the Legislature not later than March 1, 2003, and annually thereafter, on the implementation and operation of the program. The report shall include, but is not limited to, information concerning the number of cases accepted, denied, or terminated with compliance or noncompliance, and annual expenditures related to the program.

**(Source: Board of Governors' Resolutions, October 1987, July 1990, September 2004, Business & Professions Code Sections §6140.9, §6230 – 6238.)**

**Article 4**  
**CHARGES FOR CERTAIN STATE BAR COMMITTEES AND COMMISSIONS**

**Section 1    *Committee on Administration of Justice***

Established in 1933, the Committee on Administration of Justice is composed of thirty-six (36) members appointed by the Board of Trustees. It is a diverse group of attorneys concerned with aspects of civil procedure, court rules and administration, rules of evidence, and other matters having an impact on the administration of justice in the civil courts. The charge of the committee is as follows:

- (a) Analyze, report to the Board of Trustees and comment as authorized by the Board of Trustees on proposed court rules, legislation and other proposals affecting the committee's subject area.
- (b) Draft proposals relating to its area of concern for consideration by the Board of Trustees.
- (c) Perform such other functions relevant to the committee's subject area as the Board of Trustees may from time to time assign.

(Source: Board of Governors' Resolutions, July 1992, August 2000.)

**Section 2    *Committee on Alternative Dispute Resolution***

Established in May 1997, the Committee on Alternative Dispute Resolution (ADR) is composed of twenty-one (21) persons appointed by the Board of Trustees. Its membership consists of a diverse group of attorneys and public members with expertise or an interest in ADR, including ADR neutrals, consumers of ADR services and those who reflect the experience and expertise of State Bar sections. The charge of the committee is as follows:

- (a) Analyze, report to the Board of Trustees and comment as authorized by the Board of Trustees on proposed court rules, legislation and other proposals affecting the committee's subject area.
- (b) Draft proposals relating to alternative dispute resolution for consideration by the Board of Trustees.
- (c) Identify issues concerning the relationship of ADR to the practice of law, the administration of justice and improving access to justice.
- (d) Plan and administer educational programs relating to alternative dispute resolution.
- (e) Encourage attorneys involved in alternative dispute resolution to become active participants in the State Bar.

- (f) Perform such other functions relevant to the committee's subject area as the Board of Trustees may from time to time assign

(Source: Board of Governors' Resolutions, May 1997, July 1997, August 2000.)

### **Section 3 Committee on Appellate Courts**

Established in 1970 and made a standing committee in 1973, the Committee on Appellate Courts is composed of sixteen (16) attorneys appointed by the Board of Trustees. Its members are drawn from such diverse sources as law firms, solo practitioners, defense and prosecution offices handling criminal appeals, appellate court research staff, and law school faculty. The subject area of the committee concerns appellate court operation and appellate practice. In furtherance of the administration of justice, the charge of the committee is as follows:

- (a) Analyze, report to the Board of Trustees and comment as authorized by the Board of Trustees on proposed court rules, legislation and other proposals affecting the committee's subject area.
- (b) Draft proposals relating to its area of concern for consideration by the Board of Trustees.
- (c) Plan and administer educational programs designed to foster improvement in appellate practice and awareness of issues affecting the committee's subject area.
- (d) Perform such other functions relevant to the committee's subject area as the Board of Trustees may from time to time assign.

(Source: Board of Governors' Resolutions, July 1992, August 2002.)

### **Section 4 Committee of Bar Examiners**

The Committee of Bar Examiners was established in 1927. Pursuant to B&P Code §6046, the committee is composed of nineteen (19) members. Ten (10) lawyer members are appointed by the Board of Trustees, one of whom must not have been admitted to practice for more than three years at the time of appointment, nine (9) public members appointed, three each, by the Governor, the Senate Rules Committee and the Speaker of the Assembly. The official duties of a public member of the Committee of Bar Examiners appointed pursuant to section 6046.5 of the Business and Professions Code are as follows:

- (1) Attending meetings of the Committee of Bar Examiners and subcommittees of the Committee of Bar Examiners;
- (2) Representing the Committee of Bar Examiners before the Board of Trustees, other governmental bodies and officials, law schools and law school associations within California and other law education related organizations;

- (3) Meeting with State Bar personnel; and
- (4) Such other duties as may be prescribed by the Board of Trustees from time to time.

(Source: Board of Governors' Resolution, September 1977.)

The committee is authorized by statute to:

- (a) Examine all applicants for admission to practice law.
- (b) Administer the requirements for admission to practice law.
- (c) Certify to the Supreme Court for admission those applicants who fulfill the requirements.

Inherent in the administration of the requirements of admission is the responsibility for determining the pre-legal and legal education eligibility of applicants and whether an applicant possesses the requisite good moral character to practice law. The committee also is empowered to accredit law schools and register unaccredited and correspondence law schools, in accordance with Rule 957 of the California Rules of Court, in California. [Information regarding the committee's operation and rules may be found at Chapter 1 of this division.](#)<sup>8</sup>

(Source: Board of Governors' Resolutions, September 1977, July 1992; B&P Code §6046.)

### **Section 5 California Board of Legal Specialization and its Advisory Commissions**

The purpose of the California Board of Legal Specialization and its Advisory Commissions is to establish and administer a program for certifying specialists in specified areas of law, to identify to the public attorneys who have demonstrated proficiency in the specialty fields and to encourage attorney competence.

(Source: Board of Governors' Resolution June 1997.)

### **Section 6 The California Commission on Access to Justice**

Upon recommendation of the Access to Justice Working Group, the Board of Trustees established the California Commission on Access to Justice. The commission is to develop and analyze and, in appropriate circumstances, pursue the findings, recommendations and funding options contained in And Justice for All: Fulfilling the Promise of Equal Access to Justice in California, to recommend initially to the Board and, if approved by the Board of Trustees, to other appropriate bodies and agencies, specific policies and procedures to implement its recommendations, with the goal of achieving fuller access to our legal system, and to report back to the State Bar, as well

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<sup>8</sup> PHASE I PROPOSED CHANGE: Recommend deletion as it is administrative and outside the purview of the Board Policy Manual.

as to the other entities with appointment power on the commission, within eighteen months of the naming of the commission concerning the progress, the proposed priorities and specific goals and activities being pursued.

(Source: Board of Governors' Resolution, September 1996; See also Division 5, Chapter 3.)

**Section 7 Client Security Fund Commission**

Established in 1972, by bar-sponsored legislation, the Client Security Fund reimburses victims who have lost money or property due to an act of dishonest conduct committed by a lawyer acting in a professional capacity. The commission, created by the Board in 1986, is composed of seven volunteers of whom no more than four can be lawyers. The commission is charged with the administration of the Client Security Fund and implementation of the Rules of Procedure, Client Security Fund Matters.

It is the goal of the commission to assist the public by reimbursing client losses caused by attorney dishonesty in a fair, timely and consumer oriented manner, which promotes the positive image of the legal profession.

The commission is working towards this goal by:

- (a) Taking appropriate action to ensure that there is adequate funding for the program.
- (b) Supporting requests of the Director of the Client Security Fund for adequate and appropriate staffing.
- (c) Seeking changes or additions to the Rules of Procedure, Client Security Fund Matters, which will expedite processing of applications without jeopardizing the purpose of the program and the rights of applicants and respondent attorneys to fairness and consistency.

(Source: Board of Governors' Resolutions, July 1992.)

**Section 8 Continuing Education of the Bar (CEB) Governing Committee**

Established by the Agreement between the State Bar of California and the University of California, this joint committee of the University of California and the State Bar reviews and approves CEB's annual publishing and educational program, strategic objectives, annual budget, and recommendations from the Director on the overall operation of CEB. The committee consists of nine voting members: four members appointed by the State Bar and five members appointed by the University of California Office of the President. The chair is the Provost or other appointed by the University, and the vice chair must be an attorney in active practice in California appointed by the State Bar Board of Trustees. The four State Bar members include the Executive Director of the State Bar, or the Executive Director's designee who must be an attorney, and two members who are attorneys actively practicing law in California and who represent the interests of the sections of the State Bar.

(Source: Agreement between the State Bar of California and the University of California Continuing Education of the Bar, September 2001.)

**Section 9 Standing Committee on Delivery of Legal Services**

The Committee on the Delivery of Legal Services is composed of twenty (20) persons appointed by the Board of Trustees. The committee's area of concern is the delivery of legal services to poor and middle-income individuals in California. The charge of the committee is as follows:

- (a) Identify, develop and support improvements in the delivery of legal services to poor and middle-income individuals.
- (b) Serve as a resource to the Board of Trustees in legal services issues of importance to the State Bar.
- (c) Develop and disseminate educational materials to improve the delivery of legal services to poor and middle-income individuals.
- (d) Develop liaison relationships with other State Bar entities concerning legal services issues of importance to the State Bar.
- (e) Analyze, report to the Board of Trustees, and comment where requested by the Board of Trustees or the Executive Director, on proposed court rules or legislation directly relating to or impacting the delivery of legal services to poor and middle-income individuals in California.

(Source: Board of Governors' Resolutions, December 1999 and December 2001.)

**Section 10 Council on Access and Fairness**

Established in November 2006, the Council on Access & Fairness is composed of twenty-five (25) attorney and public members appointed by the Board of Trustees. The charge of the committee is as follows:

- (a) Advise the Board on strategies to develop collaborative activities and efforts along the diversity pipeline to raise interest in the legal profession.
- (b) Serve as liaison between the State Bar and the diverse stakeholders and constituencies in the legal profession.
- (c) Identify and encourage individuals from diverse backgrounds to enter the legal profession.
- (d) Encourage full and equal opportunity for individuals from diverse backgrounds to remain and advance in the legal profession.
- (e) Identify and encourage attorneys from diverse backgrounds to become active participants in the administration and governance of the State Bar

and make specific recommendations to the Board of Trustees for increasing that participation.

- (f) Promote and ensure collaborative efforts to generate and provide support and to increase the numbers of attorneys from diverse backgrounds entering and advancing in the legal profession.
- (g) Study and report on the status of attorneys from diverse backgrounds in the legal profession and in State Bar activities.
- (h) Produce on an ongoing basis programs and materials designed to maximize opportunities for individuals from diverse backgrounds in the legal profession and in the administration and governance of the State Bar's programs and activities.
- (i) Comment, when requested by the Board of Trustees or the Executive Director, on barriers directly related to access opportunities within the profession for attorneys from diverse backgrounds.
- (j) Screen applicants and make recommendations to the Board of Trustees for recipients of the Annual Diversity Awards.
- (k) Educate all attorneys of State Bar policy within the authority of this charge.

**(Source: Board of Governors' Resolution March 1982, July 1992, January 2002, November 2006 [Sources from sunsetted Access & Fairness Committees (November 2006) maintained for history: Board of Governors' Resolutions July 1992, June 1993, March 1995, November 2000, January 2002, July 2002.]**

### ***Section 11 Committee on Federal Courts***

Established in 1949, the Committee on Federal Courts is composed of fifteen (15) members appointed by the Board of Trustees. A representative of the Circuit Executive of the United States Court of Appeals for the Ninth Circuit participates ex officio. The charges of the committee are as follows:

- (a) Generally enhance the lines of communication between the Federal Bench in California and the State Bar, including the attorney discipline system.
- (b) Bring to the attention of the Federal Bench in California, State Bar issues that have an impact on Federal Court practice in California.
- (c) Make the State Bar Board aware of Federal Court issues that may have an impact on the State Bar.
- (d) Review and make recommendations on proposals that affect California Federal Court practice and the Federal Courts in California.

- (e) Make recommendations to improve legal services in California's Federal Courts.
- (f) Organize and sponsor educational programs on Federal Court practice.
- (g) Perform such other functions relevant to the committee's subject area as the Board of Trustees may from time to time to assign.

(Source: Board of Governors' Resolutions, November 1984, July 1992, August 2000.)

**Section 12 Committee on Group Insurance Programs**

The Committee on Group Insurance Programs is currently composed of fifteen (15) attorney members and one (1) consultant. The committee acts as a counselor and advisor to the Board Committee on Planning Program Development and Budget and the Board of Trustees. Currently, State Bar sponsored group insurance programs monitored by the committee include: Accidental Death and Dismemberment, Health Care, Life, Select Group Disability Income and Group Long Term Disability.

The charges of the committee are as follows:

- (a) Study and make recommendations on new member group insurance programs to be sponsored by the State Bar. Propose changes in existing programs, recommend actuarial and other consulting studies as needed.
- (b) Make recommendations, consider premium rates, benefits, limitations, exclusions and other contract provisions in relation to the needs of the members of the State Bar generally and provisions designed to achieve program stability.
- (c) Work with the administrator/broker, insurance carrier, General Counsel's office and designated State Bar staff to prepare contracts for new programs and revisions to existing contracts.
- (d) Monitor ongoing approved programs and review sales literature for all approved programs on an ongoing basis.
- (e) Provide legal advice to the Board Committee and the Board of Trustees concerning insurance law aspects of its recommendations.
- (f) The Board of Trustees designates the State Bar's Committee on Group Insurance Programs as a Safety Committee to administer group workers' compensation insurance programs for the State Bar of California, in accordance with California Insurance Code section 11656.6.

(Source: Board of Governors' Resolutions, July 1992, January 1997, July 2005, July 2009, July 2010.)

**Historical Note**

In 2005, the Volunteer Involvement Committee and the board concurred with the committee request to increase its membership from 12 to 14. Because of ongoing workload and outreach concerns, during the annual appointment review in July 2009, the Volunteer Involvement Committee and the board increased the committee membership from 14 to 15.

**Section 13 Legal Services Trust Fund Commission**

Established in September 1982, the Legal Services Trust Fund Commission is composed of twenty-one (21) voting members, of which 15 are to be attorneys and six (6) are public members, and three (3) nonvoting judges. The charges of the commission are as follows:

- (a) Administer the rules and all provisions of the law regarding interest on trust fund accounts and rules regulating the program.
- (b) Review all applicants' qualifications for funding, denial of funding, or termination of existing funding
- (c) Administer funds received from the Judicial Council as the Equal Access Fund pursuant to the California state budget.

**(Source: Rules Regulating Interest-Bearing Trust Fund Accounts for the Provision of legal Services to Indigent Persons, rule 4 and 6.1; Board of Governors resolution dated August, 1999.)**

**Section 14 Committee on Mandatory Fee Arbitration**

Established January 1, 1985, the Committee on Mandatory Fee Arbitration is composed of sixteen (16) members. Members consisting of attorneys, one Presiding Arbitrator, and 3-5 non-lawyer members are appointed by the Board of Trustees. The charge of the committee is as follows:

- (a) Make recommendations on policies affecting the State Bar mandatory fee arbitration program.
- (b) Review policies, procedures, guidelines and the law relating to mandatory fee arbitration, attorney's fees and fee agreements and recommending appropriate amendment, change or modification.
- (c) Provide advice and assistance to the forty-three (43) local bar fee arbitration programs, including formulating and presenting educational programs. The Committee also reviews and recommends to the Board amendments to the local bar rules of procedure, which must be approved by the Board in order for the local bars to offer approved mandatory fee arbitration programs. Approved local bar MFA programs are entitled to claim statutory immunity.

- (d) Review, evaluate and propose legislation affecting the statewide fee arbitration program.
- (e) Issue arbitration advisories on various topic of law to assist arbitrators with their cases and to develop a uniform approach to resolving fee disputes among the various MFA programs.

(Source: Board of Governors' Resolutions, November 1984, July 1992.)

### ***Section 15 Committee on Professional Responsibility and Conduct***

The committee shall assist members of the State Bar in their desire to appreciate and adhere to ethical and professional standards of conduct, which assistance shall include, but is not limited to:

- (a) Issuing to members of the bar advisory opinions on the ethical propriety of hypothetical attorney conduct at the request of members of the State Bar or on its own initiative;
- (b) Responding to such inquiries from members of the bar; and
- (c) Publishing its opinions and responses.

The committee shall assist the Board of Trustees by studying and recommending additions, amendments to, or repeal of Rules of Professional Conduct of the State Bar or other laws governing the conduct of attorneys, and perform such other functions as may be assigned to the committee by the board.

The committee shall encourage the establishment of and provide assistance to local bar association ethics committees.

The committee shall assist the public, including lawyers and judges, to understand the professional obligations of members of the State Bar, which assistance shall include, but is not limited to, sponsoring educational programs and conferences.

(Source: Board of Governors' Resolutions, September 1964, July 1979, July 1992, October 1994, December 2004.)

### ***Section 16 Committee on State Bar Approved Professional Liability Insurance (COPLI)***

The committee was established by Board resolution in July 1990. Its purpose is to:

Oversee a professional liability program that has congruent goals of providing attorneys with insurance coverage and clients with recourse for malpractice. COPLI should also explore and pursue programs and strategies consistent with the economic viability of the program, to make professional liability insurance available to as many California

attorneys as possible. COPLI oversees and reports to the Board of Trustees and/or its designated board standing committee on all aspects of the State Bar approved Professional Liability Insurance Program including, but not limited to, the following:

- (a) Interact with the Program Administrator and the Underwriter. Make recommendations, consider premium rates, benefits, limitations, exclusions and other contract provisions in relation to needs of the members of the State Bar generally as well as those provisions necessary to maintain the economic viability and stability of the program;
- (b) Oversee and interact with the Program Administrator to ensure the broadest dissemination of information regarding the program, the ease of members in applying for the program and other such steps as may be necessary or appropriate to precipitate program growth consistent with economic stability of the program;
- (c) Interact with both the Program Administrator and the Underwriter to anticipate and implement program changes, coverages, specialty policies, and such matters as may respond to the needs of California's practicing attorneys and otherwise precipitate additional programs growth;
- (d) Undertake such activities as maybe necessary or appropriate to advocate with the underwriter on behalf of attorneys desiring to be included in the endorsed program and/or those who may be declined etc.;
- (e) Conduct such studies as may be necessary or appropriate to identify causes, frequency, and severity of legal malpractice claims; interact with the carrier to both precipitate and assess satisfaction levels of program members following initiation of legal malpractice claims;
- (f) Design, schedule, and conduct malpractice avoidance education programs available to attorneys throughout the state which qualify for MCLE credit for program members, develop and update materials on malpractice prevention.
- (g) Engage in audits and reviews necessary to ensure both the economic viability of the program and the availability thereof to the broadest range of California attorneys propose such changes in the program structure, etc., as may be necessary or appropriate to accomplish such goals;
- (h) Take steps to identify those aspects of the Professional Liability Insurance Program that may generate additional non-dues revenue.
- (i) Assist the Office of General Counsel in providing legal advice to the Board of Trustees with respect to all of the foregoing items.

- (j) Conduct an annual orientation session for new members of the Committee, Board members, State Bar staff, and the Executive Director on all of the above listed aspects of Committee oversight of the State Bar sponsored professional liability program.
- (k) Comply with all reporting and planning requirements of the Board of Trustees approved Strategic and Operational plans. Comply with the annual work plan requirement for all Board of Trustees' committees.
- (l) Ensure that all the above listed advisory responsibilities, 1-11, are conducted in consultation with State Bar of California staff designated by the Executive Director.

(Source: Board of Governors' Resolution, July 1990, April 1991, July 1992, July 2004.)

**Historical Note**

Committee rule prohibits appointment of anyone carrying files by program carrier or whose law firm carries files program carrier. The existing Professional Liability Insurance Carrier is Arch Insurance Group.

**Section 17 California Young Lawyers Association (CYLA)**

The California Young Lawyers Association (CYLA) shall be appointed by the Board of Trustees to advise the Board of the interests of California young lawyers, to develop strategies for increasing young lawyer involvement and participation in the State Bar, to facilitate the development of programs and services that would assist young lawyers in their professional and leadership advancement and programs that benefit the public.

A California young lawyer is defined as a member in good standing of the State Bar of California who is in his or her first five years of practice in California or who is age 36 or under.

CYLA members will serve as the ambassadors of the State Bar to the young lawyer organizations within the state. CYLA will also screen candidates for the annual Jack Berman Award of Achievement.

CYLA will be composed of 20 members appointed by the Board of Trustees. Nine of the appointed seats shall be designated for representatives of each of the nine State Bar districts, one member per district. The remaining 11 seats shall be filled by appointments at large. CYLA membership consists of State Bar of California active members, who will be drawn from diverse constituencies, including but not limited to geographic location, racial and ethnic diversity, practice setting, practice type, district representation, and gender and sexual orientation. CYLA will report to the Board Committee on Member Oversight or other designated Board Oversight Committee as determined by the Board of Trustees.

CYLA is funded by mandatory dues.

The charge of CYLA is to:

- (a) Advise the Board on strategies to make the State Bar and CYLA continually relevant and beneficial to young lawyers in California.
- (b) Promote the interests of young lawyers in California.
- (c) Be responsible for programs, services, professional development and trend analysis, to assist young lawyers in becoming respected and successful members of the bar, keeping both CYLA and the State Bar ahead of the curve.
- (d) Develop communication strategies that engage young lawyers in California.
- (e) Create and continually strengthen outreach efforts to the barristers' organizations throughout the State and across the country.
- (f) Assist the State Bar in the administration and implementation of its programs and responsibilities.
- (g) Develop and implement regular public service projects that utilize the skills of the state's young lawyers and that would measurably benefit the public.
- (h) Encourage and promote pro bono work.
- (i) Identify and encourage young attorneys to become active participants in the administration and governance of the State Bar and make specific recommendations to the Board of Trustees for increasing that participation.
- (j) Comment and advise, when requested by the Board of Trustees or the Executive Director, on issues of relevance and importance to young lawyers in California.
- (k) Screen applicants and make recommendations to the Board of Trustees for recipients of the Annual Jack Berman Award of Achievement.
- (l) CYLA will provide regular reports to the Board of Trustees for recipients of the Annual Jack Berman Award of Achievement.
- (m) Function as State Bar MCLE Activity Auditors to conduct an audit of a particular MCLE program or class on behalf of the State Bar.

**(Source: Board of Governors' Resolution September 2008; Board of Trustees Resolutions July 2012; November 2014.)**

**Historical Note**

Statutes 2011, chapter 417, §§ 11-13, 16 changed the number of State Bar Districts from nine to six and repealed a statute that had provided for a representative of CYLA to be elected to the Board of Trustees. (former Bus. & Prof. Code § 6013.4 repealed effective January 1, 2012.)

**Article 5**  
**ANNUAL BOARD EVALUATION OF STANDING COMMITTEES**

**Section 1 Advisory Committee Workplan Criteria**

1. *Scope of Board Oversight Committee Review of Annual Reports* - The Board committee(s) responsible for oversight of the advisory committee reviews the work plan and provides the advisory committee with an overall assessment of the past year's fiscal and advisory committee program performance at the annual Strategic Work Session.
2. *Reporting Requirement to Board Oversight Committee* - Each advisory committee must periodically report to the Board committee with oversight responsibility on its continuing work and must provide status reports on activities as requested by pertinent Board oversight committee.
3. *Periodic Review of Need for Advisory Committees* - Every five years each advisory committee must report in writing to the [PPDB-Planning and Budget Committee](#), and any Board committee with oversight responsibility about whether the advisory committee should continue to exist and whether it should maintain its current structure. The [PPDB-Planning and Budget](#) committee may make a recommendation to the Board to continue, modify, or do away with the committee and/or its charge.<sup>9</sup>

**Oversight Committee Assignments<sup>10</sup>**

*Admissions and Education Committee (A&E)*

California Board of Legal Specialization  
Committee of Bar Examiners  
~~Lawyer Assistance Program Oversight Committee~~

*Regulation and Discipline Committee ("RAD")*

Committee on Mandatory Fee Arbitration  
Committee on Professional Responsibility and Conduct  
Commission for Revision of Rules of Professional Conduct  
~~Client Security Fund Commission~~  
~~Lawyer Assistance Program Oversight Committee~~

*Stakeholder Relations Committee ("SRC")*

California Commission on Access to Justice  
California Young Lawyers Association Board of Directors

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<sup>9</sup> PHASE I PROPOSED CHANGE: Language updated to be consistent with current board policy.

<sup>10</sup> PHASE I PROPOSED CHANGE: Language updated to be consistent with current board policy.

## TAB 5.1 Standing and Special Committees

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Committee on the Administration of Justice  
Committee on Alternative Dispute Resolution  
Committee on Appellate Courts  
Committee on Federal Courts  
Committee on Group Insurance Programs  
Committee on Professional Liability Insurance

Council on Access and Fairness  
Legal Services Trust Fund Commission  
Standing Committee on the Delivery of Legal Services

(Source: Board of Governors' Resolution July, 2004, July 2008; [Board of Trustees Resolution July 2014](#).)

*MEETINGS OF STATE BAR COMMITTEES*

- Section 1 Meetings of State Bar Committees*
- Section 2 Compliance with Bagley-Keene Open Meeting Act*
- Section 3 Use of Facilities Subject to Labor Dispute*

## **Section 1 Meetings of State Bar Committees**

### **Historical Note**

The *Rules Governing Open Meetings, Closed Sessions and Records of Regulatory and Special Committees* were adopted by the Board of Governors January 20, 1990, effective April 1, 1990. On May 15, 2009, the Board of Governors repealed *The Rules Governing Open Meetings, Closed Sessions and Records of Regulatory and Special Committees* and replaced them with Rules 6.60-6.63 in Title 6, Division 2, Chapter 2 (Meetings of State Bar Committees) of the new Rules of the State Bar of California. On March 4, 2011, the Board of Governors added new Rule 6.62 *Location of Meetings. Existing Rules 6.62 and 6.63 were renumbered to 6.63 and 6.64, respectively*; on July 22, 2011, the Board of Governors added new Rule 6.63 *Notice, late items, and emergency meetings. Existing Rules 6.63 and 6.64 were renumbered to 6.64 and 6.65, respectively*.

*Effective April 1, 2016, the Board repealed Rules 6.60-6.65:*

#### **Rule 6.66. Repeal.**

This chapter shall remain in effect only until April 1, 2016, and as of that date is repealed. Beginning April 1, 2016, meetings of entities appointed by the Board of Trustees will be subject to the Bagley-Keene Open Meeting Act, as required by Business and Professions Code section 6026.7, and Business and Professions Code section 6026.5.

*Rule 6.66 adopted effective November 20, 2015.*

**Repealed Rule 6.60** (adopted effective May 15, 2009; amended effective July 22, 2011; amended effective January 1, 2012.)

**Repealed Rule 6.61** (adopted effective May 15, 2009.)

**Repealed Rule 6.62** (adopted effective March 4, 2011.)

**Repealed Rule 6.63** (adopted effective July 22, 2011.)

**Repealed Rule 6.64** (adopted as Rule 6.62 effective May 15, 2009; renumbered as Rule 6.63 effective March 4, 2011; renumbered as Rule 6.64 effective July 22, 2011; amended effective January 1, 2012.)

**Repealed Rule 6.65** (adopted as Rule 6.63 effective May 15, 2009; renumbered as Rule 6.64 effective March 4, 2011; renumbered as Rule 6.65 effective July 22, 2011.)

**(Source: Board of Governors' Resolution January 20, 1990, effective April 1, 1990; Amended July 26, 2003, effective July 26, 2003; [Rules Governing Open Meetings, Closed Sessions and Records of Regulatory and Special Committees repealed May 15, 2009, replaced with Rules 6.60-6.63 in Title 6, Division 2, Chapter 2 (Meetings of State Bar Committees) of the new Rules of the State Bar of California], repealed April 1, 2016; Board of Governors' Resolutions March 4, 2011; July 22, 2011, Board of Trustees Resolution November 2015.)**

**Section 2 Compliance with Bagley-Keene Open Meeting Act**

Beginning April 1, 2016, the State Bar is subject to the Bagley-Keene Open Meeting Act and all meetings of the State Bar are subject to the Bagley-Keene Open Meeting Act, as required by Business and Professions Code section 6026.7, and Business and Professions Code section 6026.5.

Notwithstanding any other law, the Bagley-Keene Open Meeting Act shall not apply to the Judicial Nominees Evaluation Commission or the Committee of Bar Examiners.

**(Source: State Bar Rule 6.66, adopted effective November 20, 2015; Business and Professions Code §§ 6026.5, 6026.7)**

**Section 3 Use of Facilities Subject to Labor Dispute**

Members of the staff responsible for scheduling meetings of State Bar committees and sections are to avoid setting the same at any institution or location which is known in advance to be the subject of labor picketing or a labor dispute.

**(Source: Board of Governors' Resolution, July 1977, September 2004, November 2006.)**

*APPOINTMENT POLICIES AND PROCEDURES*

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**Article 15 CONFIDENTIALITY**

**Article 16 BOARD COMMITTEE APPOINTMENT REVIEW PROCEDURE**

- Section 1 Standing and Special Committees*
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### Historical Note

Prior to 1999, the board committee charged with the board's appointment screening was called the Board Committee on Communications and Bar Relations. In 2001, the name of the board committee charged with the board's appointment screening was the Appointments Committee.

In 2001, the Board of Governors established a Board committee structure comprised of five standing committees and a Board Operations Committee (BOPS). The Board further directed that the standing committees could include the following, with the understanding that the Board may continue to refine the structure as experience and need requires: (1) Planning, Program Development, and Budget (PPDB) Committee, (2) Member Oversight Committee (MOC), (3) Regulation, Admission and Discipline Oversight Committee (RAD), (4) Stakeholder Relations Committee (SRC) / Legal Services Committee, (5) Volunteer Involvement Committee (VIC).

- 2004 - 2005, SRC and VIC were combined to create the Communications and Bar Relations Committee (COMBAR).
- During 2005 – 2006, the Board went back to the six-committee governance structure adopted in 2001 with separate SRC and VIC committees
- 2009 – 2010, VIC and MOC were combined to form a Member Involvement Relations & Services committee (MIRS).
- 2010 – 2011, the Board returned to the six-committee structure adopted in 2001, with separate VIC and MOC committees.
- 2011-2012, the Board changed the name of the Volunteer Involvement Committee (VIC) to Nominations and Appointments Committee (NAC) to clarify the jurisdictional boundaries between various working groups during the 2011-12 Board year and because in recent years, the central mission of the VIC -- and the bulk of its work -- has been nominations and appointments.

### Article 1

## **A PROGRAM ENCOURAGING THE OPPORTUNITY OF ALL MEMBERS OF THE STATE BAR OF CALIFORNIA TO PARTICIPATE IN ACTIVITIES OF THE STATE BAR**

### ***Section 1 General***

It is the policy of the Board of Trustees to encourage the opportunity of all members of the State Bar to participate in activities of committees and to achieve a diversified membership on committees (including, but not limited to, standing and special committees and executive bodies to which the Board of Trustees has the authority to make appointments) and in order to further encourage all members in such participation, the board adopts the following procedures, applicable generally whenever there are vacant positions to be filled by board appointments to such bodies.

**(Source: Board of Governors' Resolutions, June 1977, August 1987, Long Range Strategic Plan August 2002, Long Range Strategy, July 2008.)**

### **Section 2 Recruitment**

At a time calculated to give reasonable notice to applicants that the Board will make appointments and to give applicants opportunity to apply for such appointments, the Executive Director of the State Bar, or the Executive Director's designee, shall cause the following information to be publicized in State Bar publications and on the State Bar website and cause notice to be circulated to all legal newspapers in California and to all local, specialty and minority bars:

- (a) The name of the committee, section, commission, board, or other body to which an appointment is to be made; the terms of office; the function and work of each; the number of appointments to be made to each; the major duties and responsibilities required of an appointee; an estimate of the total time commitment necessary to carry out such duties and responsibilities (including but not limited to traveling and attending meetings or other sessions of the particular body) and, if any, minimum qualifications required by law or reasonably related to serving as an appointee. For the purpose of these procedures, positions as chairpersons or vice-chairpersons and those positions which may be filled by reappointment of incumbents, shall be considered as vacant positions.
- (b) The manner by which applicants may file application for appointment or reappointment with the State Bar; and
- (c) An application for appointment or information about requesting an application shall be publicized in State Bar publications, and may be publicized elsewhere, as feasible.

(Source: Board of Governors' Resolutions, June 1977, August 1987, September 1992; Board of Trustees Resolution July 2015.)

### **Section 3 Achieving a Diversified Membership**

Diversity includes a multitude of factors identified under Criteria, article 2, section 2, sub-paragraph b.(3). These factors include geography, type of practice, size of practice, gender, ethnicity, sexual orientation, disability, length of time in practice, etc.

(Source: Board of Governors' Resolution, March 1997.)

### **Section 4 Statement of Diversity Principles<sup>1</sup>**

The Board has established a policy affirming the commitment of the State Bar of California and all its signatories to fostering diversity in the legal profession. Refer to [TAB-24 Tab 1.1, Article 2](#) "Diversity Principles", Section [45](#) "General Statement of Diversity Principles".

(Source: Board of Governors' Resolution, July 2005.)

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<sup>1</sup> PHASE I PROPOSED CHANGE: Cites corrected.

**Section 5 Encouragement of Participation**

- (a) Participation of Diverse Members: The State Bar of California values diversity and broad-based representation in its appointments. The recruitment and selection of applicants with diverse backgrounds, experiences, outlooks, and ideas and geographical diversity brings qualities essential to the governance of the legal profession and to the services the State Bar provides to its diverse members and to the public.

The State Bar's Board of Trustees is committed to the active solicitation and encouragement of members with a broad array of backgrounds and life experiences including members with skills or attributes that are underrepresented in the legal profession to submit applications for appointments to all bar sponsored entities.

The State Bar provides equal access to all applicants and complies with all applicable anti-discrimination laws in its appointment process.

- (b) Outreach Program: In order to implement the above policy objective, the Board of Trustees hereby encourages:
  - (1) Each member of the Board and the chair of each entity to recruit and obtain applicants with a breadth and depth of perspective including, but not limited to the following: geographic location, practice area, size and type of law practice, length of time practicing, volunteer work, specific accomplishments, educational background, age, sexual orientation, and disability for each of the entities to which the Board makes appointments.

**(Source: Board of Governors' Resolutions July 1982, August 1987, February 1994, March 1997, November 2006; California's Department of Fair Employment and Housing revised EEO policy statement, February 1993; Board of Trustees Resolution July 2015.)**

- (c) Encouragement of Bar Associations' Participation: In consultation with the designated board committee [Nominations and Appointments Committee], and to the extent practicable, the Executive Director or designee shall:
  - (1) Contact local minority and specialty bar associations and appropriate law related organizations for the purpose of publicizing and announcing these procedures and enlisting their aid in encouraging members of the State Bar to apply for appointment to bodies to which the Board has the authority to make appointments;
  - (2) Formulate, arrange, or cooperate in programs, speeches or appearances before such associations or organizations by individual members of the board or State Bar staff, chairpersons and others

serving on such bodies, to publicize the work and function of such bodies and to encourage members to apply for appointment; and

- (3) Provide appropriate assistance to any section executive committee and any standing or special committee created by the Board to encourage applications of members with skills or attributes underrepresented in the legal profession.

**(Source: Board of Governors' Resolutions, June 1977, August 1987, Action Plan October 2001; Board of Trustees Resolution July 2015.)**

- (d) Recruitment Plan: Each State Bar section executive committee and each State Bar committee and commission shall submit an individual plan for improving the diversity of its applicant pool and report on the implementation of that plan when submitting its annual appointment recommendations.

**(Source: Board of Governors' Resolution, July 1990, June 1994; Board of Trustees Resolution July 2015.)**

### **Section 6 Applications**

Applications for appointment shall be in writing. The Executive Director or designee shall prepare a form of application to be furnished to applicants upon request and placed at locations or with organizations convenient for the applicants to obtain them.

The application shall seek the following information:

- (a) The name of the applicant.
- (b) Appointment for which the applicant is applying.
- (c) The mailing address of the applicant and daytime telephone number.
- (d) The geographic location of the applicant's principal place of business and State Bar District.
- (e) The applicant's profession or vocation, the length of time in such profession or vocation and if a lawyer, the member's State Bar number, and date of admission to the practice of law in California.
- (f) The applicant's:
  - (1) Employment experience;
  - (2) Legal and general educational background;
  - (3) Dates of admission to the practice of law in other jurisdictions;

- (4) Other business, occupational or professional licenses presently held;
  - (5) Areas or fields of law practice in which presently engaged;
  - (6) Articles or other publications authored by the applicant;
  - (7) Teaching activity; and
  - (8) Academic and/or professional honors.
- (g) In addition:

(1) How the applicant became aware of the vacant position(s) to be filled:

- Board of Trustees (name)
- Committee chair
- Colleague
- Local bar association
- State Bar publication or State Bar website
- Other (specify)

(2) Which one of the following best describes the applicant's occupation?

- Private practice
- Publicly employed lawyer
- Corporate law department
- Law teaching
- Quasi-judicial officer
- Non-governmental legal services organization
- Non-profit organization
- Retired justice or judge
- Retired lawyer
- Other (specify)

(3) What is the size of the applicant's law office?

- Sole practitioner
- 2-10 lawyer office
- 11-35 lawyer office
- 36-100 lawyer office
- 101+ lawyer office
- Not applicable

(h) Questions

- (1) Statement of Interest: Please state why you wish to serve on the committee and what you can contribute that makes you a candidate for appointment.
- (2) Experience: Describe any previous work or experience you may have had with the committee.
- (3) Additional Background: Describe any additional background you would like to share relevant to your appointment to the committee, including but not limited to how you can contribute to the diversity and broad composition of the State Bar's committees and commissions.

**OPTIONAL SECTION**

- (i) A portion of the application form shall be voluntary, and may solicit information concerning gender, sexual orientation, ethnicity, age, and disability [pursuant to the Americans with Disability Act] contributing to diversity and broad representation; and other characteristics the applicant believes will contribute to diversity of representation on the particular entity.

(Source: Board of Governors' Resolutions, June 1977, August 1987, October 2001; Board of Trustees Resolution July 2015.)

**Section 7 Confidentiality**

- (a) For one (1) year following appointment, the executive director or designee shall keep the applications concerning the appointment, except that the executive director or designee may keep applications of appointees during their terms of service.

Applications shall be maintained in confidence and be available only to those persons involved in the appointment process<sup>2</sup>.

- (b) The executive director or designee shall compile, consistent with law, statistical data concerning the participation in activities of committees, sections, commissions, or other bodies to which the board has authority to make appointments, and shall report thereon annually, in July of each year, (or at a time calculated to give the best information prior to making appointments) to the Nominations and Appointments Committee. Any and all data, worksheets, and other information used to compile the statistical data

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<sup>2</sup> Phase II Proposed Change: Recommend to evaluate in light of the State Bar's compliance with the California Public Records Act (CPRA).

shall be confidential and shall be available only to members of the board and designated staff involved in the appointment process.

- (c) In addition, the chairs of each committee, section executive committee or entity to which the Board makes appointments shall furnish the Appointments Administrator through visual survey, with statistical data concerning the current representation of ethnic minorities, racial minorities and women on the particular entity.
- (d) Statistical analyses of State Bar appointments shall also include sexual orientation as a diversity factor and shall be available to all persons and entities authorized under the State Bar's appointments process to review, evaluate, and make further recommendations for appropriate Board action.

(Source: Board of Governors' Resolutions, June 1977, July 1981, August 1987, June 1994, Governance Action Plan October 2001.)

### **Section 8 Appointment**

- (a) In consultation with the appropriate board liaison and the chair of the entity to which appointment is sought, the appropriate board committee as designated in section 8, below, shall review, report on and make recommendations to the board concerning appointments to bodies created by the board (including but not limited to standing and special committees, executive committees of sections, boards and commissions).
- (b) The board has the ultimate authority and responsibility to make appointments from among applicants.

(Source: Board of Governors' Resolutions, June 1977, August 1987, February 1994, November 2006.)

### **Section 9 Appointment Screening**

Appointments to all State Bar entities shall be screened by the designated board committee [Nominations and Appointments Committee]. The exceptions to this policy are those appointments explicitly assigned, by board committee charter or the President, to other board committees.

(Source: Board of Governors' Resolution August 1987, Annual Board of Governors' Resolution, Governance Action Plan October 2001; Volunteer Involvement Committee Charter; Nominations and Appointments Committee Charter<sup>3</sup>.)

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<sup>3</sup> PHASE I PROPOSED CHANGE: Cites corrected.

**Section 10 Principles of Structure and Staffing of Sections, Commissions and Committees**

(a) Staffing:

(1) The Board of Trustees should commit sufficient resources to provide staff and an adequate operating budget to accomplish the charge of any committee/commission that the board establishes and/or maintains.

(2) The State Bar shall continue to provide to the sections staff, facilities and resource support but completely at the expense of Section Funds.

(b) Charge for Committees/Commissions

All State Bar committees/commissions appointed by the Board of Trustees should be given a specific and clearly articulated charge by the board.

(c) Standing Committees/Commissions

A Standing Committee/Commission appointed by the Board of Trustees should be created or maintained only if its principle purpose is to advise and serve the Board with regard to an enduring concern that relates to the Administration of Justice or that affects the profession at large, and whose charge does not duplicate the charge of an already existing State Bar entity.

(d) Special Committees/Commissions

All other committees/commissions created by the Board of Trustees should be special committees/commissions. Their principle purpose should be to advise and serve the board with regard to an immediate concern relating to the Administration of Justice or the practice of law. In each case, they should be given a specific and clearly articulated charge, a specific deadline for the completion of their task(s), and a sunset date at which time the committee/commission will cease to operate.

(e) Sections

The State Bar should utilize existing and newly created sections to address the concerns and interests of specific segments of the profession.

(f) Board Committee Oversight

Each committee/commission maintained by the State Bar shall be assigned to a board committee for oversight of its work. In addition to the required written annual report, each committee/commission shall make an annual presentation to its oversight board committee.

(g) Maximum Terms of Appointment for Section Executive Committee Members, Chairs, Vice-Chairs and Chairs-Elect

In order to maximize diversity and participation on section executive committees, it is the policy of the Board of Trustees that executive committee members serve no more than three (3) years, except to permit service as an officer in a fourth year, or as Chair, Vice-Chair or Chair-elect in a fifth year, or as Chair, in a sixth year.

(h) Reappointment of Members Filling Unexpired Vacancies

(1) Members who are appointed to fill unexpired terms of one year or less, are eligible for reappointment to a full committee term (i.e., three years).

(2) Members who are appointed to fill unexpired term of more than one year are not eligible for reappointment, except to serve as an officer.

(3) Said reappointment limitation shall not apply to members of the Committee of Bar Examiners or the CEB Governing Committee, whose members serve four-year terms.

**(Source: Board of Governors' Resolutions, November 1971, July 1989, April 1993, September 2004, July 2005.)**

## **Article 2 CRITERIA**

### **Section 1   General**

Consistent with the application of a variety of factors, and to the maximum extent practicable, the Board intends that all appointments that it makes, subject to appropriate criteria, be open to all members of the bar and, the criteria for appointment shall be applied so as to achieve diversification and broad representation on each committee, commission, executive committee of sections or other entities so as to encourage the participation of attorneys with skills or attributes that are underrepresented in the legal profession.

**(Source: Board of Governors' Resolutions, September 1981, August 1987; Board of Trustees Resolution July 2015.)**

### **Section 2   Criteria**

The Board adopts the following criteria to guide the board committee which reviews, reports on and makes recommendations to the Board concerning such appointments:

- (a) In considering recommendations of applicants to the Board for appointment, the board committee shall:
  - (1) Define the general and specific purposes of the entity to which the appointments are to be made and other relevant factors relating to its duties and functions, including, but not limited to, the number of meetings budgeted or anticipated, the estimated volunteer time, the difficulty of tasks, and projected work product deadlines.
  - (2) Identify particular, legal, organizational or cultural expertise that may be appropriate for meaningful contribution to the entity's purposes, duties and functions.
  - (3) To the extent available, and permitted by law, identify factors which encourage breadth and depth of perspectives including, but not limited to, the following: length of time in the practice of law or, if appointment is of a nonlawyer, the length of time in a given profession or vocation; specific accomplishments of note and/or respect achieved; proven commitment to volunteer work or strong indication of capacity and desire for making the expected time commitment; personal recommendations for the appointment; educational background; geographic location of residence and work; size of law firm or of practice; types of employment and types of specific interests represented by law practice or employment (e.g., whether public, house counsel, private, etc.; whether personal injury, litigation, plaintiff or defense, etc.); gender, age, race ethnicity and other factors of minority status including religious creed, physical or mental handicaps or sexual orientation contributing to diversity and broad representation;

prior experience in national, state or local bar association work, or similar experience of a nonlawyer appointment; and prior experience in the subject area of the entity.

- (4) Identify factors which could militate against appointment, but which should be weighed among other factors:
  - (a) if a lawyer appointment, any public information known to the State Bar about the applicant or a record of public discipline imposed;
  - (b) whether any other member of applicant's firm is on the entity; and
  - (c) prior participation of the applicant on the entity.

In no case shall the Board of Trustees appoint a person who is subject to State Bar disciplinary probation.

- (b) In order to ensure that the appointments process shall remain open to all members of the bar, the board, where practicable, shall make appointments from applications received pursuant to the recruitment policy adopted in June 1977, as amended, and the Nominations and Appointments Committee shall monitor the implementation of the recruitment policy and from time to time modify it to ensure that all segments of the bar receive adequate and timely notice of upcoming appointments.

**(Source: Board of Governors' Resolutions, September 1981, August 1987, February 1994; Governance Action Plan October 2001; Board of Trustees Resolution July 2015.)**

### **Section 3 Limitations and Restrictions**

- (a) *Ex Officio Members, Advisers, and Consultants.* Unless expressly authorized by the Board, advisers, ex officio members, and consultants shall not be appointed to State Bar standing or special committees.

**(Source: Board of Governors' Resolution, September 1981.)**

- (b) The executive committee may appoint non-voting advisors who serve at the pleasure of the committee.

**(Rule 3.54 adopted effective May 16, 2008; amended effective January 1, 2012.)**

#### **Historical Note**

State Bar Rule 3.54(E) supersedes Article XIII § 4F of the Rules and Regulations of the State Bar of California (Sections of the State Bar of California), repealed May 16, 2008.

- (c) *Appointment to More than One Entity.* Only in exceptional cases shall the Board of Trustees appoint one person to more than one standing committee or commission of the State Bar.

**(Source: Board of Governors' Resolution, May 1982.)**

- (d) *Appointment of State Bar Staff Members to State Bar Volunteer Entities.* In order to minimize the potential for actual or perceived conflict and favoritism and to encourage maximum participation from the membership of the bar, that, as a general rule, the board is not inclined to appoint members of the staff of the State Bar to section executive committees, standing committees, special committees, boards and commissions of the bar, said policy to be disregarded only in the most exceptional circumstances.

**(Source: Board of Governors' Resolution, October 1990.)**

- (e) *Section Executive Committees.* Only members of the section are eligible for appointment to the section's executive committee. To the extent practical, the executive committee shall be representative of the various fields covered by the section.

**(Source: Board of Governors' Resolutions, May 1976; March 1977.)**

- (f) *Guidelines for Appointment and Participation of Out-of-State Members in State Bar Sub-Entities.* A out-of-state member of the State Bar may be appointed to serve on a State Bar sub-entity subject to these Guidelines:

- (1) The potential appointee, considered in light of the relevant applicant pool, shall fulfill the requirements and standards for appointment and be subject to the same appointment process and standards as resident members, except that;
- (2) Due consideration shall be given in the appointment process to the budget impact of any additional costs that may be incurred by the State Bar due to the service of the out-of-state member.

**(Source: Board of Governors' Resolution, May 2005.)**

- (g) *Inactive Members.* An inactive member may be appointed by the Board of Trustees upon any committee other than a committee whose membership is restricted by statute or other Board policy.

**(Board of Governors' Resolution, December 2004)**

#### **Historical Note**

Article 2, Section 2 (g) *Inactive Members* was formerly titled Article I, §4 Privileges of Inactive Members of the Rules and Regulations of the State Bar of California (repealed May 16, 2008).

**Article 3**  
**PROCEDURE FOR SECTION EXECUTIVE COMMITTEES**

**Section 1    *Board Committee Consent Agenda***

- (a) Section appointment recommendations will be placed on the consent agenda for the appropriate Board committee, with any committee member retaining the right to remove any section's recommendation from consent in order to allow for fuller discussion. If any section's recommended slate of appointments is to be removed from the board committee's consent agenda, it should be removed in its entirety;
- (b) Any recommendation removed from consent will be deferred until a subsequent meeting of the committee. In the interim, the section having offered the recommendation will be notified and invited to participate in the committee's discussion of its recommendation. All section appointment recommendations that are passed by the committee will be placed on the consent agenda of a subsequent meeting of the board;
- (c) As soon as is practicable following the board committee meeting, the list of all those section appointment recommendations passed by the appropriate board committee will be compiled and distributed to all members of the Board, who will be given two weeks to notify the Secretary of the State Bar of any appointment recommendation that should be removed from the Board consent agenda.
- (d) Any section offering an appointment recommendation that has been removed from the board's consent agenda will be notified and invited to participate in the board's discussion of that appointment.

**(Source: Board of Governors' Resolution, January 1999.)**

**Article 4**  
**TERMS OF OFFICE AND OATH**

**Section 1 Committee Year**

Unless otherwise specified by the Board of Trustees, appointment terms for standing, special and section executive committees follow the committee year. The normal committee year shall commence with the close of the Annual Meeting and continue until the close of the Annual Meeting of the following year.

(Source: Board of Governors' Resolutions, September 1972, July 1986, August 1992.)

**Section 2 Term, Maximum.**

The term of office for all members of standing, special and section executive committees shall be three years; said terms to be staggered. Members serve no more than three years, except to permit service as Chair, Vice-Chair or Chair-Elect in a fourth year, or Chair in a fifth year.

The exceptions to this policy are section executive and Mandatory Fee Arbitration committee members who serve as an officer in a fourth year, or as Chair, Vice-Chair or Chair-elect in a fifth year, or as Chair, in a sixth year; the Committee of Bar Examiners, the California Board of Legal Specialization and its Advisory Commissions, the LAP Oversight Committee and the Committee on State Bar Approved Professional Liability Insurance, whose members serve four-year terms, and the Continuing Education of the Bar (CEB) Governing Committee, whose members serve two-year terms, and the California Commission on Access to Justice and the Legal Services Trust Fund Commission, whose members may serve two consecutive three-year terms and whose officers may serve one or two additional one-year terms. Officers are appointed by the Board of Trustees and serve one-year terms.

(Source: Board of Governors' Resolutions, August 1982, July 1986, July 1989, December 2001, July 2005, July 2010; State Bar Rule 3.54 adopted effective May 16, 2008; State Bar Rule 3.662 adopted effective March 6, 2009; Agreement between the State Bar of California and University of California Continuing Education of the Bar, §VIII.A.6; Board of Trustees Resolution November 2013; Board of Trustees Resolution July 2014; November 2015.)

**Historical Note**

State Bar Rule 3.54 supersedes Article XIII, § 4 of the Rules and Regulations of the State Bar of California (The Executive Committee), repealed May 16, 2008.

**Section 3 Term, Reappointment of Members Filling Unexpired Vacancies**

Members appointed to fill unexpired terms of one year or less may be reappointed for a full three-year term. Members appointed to fill unexpired vacancies of more than one year are not eligible for reappointment, except to serve as an officer. This reappointment limitation does not apply to members of the Committee of Bar Examiners, the LAP Oversight Committee, the California Commission on Access to

Justice, the California Board of Legal Specialization and its Advisory Commissions, or the CEB Governing Committee.

(Source: Board of Governors' Resolution, April 1993, December 2001, July 2010; Board of Trustees Resolution, November 2013.)

**Section 4 Terms of Office, Committee on Professional Liability Insurance**

- a) The term of office for members of the Committee on Professional Liability Insurance (Committee) shall be up to four (4) years prospectively; to the extent practicable, said terms shall be staggered.
- b) Upon recommendation by the Committee and appointment by the Board, a Committee member may serve a consecutive four-year term.
- c) The term of office for the chair and vice-chair may be up to two (2) years.
- d) At its discretion, the Board of Trustees (Board) may appoint a past chair for a term up to two (2) years.
- e) Committee members who serve the maximum of two consecutive four-year terms and do not serve as a chair or vice-chair will rotate off the Committee assuming that qualified applicants are available for appointment. Members serving two terms as chair and vice chair may serve an additional term of two years or less as past chair upon recommendation of the Committee and appointment by the Board.
- f) To the extent practicable, terms of the Committee's vice-chair, chair and Chair Emeritus shall be staggered to allow for succession every two years.
- g) To the extent practicable, succession into the vice-chair or chair position occur no later than the 6th year of total service on the Committee or earlier if the Committee recommends and the Board approves.
- h) Committee members serve no more than ten (10) consecutive years as a member, chair, and vice chair if qualified applicants are available for appointment.
- i) All current Committee members may complete their current terms (i.e., terms ending at the close of the State Bar meeting in 2005 and 2006). Current Committee members who have served ten (10) or more years will be ineligible for reappointment unless there are no qualified applicants and the Board approves the reappointment.

(Source: Board of Governors' Resolution, July 2004.)

**Section 5 Oath of Office**

Each person appointed to a State Bar committee is required to file the oath of office with the State Bar within 30 days of the effective date of the appointment.

**(Source: Government Code §§1360 et seq.; California Constitution, article XX, §3; State Bar Rule 3.54 adopted effective May 16, 2008.)**

**Historical Note**

State Bar Rule 3.54 supersedes Article XIII, § 4 of the Rules and Regulations of the State Bar of California (The Executive Committee), repealed May 16, 2008.

**Article 5**  
**GUIDELINES FOR APPOINTMENT TO THE COMMISSION ON**  
**JUDICIAL NOMINEES EVALUATION**

**Section 1 Statutory Requirements**

The membership of the designated agency of the State Bar responsible for evaluation of judicial candidates shall consist of attorney members and public members with the ratio of public members to attorney members determined, to the extent practical, by the ratio established in §§ 6013, 6013.4, and 6013.5, inclusive, of the Business and Professions Code. It is the intent of subdivision (b) of § 12011.5 of the Government Code that the designated agency of the State Bar responsible for evaluation of judicial candidates shall be broadly representative of the ethnic, sexual and racial diversity of the population of California and composed in accordance with §§ 11140 and 11141 of the Government Code. The further intent of § 12011.5 (b) of the Government Code is to establish a selection process for membership on the designated agency of the State Bar responsible for evaluation of judicial candidates under which no member of that agency shall provide inappropriate, multiple representation for purposes of § 12011.5 (b) of the Government Code.

(Source: Gov. Code, §12011.5(b).)

**Section 2 Appointment of Chair and Vice Chair**

The chair and vice-chair shall be appointed by the Board of Trustees of the State Bar of California.

(Source: Board of Governors' Resolution, January 1981.)

**Section 3 Procedures for Appointment**

The mission of the Commission on Judicial Nominees Evaluation is to assist the Governor in the judicial selection process and thereby to promote a California judiciary of quality and integrity by providing independent, comprehensive, accurate, and fair evaluations of candidates for judicial appointment and nomination.

In order to assure that the Commission on Judicial Nominees Evaluation is "broadly representative of the ethnic, sexual and racial diversity of the population of California" as required by § 12011.5 of the Government Code and fulfills board policies on diversity and tenure, the board hereby establishes the following procedures to govern appointment of commissioners:

- (a) Commissioners shall be appointed by the board upon recommendation of the board committee designated to review appointments to State Bar committees.
- (b) All appropriate diversity considerations shall be taken into account in making recommendations and appointments, including, but not limited to, legally mandated criteria and board policies on diversity and criteria for membership on State Bar appointed entities from time to time in effect. Without limiting the generality of the foregoing, recommendations and appointments shall be

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made having in mind the desirability of appropriate geographical diversity of membership on the commission.

- (c) Subject to the other provisions of this procedure statement, the pool of nominees to be considered by the board committee shall consist of all persons who have filed a written application form and requisite documents for appointment or reappointment by the predetermined deadline.

The designated board appointments committee, or its designee, shall interview selected applicants for appointment and shall interview persons wishing to serve as chair or vice chair. [At its September 1997 meeting, the Board waived this provision due to cost controls in effect.]

The board committee handling appointments, or its designee, shall solicit written feedback on the performance of commissioners seeking reappointment from the current chair, the commission staff, the JNE Review Committee, the members of the Board of Trustees, the Governor's Office, and other sources as may be deemed appropriate by the Board of Trustees. Commissioners seeking reappointment shall complete an application designated for that purpose.

- (d) The terms of office shall be determined by the Board of Trustees, upon consideration of appropriate deadlines and procedures affecting the commission's operation. Commissioners shall not serve for more than three consecutive one-year terms except they may serve a fourth year as chair. It shall not be assumed that a vice-chair will necessarily be appointed chair.
- (e) The application shall solicit information regarding the applicant, including but not limited to, his or her background, relevant qualifications to serve on the commission, legal, professional and/or volunteer experience, reasons for wishing to serve on the commission, ability to make the substantial time commitment required of commissioners, and availability and willingness to attend any scheduled interview and the Orientation-Training session.

At a time calculated to give reasonable notice to applicants that the board will make appointments and to give applicants the opportunity to apply for such appointments, the designated staff of the State Bar shall publish application information in State Bar publications and circulate notice to legal or other newspapers in California, to the Board of Trustees, to local, specialty and minority bars, and to law-related and other organizations. The board committee, or its designee, may solicit further applications from board members or other sources in order to attain the required diversity and/or quality in the pool of applicants.

- (f) Membership on the commission shall include the ratio of attorney members and public members, as required by § 12011.5(b) of the Government Code.

The attorney members serving on the commission shall be active members in good standing. Particular consideration will be given to attorney applicants who have substantial litigation, trial and/or appellate experience. To the extent practical, the public members shall be persons who have never been members of the State Bar or admitted to practice before any court in the United States.

- (g) The commission membership may include one or more former members of the judiciary, with a preference for those with appellate backgrounds.
- (h) The commission shall consist of up to 38 members. The exact number of commissioners shall be left to the discretion of the Board of Trustees.

**(Source: Board of Governors' Resolutions, October 1979, October 1985, June 1990, January 1993, July 1997, September 1997, December 2004, June 2005.)**

**Article 6**  
**GUIDELINES FOR APPOINTMENT OF STATE BAR REPRESENTATIVES TO  
BOARDS OF DIRECTORS OF PROGRAMS FUNDED BY THE LEGAL SERVICES  
CORPORATION**

***Section 1 Review of Candidates by Board Committees***

Appointments by the Board of Trustees of State Bar representatives to serve on boards of directors of programs funded by the Legal Services Corporation will be accomplished through a process that includes the recommendation of candidates by the Nominations and Appointments Committee, or its successor, to the Board of Trustees. Appointments are made by the full Board of Trustees.

**(Source: Board of Governors' Resolutions, March 1983, April 1985, June 1987, July 1995, Annual Board Resolution, Governance Action Plan October 2001; Volunteer Involvement Committee Charter; Board of Trustees Resolution, May 2013.)**

***Section 2 Program Request for Appointments***

- (a) Prior to the State Bar making any commitment to appoint representatives to the board of directors of a legal services program, the program's board of directors must submit a specific request to the Nominations and Appointments Committee, or its successor, which shall include the following information:
  - (1) Number of appointments;
  - (2) Minimum requirements it wishes the board committee to consider in making its recommendations; and
  - (3) A copy of its current bylaws and any updates.
- (b) Requests for appointments from programs shall include:
  - (1) The number of vacancies to be filled;
  - (2) A profile of the current board's diversity demographics;
  - (3) A description of the program board's methods for soliciting applications;
  - (4) A description reviewing the qualifications of applicants; and
  - (5) The dates of proposed term for the appointment.

**(Source: Board of Governors' Resolutions, March 1983, June 1987, October 2001, Volunteer Involvement Committee Charter; Board of Trustees Resolution, May 2013.)**

### **Section 3 Staggered Terms**

Where the total number of appointments to be made by the State Bar is greater than (4) four, the terms of such appointments must be staggered so that the regular terms of no more than half of the State Bar's appointees begin in any twelve-month period.

(Source: Board of Governors' Resolution, June 1987.)

### **Section 4 Legal Services Boards: Diversity Outreach**

Appointments to Legal Services Boards shall be made so as to ensure diversity among the State Bar's appointees and reasonably reflect the population of the areas served by the program, as provided by 45 C.F.R. section 1607.3(c).

(Source: Board of Governors' Resolution, June 1987, 45 C.F.R. section 1607.3(c); Board of Trustees Resolution, May 2013.)

### **Section 5 Reappointments**

It is the policy of the State Bar not to consider for reappointment any member who has served on a board for two (2) terms or six (6) years, whichever is greater, unless the reappointment is required to continue the term of any officer, in which case a member may be reappointed for a period of time sufficient to allow completion of the term of office, or for other good cause, such as lack of eligible candidates from the service area.

(Source: Board of Governors' Resolutions, March 1983, January 1984, June 1984, June 1987; Board of Trustees Resolution, May 2013.)

### **Section 6 Press Releases**

The State Bar's Office of ~~Communications and Media~~<sup>4</sup> Information Services shall issue a press release soliciting applications for all vacancies in positions appointed by the State Bar. The press release will include all requirements for membership identified by the program board and will inform potential applicants that applications will be reviewed by and recommendations will be solicited from the board of directors of the relevant program.

The press release shall allow for a one-month solicitation period and a one-month period for review by appropriate board committees and the Board of Trustees. The press release will indicate that applicants must submit a brief resume accompanied by a cover letter describing the reasons why they should be appointed to serve on the board of directors. The resume should include any past experience, interest or involvement in providing legal services to the poor. The press release will also be sent to the appropriate representatives of the programs so that they can inform potential applicants to send their letters and resumes by the specified date to the Office of Legal Services.

(Source: Board of Governors' Resolutions, March 1983, June 1984, March 1987; Board of Trustees Resolution, May 2013.)

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<sup>4</sup> PHASE I PROPOSED CHANGE: Language revised to be consistent with current board policy.

**Section 7 Recommendations by Program's Board of Directors**

Within thirty (30) days following the end of the solicitation period, the program's board of directors (or committee thereof) shall give the Office of Legal Services its recommended appointments listed in order of preference. The recommendations shall include information describing how the applicants were evaluated, the reasons for the recommendations, and the dates for the term of the appointment.

(Source: Board of Governors' Resolution, June 1987; Board of Trustees Resolution, May 2013.)

**Section 8 Review of Requests for Appointment**

Prior to review by the board committee, the Office of Legal Services will review all requests for appointment to ensure that all the required information has been submitted in the proper form, and that the recommended appointments meet the requirements of the program board's bylaws, experience requirements, other specific requirements, and the provisions of section 4 herein.

In the event that all relevant requirements have not been met, the program board will be asked to provide revised recommendations. If revised recommendations are not made, the appointment process will, at the direction of the board committee either be extended or proceed without revised recommendations from the program board.

(Source: Board of Governors' Resolutions, March 1983, June 1987, October 2001; Volunteer Involvement Committee Charter; Board of Trustees Resolution, May 2013.)

**Section 9 Board Committee Recommendations**

The Nominations and Appointments Committee, or its successor, shall make the specified number of recommended appointments to the Board of Trustees. The board shall make the appointments in conformity with its procedures on appointments to external entities.

(Source: Board of Governors' Resolutions, March 1983, June 1987, July 1995, October 2001, Volunteer Involvement Committee Charter; Board of Trustees Resolution, May 2013.)

**Section 10 Appointee Expenses--No Reimbursement**

No State Bar funds shall be expended to reimburse any appointee for any expenses incurred through his and her service on a board of directors of a program funded by the Legal Services Corporation.

(Source: Board of Governors' Resolutions, March 1983, June 1987.)

**Article 7**  
**GUIDELINES FOR APPOINTMENT TO LEGAL SERVICES**  
**TRUST FUND COMMISSION**

**Section 1    *Composition of Commission***

The Legal Services Trust Fund Commission shall be comprised of no more than twenty-one (21) voting members and three (3) nonvoting judges. The voting component shall be fifteen (15) attorneys and at least six (6) shall be members of the public who have never been members of the State Bar or admitted to practice before any court in the United States. At least two members must be or have been within five years of appointment "indigent persons" as defined at section 6213(d) of the Business and Professions Code. No employee or independent contractor acting as a consultant to any agency which is a potential recipient of funds under the Legal Services Trust Fund Program shall be appointed to the commission. All members appointed shall be bound by the Board of Trustees' established rules governing conflicts of interest.

**(Source: Board of Governors' Resolutions, September 1982, January 1985, December 1986, February 1998, August 1999, March 2009.)**

**Section 2    *Appointment Process***

The Chair of the Judicial Council will appoint seven (7) voting members, of which five (5) will be attorney members and two (2) will be public members, and three (3) nonvoting judges, of which one (1) will be an appellate justice. The State Bar Board of Trustees will appoint fourteen (14) voting members, ten (10) of which shall be attorneys and four (4) shall be public members. The Board of Trustees appoints voting members as chair and vice chair. Each member serves at the pleasure of the appointing authority. The recruitment and appointment process for the commission for members appointed by the Board of Trustees shall be the same as that followed for other committees and entities appointed by the board.

**(Source: Board of Governors' Resolution, February 1998, August 1999; State Bar Rule 3.662 (A) (B) (C).)**

**Section 3 Terms and Duties**

Each member of the commission shall be appointed for a term of three years. Terms of the members appointed by the Board of Trustees begin and end at the State Bar Annual Meeting. The Board of Trustees may reappoint a member for a second three-year term. The Board may extend an initial or second term by one or two years to allow a member to serve as chair or vice chair of the commission. Judicial Council appointees will serve terms that begin and end at the time of the State Bar Annual Meeting. Under the Legal Services Trust Fund Program rules, the commission shall administer the legal requirements and program rules for revenue from IOLTA (Interest on Lawyers' Trust Accounts) funds and other funds remitted to the program. The staff of the Legal Services Trust Fund Program shall provide the personnel necessary to carry out its duties.

**(Source: Board of Governors' Resolutions, September 1982, January 1985, July 1989, February 1998, August 1999, March 2009; State Bar Rule 3.660, 3.662 (A); Board of Trustees Resolution 2014.)**

**Article 8**  
**GUIDELINES FOR APPOINTMENT TO THE COMMISSION**  
**ON ACCESS TO JUSTICE**

**Section 1 Establishment and Purpose**

Upon recommendation of the Access to Justice Working Group, the Board of Trustees established the California Commission on Access to Justice. The commission is to develop and analyze and, in appropriate circumstances, pursue the findings, recommendations and funding options contained in And Justice for All: Fulfilling the Promise of Equal Access to Justice in California, to recommend initially to the Board and, if approved by the Board of Trustees, to other appropriate bodies and agencies, specific policies and procedures to implement its recommendations, with the goal of achieving fuller access to our legal system, and to report back to the State Bar, as well as to the other entities with appointment power on the commission, within eighteen months of the naming of the commission concerning the progress, the proposed priorities and specific goals and activities being pursued.

**(Source: Board of Governors' Resolution, September 1996.)**

**Section 2 Composition of Commission**

The commission shall consist of twenty-six members. The appointing entities and number of appointments made by each entity are:

State Bar of California	Ten Members
Judicial Council	Two Members
California Judges Association	One Member
Office of the Governor	Two Members
President Pro Tem of the Senate	One Member
Speaker of the Assembly	One Member
Supreme Court of California	One Member
California Attorney General	One Member
California Chamber of Commerce	One Member
California League of Women Voters	One Member
California Labor Federation	One Member
California Council of Churches	One Member
Consumer Attorneys of California	One Member
Council of California County Law Librarians	One Member
Legal Aid Association of California	One Member
<b>Total:</b>	<b>Twenty-Six Members</b>

Appointing entities should keep in mind that the goal is to have a commission which includes both lawyers and nonlawyers; it is strongly urged that appointments made by the Office of the Governor, President Pro Tem of the Senate, Speaker of the Assembly, California Chamber of Commerce, California League of Women Voters, California Labor Federation, California Council of Churches, and the Council of California County Law Libraries be members of the public who are not active members of the State Bar of

California or any other state. The commission shall also be broadly representative of the ethnic, sexual and racial diversity of the population of California as required by board policies on diversity. All appointing entities should strive to achieve the needed diversity on the commission. All members appointed shall be bound by the Board of Trustees' established rules governing conflicts of interest.

(Source: Board of Governors' Resolutions, September 1996, January 1997, December 1999, February 2003, May 2009, November 2011.)

### **Section 3 Terms**

Except as described below, terms for all State Bar appointments to the commission will be for a three year period, with terms running until the end of the State Bar Annual Meeting during the third year of the term. Members may serve a total of two consecutive terms on the commission, with the exception that officers may be extended for another one or two additional one-year terms to serve in that capacity.

Half of the initial State Bar appointees shall be named for terms of two years, and the other half of the initial State Bar appointees shall be named for terms of three years to ensure continuity on the commission. The terms of the initial appointments of all other entities shall be for terms of two years. For the initial appointment, the period from the date of appointment to the end of the annual meeting in that year will be treated as a full year.

(Source: Board of Governors' Resolution, September 1996, July 2010.)

### **Section 4 Recruitment**

The State Bar shall widely distribute the notice of availability of positions on the commission to other State Bar entities, local bar associations, legal services programs, pro bono attorneys, dispute resolution programs, the law school community, and other interested groups. The State Bar shall also notify other appointing entities to the commission of their role as appointing entities, and it is anticipated that they will use their organization's normal recruitment procedures. Other appointing entities are encouraged to have potential nominees or candidates review the Report of the Access to Justice Working Group in advance of the appointment.

(Source: Board of Governors' Resolution, September 1996.)

### **Section 5 Applications**

Applications for State Bar appointments to the commission shall be required to submit an application form and resume. Other appointing entities will be asked to have their appointments complete the application form and submit a resume at the time of their appointment.

(Source: Board of Governors' Resolution, September 1996.)

### **Section 6 Criteria**

Members of the commission shall have a stated commitment to improving access to justice for all Californians, and have some education or expertise as well as some prior involvement with the need or delivery of legal services to the poor, the near-poor, or the middle income. Members shall be willing to study the Report of the Access to Justice Working Group, entitled And Justice For All: Fulfilling the Promise of Access to Civil Justice in California, and members will also be willing to attend commission meetings and be involved in commission activities between meetings as appropriate. In no event shall the Board of Trustees appoint a person who is subject to State Bar disciplinary probation or disbarment.

(Source: Board of Governors' Resolution, September 1996.)

### **Section 7 Appointment Screening**

For the initial State Bar appointments, the Access to Justice Working Group shall make recommendations to the board committee with oversight responsibility for legal services, which will in turn make recommendations to the Board of Trustees. In subsequent years, the Access to Justice Commission shall make recommendations to the appropriate board committee.

In making its appointments, the State Bar shall attempt to seek nominations from a broad range of representatives of interested constituencies, including the private bar, the business community, the academic community, the legal services community, local and specialty bar associations, young lawyer, and nonlegal community organizations. In choosing legal services representatives to serve on the commission, the State Bar shall solicit the input of the legal services community.

(Source: Board of Governors' Resolution, September 1996.)

### **Section 8 Officers**

The State Bar Board of Trustees shall name the chair and vice-chair of the commission, and shall consider a recommendation from the members of the commission in making its appointments. For the first two years of the commission's existence, the chair and vice-chair will serve a two-year term, ending on the last day of the Annual Meeting during the second year of the term. For this initial appointment of officers, the Board of Trustees will receive a recommendations from the Access to Justice Working Group. Following the initial two-year term, officers will serve for one year terms (terms follow the calendar year, i.e., January 1-December 31). In addition to the chair and vice-chair, the commission will have the authority to choose other additional officers it deems appropriate.

(Source: Board of Governors' Resolution, September 1996, December 1999.)

### **Section 9 Vacancies**

For State Bar appointments on the commission, vacancies should be filled as soon as practicable, following the process outlined above, and the replacement commission member will serve for the duration of the unexpired term. The applicant pool for any

interim appointments consists of (1) any applicants remaining in the pool from the previous appointment cycle, and/or (2) any newly recruited applicants. The commission may do additional recruitment to meet specific qualifications or to improve diversity.

For appointments from other entities, the State Bar shall notify the appointing entity of the vacancy in their position on the commission and request a replacement as soon as is practicable. In the event that another appointing entity fails to make an appointment within six months, the State Bar may temporarily appoint someone to fill that vacancy, striving to appoint someone with background and experience similar to the person vacating the position. The goal shall be to maintain the balance of different professional and community groups anticipated for the commission.

(Source: Board of Governors' Resolution, September 1996.)

***Section 10 Attendance and Removal***

Commission members serve at the pleasure of the appointing entity. Commission members who miss three consecutive meetings without good cause may be asked to resign by the chair of the commission.

(Source: Board of Governors' Resolution, September 1996.)

***Section 11 Confidentiality***

Applications for appointment to the commission are treated as confidential. This includes any material submitted with an application, as well as the fact that someone has applied for an appointment. Information concerning applications for appointment is released only to those persons involved in the appointment process, e.g., board members, commission members, and all staff necessary to assist in the appointment process.

(Source: Bus. & Prof. Code, §6026.5(g); Board of Governors' Resolution, September 1996.)

**Article 9**  
**GUIDELINES CONCERNING APPOINTMENTS**  
**TO THE AMERICAN BAR ASSOCIATION (ABA) HOUSE OF DELEGATES**

**Section 1 Membership**

The State Bar will strive to appoint members from its applicant pool meeting the following guidelines:

- One (1) delegate who qualifies as the young lawyer representative;
- Up to two (2) delegates to include the most immediate past member of the ABA Board of Governors and any immediate past officer of the ABA from the California ABA Delegation;
- Two (2) members who have not had substantial volunteer experience but who possess the leadership and other skills to be successful delegation members; and,
- Six (6) delegates who have substantial bar experience, especially with the ABA, and are typical of other State Bar appointments.

**(Source: Board of Governors' Resolution, March 2002, VIC resolution August 2003.)**

**Section 2 Number of Terms**

Unless otherwise authorized by the Board of Trustees, each member of the State Bar's ABA delegation would be eligible for reappointment to no more than three (3) consecutive two-year appointments or a maximum of six (6) consecutive years of service with the delegation. Delegates who have completed such service may apply in the future after a period of not less than two years from the date of the expiration of the delegate's last term of service with the State Bar.

**(Source: Board of Governors' Resolution, March 2002, VIC resolution August 2003, November 2006.)**

**Article 10**  
**GUIDELINES CONCERNING**  
**JUDICIAL COUNCIL APPOINTMENTS**

**Section 1 Membership**

The State Bar's governing body appoints four members of the Judicial Council.

(Source: California Constitution, article VI, §6.)

**Section 2 Term of State Bar Appointees**

It is the policy of the Board of Trustees that appointees to the Judicial Council shall serve three-year terms.

(Source: Board of Governors' Resolution, December 1989, December 1995, June 1999, California Constitution, article VI, §6a.)

**Article 11**  
**GUIDELINES CONCERNING CALIFORNIA YOUNG**  
**LAWYERS ASSOCIATION (CYLA) APPOINTMENTS**

**Section 1 Membership**

CYLA will be composed of 20 members appointed by the Board of Trustees. Six of the appointed seats shall be designated for representatives of each of the six State Bar districts, one member per district. The remaining 14 seats shall be filled by appointments at large.

(Source: Board of Governors' Resolution, September 2008.)

**Historical Note**

Commencing on January 1, 2012 and pursuant to Section 6013.1 of the Business and Professions Code, State Bar Districts shall be based on the six court of appeal districts as constituted pursuant to Section 69100 of the Government Code, as they existed on December 31, 2011.

**Article 12**  
**GUIDELINES CONCERNING APPOINTMENTS TO SECTION EXECUTIVE COMMITTEES**

**Section 1    *Membership of Executive Committees of Sections***

To the extent practicable, the executive committee of a section shall be representative of the various fields covered by the section. No more than one (1) attorney from any firm, corporation, entity or commission shall serve on an executive committee at the same time.

**(Source: Board of Governors' Resolutions, May 1976 and March 1977.)**

**Section 2    *Board of Trustees Appointments to Section Executive Committees***

Section Executive Committee appointment recommendations made by the sections will be placed on the consent agenda for the appropriate Board Committee with any committee member retaining the right to remove any section's recommendation from the consent agenda in order to allow for further discussion. If any section's recommended slate of appointments is to be removed from the Board Committee's consent agenda, it will be removed in its entirety.

Any recommendation removed from the consent agenda will be deferred until a subsequent meeting of the Board Committee. In the interim, the section having offered the recommendation will be notified and invited to participate in the Board Committee's discussion of its recommendation. All section appointment recommendations that are passed by the Board Committee will be placed on the consent agenda of a subsequent meeting of the Board.

As soon as is practicable following the Board Committee's meeting, the list of all those section appointment recommendations passed by the appropriate Board Committee will be compiled and distributed to all members of the Board, who will be given two weeks to notify the Secretary of the State Bar of any appointment recommendations that should be removed from the Board's consent agenda.

Any section offering an appointment recommendation that has been removed from the Board's consent agenda will be notified and invited to participate in the Board's discussion of that appointment.

**(Source: Board of Governors' Resolution, January 30, 1999.)**

**Article 13  
INTERIM APPOINTMENTS**

**Section 1 Resignations**

The president or his or her designee is authorized, on behalf of the Board of Trustees, to:

- (a) Accept resignations of members of State Bar committees; and
- (b) Accept resignations from their offices of chairperson and vice-chairpersons of State Bar committees.

(Source: Board of Governors' Resolutions, August 1971, August 1987.)

**Section 2 Vacancies on Committees**

The Board of Trustees, upon the recommendation of the appropriate board committee shall fill vacancies on State Bar committees and section executive committees, occurring during the State Bar committee year. The following procedure shall be observed:

- (a) When a vacancy occurs on any committee or section executive committee, the staff person responsible shall immediately so advise the board member liaison to that committee/entity.

The applicant pool for the vacancy shall consist of any of the following:

- (1) Applicants for the current committee year on file with the appointments administrator; or
- (2) Newly recruited applicants
- (b) The appropriate board committee shall review the recommendation(s), for each vacancy, and upon appropriate consultation with the chair of the entity and the board liaison, shall submit a recommendation to the Board of Trustees.
- (c) The Board of Trustees shall fill the vacancy, giving due consideration to the recommendation(s), consistent with the guidelines and policies herein established.

(Source: Board of Governors' Resolutions, August 1971, June 1977, August 1987; State Bar Rule 3.54 adopted effective May 16, 2008.)

**Historical Note**

State Bar Rule 3.54 supersedes Article XIII, § 4 of the Rules and Regulations of the State Bar of California (The Executive Committee), repealed May 16, 2008.

## **Article 14 REMOVAL**

### ***Section 1 Removal of Committee Members***

Committee members serve at the pleasure of the board. A committee member should not be asked to resign, and the Board of Trustees should not remove a committee member from office, unless, without justification, the member refuses or persistently fails to perform his or her duties as a member of the committee. If a committee member, without justification, refuses or persistently fails to perform his or her duties, or if other good cause exists, the board may ask for the member's resignation or, if necessary, remove him or her from office. This policy should not be construed as limiting the inherent power of the board to remove any such appointee from office at any time.

Any standing committee member who misses more than one-third (1/3) of the regularly scheduled meetings during a committee year without good cause, may be deemed to have resigned from the standing committee. Policies adopted by the various section executive committees shall prevail.

**(Source: Board of Governors' Resolutions, September 1972, July 1986, September 2004.)**

### ***Section 2 Limitations on Removal of Appointees to the Judicial Council***

Appointees to the Judicial Council serve terms that are fixed by law. Thus, the board has no removal power. Appointees can however be disqualified by operation of law, that is, if during the term of appointment one ceases to be a member of the State Bar.

**(Source: Cal. Const., art. VI, §§6 and 8.)**

## **Article 15 CONFIDENTIALITY**

Applications for appointment to any entity to which the board appoints are treated as confidential. This includes any material submitted with an application. In addition, the fact that someone has applied for an appointment is treated as confidential. Information concerning applications for appointment is released to those persons involved in the appointment process, e.g., board members, section and committee officers, and all staff necessary to assist in the appointments process.

**(Source: Bus. & Prof. Code, §6026.5(g); Board of Governors' Resolution, August 1987.)**

**Article 16**  
**BOARD COMMITTEE**  
**APPOINTMENT REVIEW PROCEDURE**

**Section 1 Standing and Special Committees**

Pursuant to its charter, the Nominations and Appointments Committee (NAC) adopted the following procedures to review the appointment recommendations for the following State Bar committees:

- (a) Procedure for Reviewing New Applications, Officer Nominations and Reappointment Recommendations:
  - (1) Except for designated committees such as the Committee of Bar Examiners, the Lawyer Assistance Program Oversight Committee and the Commission on Judicial Nominees Evaluation or otherwise provided by the board committee procedure, each State Bar standing and special committees above shall review the applications for new members in accordance with each committee's established procedures and Board policies. Each entity will submit its appointment recommendations by the established deadline to the Appointments Office on the appointment worksheet. At the same time, each committee shall also provide information regarding selection criteria and statistics of the current committee membership, applicant pool, and proposed new committee to the board committee on an appointment report form, or other manner as prescribed by the board committee.
  - (2) Officer and reappointment candidates will be selected in accordance with each committee's established written procedures and pursuant to Board policy. Information regarding the selection criteria and procedure for officer consideration is to be made available to each committee member.
  - (3) Each committee chair may also submit written comments regarding the committee's ranking and the qualifications of the applications, reappointments or proposed officers. A committee chair may also request to attend the board committee meeting to participate in the discussion of his or her committee's appointment recommendations. Applications will be available to the board committee members and at the meetings in which the appointments are discussed.
- (b) Exceptions:
  - (1) Committee of Bar Examiners. For the applicants to the Committee of Bar Examiners, the board committee will rank the new applicants and those seeking reappointment (if any) in order of preference. The Committee of

Bar Examiners (CBE) will follow its normal process and provide the board committee with information as to specific qualifications or criteria that must be met. The CBE chair will submit the committee's recommendations to the Appointments Office by the established deadline and may also submit written comments for the board committee's consideration. The chair of the board committee, or his or her appointee, will serve as the primary board committee liaison to work with the committee during the review process. The CBE chair may also attend the board committee meeting to participate in the discussion of the CBE's appointments. At its discretion, the board committee may interview the candidates for chair and vice chair.

- (2) Commission on Judicial Nominees Evaluation (JNE). The board committee members and the JNE chair will review and rank new applicants. The number of reappointments will determine the number of available positions for new members. For the reappointments and officers, in accordance with established procedures, the JNE chair will submit a written evaluation of the reappointment and officer candidates and will receive copies of the reappointment applications. The JNE chair will discuss the appointment considerations for the coming year with the chair of the board committee. The board committee members will receive copies of the evaluations by the JNE chair and the reappointment applications. The board committee members will vote on the recommendations for reappointment and on the officer candidates. At its discretion, the board committee may interview the officer candidates.
- (3) Lawyer Assistance Program (LAP) Oversight Committee. The board committee will review the applications for new and/or reappointment in accordance with statutory provisions and board policies and procedures. Pursuant to board policy and the LAP rules, at its discretion, the board committee may interview the candidates for chair and vice chair.

**(Source: Board of Governors' Resolutions, August 2003, December 2005; Rule 1 Section 3 of the Rules and Regulations Governing the Lawyer Assistance Program.)**

## **Section 2    Section Executive Committees**

- (A) A section must have an executive committee of at least fifteen but no more than seventeen members. Each member is appointed by the Board of Trustees for a three-year term to govern the section and to assist the board as it directs. Executive Committee members are permitted to serve as an officer, in a fourth year, or as Chair, Vice Chair or Chair-elect in a fifth year, or as Chair, in a sixth year. Executive committee members must take an oath of office and are not entitled to compensation for their services.
- (B) Executive committee members assume office on the last day of the State Bar's annual meeting and serve until their successors assume office. A

vacant position is filled by the board for the unexpired term. If the section is new, the board appoints seven members for three years; five members for two years; and five members for one year.

- (C) Nominations for the executive committee may be made by the executive committee or by at least fifteen members of the section upon petition.
- (D) A majority of the section executive committee constitutes a quorum for transacting business at a committee meeting or by poll.
- (E) The executive committee may appoint non-voting advisors who serve at the pleasure of the committee.

**(Source: State Bar Rule 3.54 adopted effective May 16, 2008; amended effective January 1, 2012; amended effective July 19, 2013.)**

#### **Historical Note**

This rule supersedes Article XIII, § 4 of the Rules and Regulations of the State Bar of California (The Executive Committee), repealed May 16, 2008.

Procedure for Reviewing New Applications, Officer Nominations and Reappointment Recommendations:

- (a) The applications will be reviewed by each of the section executive committees in accordance with the section's established procedures and Board policies. Each executive committee shall also provide information regarding selection criteria and statistics of the current committee membership, applicant pool, and proposed new committee to the board committee on an appointment report form, or other manner as prescribed by the board committee .
- (b) Each section chair may also submit written comments regarding the committee's ranking and the qualifications of the applications, the reappointments, or the proposed officers. A section chair or representative may attend the board committee meeting to participate in the discussion of his or her committee's appointment nominations.
- (c) The officer and reappointment nominations will be submitted in writing by the section by the established deadline.

**(Source: Board of Governors' Resolution August 2003.)**

### **Section 3 External Entities**

- (a) General. Except for the Board's appointments to the ABA House of Delegates and the Judicial Council, for all external appointments including but

not limited to the Center for Civic Education Board of Directors, the Law School Council and the Legal Services Corporation (LSC) Boards of Directors, the board committee will consider the annual appointment recommendations in accordance with the established procedures and policies governing these entities. The board committee will forward its recommendations to the full Board for consideration.

**(Source: Board of Governors' Resolution, August 2003; Board of Trustees Resolution July 2014.)**

- (b) ABA House of Delegates. The board committee members will review and rank the applicants, keeping in mind the board's policies regarding diversity and the following selection criteria adopted by the Board for appointments to the ABA House of Delegates. At its discretion, the board committee may interview the applicants.

**(Source: Board of Governors' Resolutions, March 2002, August 2003.)**

- (c) Judicial Council. The board committee members will review and rank the applicants, keeping in mind the board's policies regarding diversity. At its discretion, the board committee may interview the applicants.

**(Source: Board of Governors' Resolution, August 2003.)**

SECTIONS

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**Article 1  
GENERAL**

**Section 1 Definition of Sections**

“Sections” are voluntary organizations of State Bar members and non-member affiliates that share an area of interest.

**(Source: State Bar Rule 3.50 adopted effective May 16, 2008; amended effective November 10, 2014; Board of Trustees Resolution September 2014.)**

**Historical Note**

This rule supersedes Article XIII, § 1 of the Rules and Regulations of the State Bar of California (Formation of Sections), repealed May 16, 2008.

**Section 2 Scope of Sections**

Sections serve the profession, the public, and the legal system by helping their members maintain expertise in various fields of law and expanding their professional contacts. Specific purposes and duties of sections are described in their bylaws.

**(Source: State Bar Rule 3.51 adopted effective May 16, 2008.)**

**Historical Note**

This rule supersedes Article XIII, § 2 of the Rules and Regulations of the State Bar of California (Purposes), Board of Governors’ Resolutions, September 12 and September 23, 1998; repealed May 16, 2008.

**Section 3 Section membership**

- (A) Section membership is open to members of the State Bar or judges of courts of record.
- (B) A section’s bylaws may authorize enrollment of non-members of the State Bar as affiliate members. No more than one-fourth of all section members may be affiliates. An affiliate member has all the privileges of section membership and may
  - (1) serve as an officer;
  - (2) serve as a member of a committee; or
  - (3) nominate, select, or serve as a member of its executive committee.

**(Source: State Bar Rule 3.52 adopted effective May 16, 2008; amended effective September 24, 2008; amended effective November 21, 2008; amended effective November 10, 2014; Board of Trustees Resolution September 2014.)**

**Historical Note**

This rule supersedes Article XIII, § 3 of the Rules and Regulations of the State Bar of California (Membership), Board of Governors' Resolution September 2004; repealed May 16, 2008.

**Section 4 Section membership fees**

Section membership requires payment to the State Bar of an annual fee. The fees are set by the Sections Executive Committee and approved by the Board of Trustees to defray the cost of administering the sections.

**(Source: State Bar Rule 3.53 adopted effective May 16, 2008; amended effective January 1, 2012.)**

**Historical Note**

This rule supersedes Article XIII, § 3 of the Rules and Regulations of the State Bar of California (Membership), Board of Governors' Resolution September 2004; repealed May 16, 2008.

**Section 5 Executive Committee**

- (A) A section must have an executive committee of at least fifteen members but no more than seventeen members. Each member is appointed by the Board of Trustees for a three-year term to govern the section and to assist the board as it directs. Executive Committee members are permitted to serve as an officer, in a fourth year, or as Chair, Vice Chair or Chair-elect in a fifth year, or as Chair, in a sixth year. Executive committee members must take an oath of office and are not entitled to compensation for their services.
- (B) Executive committee members assume office on the last day of the State Bar's annual meeting and serve until their successors assume office. A vacant position is filled by the board for the unexpired term. If the section is new, the board appoints seven members for three years; five members for two years; and five members for one year.
- (C) Nominations for the executive committee may be made by the executive committee or by at least fifteen members of the section upon petition.
- (D) A majority of the section executive committee constitutes a quorum for transacting business at a committee meeting or by poll.
- (E) The executive committee may appoint non-voting advisors who serve at the pleasure of the committee.

**(Source: State Bar Rule 3.54 adopted effective May 16, 2008; amended effective January 1, 2012; amended effective July 19, 2013.)**

**Historical Note**

This rule supersedes Article XIII, § 4 of the Rules and Regulations of the State Bar of California (The Executive Committee), Board of Governor's Resolution July 2005; repealed May 16, 2008.

**Section 6 *Officers of the section executive committee***

- (A) The Board of Trustees must appoint as chair and vice-chair of the executive committee members who have served on the committee at least a year at the time of assuming office. The committee must recommend candidates for these offices to the board.
- (B) The chair and vice-chair assume office on the last day of the State Bar's annual meeting and serve until their successors assume office. A vacant position is filled by the board for the unexpired term.

**(Source: State Bar Rule 3.55 adopted effective May 16, 2008; amended effective January 1, 2012.)**

**Historical Note**

This rule supersedes Article XIII, § 4 of the Rules and Regulations of the State Bar of California (The Executive Committee), Board of Governors' Resolution July 2004; repealed May 16, 2008.

**Section 7 *Section committees***

One or more standing or ad hoc committees composed of section members may be established as provided by the bylaws of the section.

**(Source: State Bar Rule 3.56 adopted effective May 16, 2008.)**

**Historical Note**

This rule supersedes Article XIII, § 5 of the Rules and Regulations of the State Bar of California (Committees), repealed May 16, 2008.

**Section 8 *Bylaws***

- (A) Each Section's bylaws must be approved by the Board of Trustees. After the Board of Trustees has approved the bylaws of a new section, the bylaws may be amended by a two-thirds vote of the entire membership of the executive committee.
- (B) An amendment must be filed with the Secretary at the San Francisco office of the State Bar and will not take effect until approved by the Board of Trustees.

**(Source: State Bar Rule 3.57 adopted effective May 16, 2008; amended effective January 1, 2012.)**

### Historical Note

This rule supersedes Article XIII, § 7 of the Rules and Regulations of the State Bar of California (Section Bylaws), Board of Governors' Resolution September 2008; repealed May 16, 2008.

## Article 2 RULES CONCERNING THE OPERATION OF SECTIONS

### **Section 1    *General***

So far as practicable, all rules and policies heretofore and hereafter adopted by the board for the operation of committees shall apply to sections (see chapter 8 of this division).

(Source: Board of Governors' Resolution, May 1976 and March 1977.)

### **Section 2    *Duties and Responsibilities***

Subject to the approval of the board, the duties and responsibilities of standing committees, which committees have in fact been subsumed under the section involved, shall be assumed by the executive committee of that section and the standing committees discontinued.

(Source: Board of Governors' Resolution, May 1976 and March 1977.)

### **Section 3    *Public Statements, Appearances and Positions***

The executive committee of a section shall not purport to speak publicly, before a legislative committee or otherwise, on behalf of the State Bar without prior approval of the Board of Trustees.

The executive committee of a section may, however, speak publicly before a legislative committee or otherwise, on behalf of the section on any matter peculiar to the section upon which the Board of Trustees has not and is not expected to take a position and which is not of general interest to the bar. Any questions as to whether a matter is one upon which the executive committee may speak publicly shall be determined by the member of the board liaison to the section.

If the executive committee desires to speak publicly on any matter upon which the Board of Trustees has taken a position, is expected to take a position or which is of general interest to the bar, it shall report to the board its recommendation and thereafter may be authorized to speak on behalf of the State Bar.

No member of the section shall purport to speak on behalf of the section without the prior approval of the executive committee.

No representative of the section or of the executive committee shall appear before any legislative committee without coordinating such appearance with the State Bar Legislative Representative at least twenty-four (24) hours before such appearance.

No statement or declaration of intent, position or policy shall be released to the media by a section, executive committee or section member unless the same is coordinated with the State Bar Director of the Office of ~~Bar Communications~~ Media Information Services at least twenty-four (24) hours before such release, provided, however, that the board member liaison to the section may for good cause waive this requirement as to any particular release. The executive committee shall, from time to time, keep the Director of the Office of ~~Bar Communications~~ Media Information Services advised of matters under study by the section which may be of general interest to the bar.<sup>1</sup>

(Source: Board of Governors' Resolutions, May 1976 and March 1977.)

**Section 4 Reports to the Board**

Matters referred by the board or the secretary to the executive committee for report to the board may be referred by the executive committee to one of its standing or special committees; however, the report to the board shall be by the executive committee.

(Source: Board of Governors' Resolutions, May 1976 and March 1977.)

**Section 5 Membership Dues**

Upon creation of a section, the Board of Trustees may establish membership dues in the amount of ten dollars (\$10.00). The Board of Trustees may thereafter change the amount of membership dues based upon the advice of the executive committee of a section requesting such change.

(Source: Board of Governors' Resolution, March 1977.)

Each section is authorized to increase its section membership dues up to a maximum dues amount of \$95.00 per member.

(Source: Board of Governors' Resolution August 2002.)

**Section 6 Membership Dues: Education Foundation**

The sections are authorized to require section members, through notice in the annual billing statement received by section members, to pay up to \$20.00 of each section members' dues payment directly to the State Bar Education Foundation to be held for the benefit of the Section in accordance with the authorities governing the Education Foundation and the instructions of the section. Such funds shall not be subject to the control of the State Bar but shall be subject, upon receipt, to the exclusive control of the Education Foundation.

(Source: Board of Governors' Resolutions, September 12 and September 23, 1998.)

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<sup>1</sup> PHASE I PROPOSED CHANGE: Language updated to be consistent with current board policy.

**Section 7 Section Funds: Voluntary Funding**

State Bar sections, as established under and pursuant to Article 13 of the Rules and Regulations of the State Bar, and their activities shall not be funded after January 1, 2000, with mandatory fees collected pursuant to subdivision (a) of Business and Professions Code Section 6140.

The State Bar may provide an individual section, or two or more sections collectively, with administrative and support services, provided the State Bar shall be reimbursed for the full cost of those services out of funds collected pursuant to subdivision (b) of Business and Professions Code Section 6031.5, funds raised by or through the activities of the sections, or other funds collected from voluntary sources.

Notwithstanding the other provisions of Business & Professions Code Section 6031.5, the State Bar is expressly authorized to collect voluntary fees to fund the sections on behalf of those organizations in conjunction with the State Bar's collection of its annual membership dues.

**(Source: Business & Professions Code Section 6031.5).**

The Board of Trustees and the sections agree that it is appropriate for the sections to continue their service to the profession and the public as part of the State Bar, but on a financially independent basis.

**(Source: Board of Governors' Resolutions, September 12, September 23, 1998.)**

The State Bar General Fund shall be relieved of any responsibility for providing staff or other support to the sections. The Sections shall operate without expense to the State Bar's General Fund. All expenses of the Sections shall be satisfied out of Section Funds.

**(Source: Board of Governors' Resolutions, September 12 and September 23, 1998.)**

**Section 8 Section Funds: Financial Audit**

The Board shall contract with an independent national or regional public accounting firm for an audit of its financial statements for each fiscal year beginning after December 31, 1998. The audit shall examine the receipts and expenditures of the State Bar sections to assure that the receipts of the sections are being applied, and their expenditures are being made, in accordance with subdivisions (a) and (b) of Business & Professions Code Section 6031.5, and that the receipts of the sections are applied only to the work of the sections.

**(Source: Business & Professions Code § 6145.)**

The financial audit specified in Business & Professions Code Section 6145 shall confirm that the amount assessed by the State Bar for providing administrative and support

services reimburses the costs of providing them, and shall verify that mandatory dues are not used to fund the sections.

(Source: Business & Professions Code § 6130.5.)

**Section 9 Section Funds: Lobbying Activities**

Voluntary funds collected by the sections or by the State Bar on behalf of the sections shall not be subject to the expenditure limitations of Business & Professions Code Section 6140.05 placed upon mandatory fees collected pursuant to Business & Professions Code Section 6140(a).

(Source: Business & Professions Code § 6031.5.)

**Section 10 Section Funds: Section Administration**

All funds generated by a section, whether by fees or otherwise, must, by law be paid into the State Bar treasury and shall be separated from the State Bar general fund and reserved for the exclusive use of the section generating them.

An executive committee shall not, without prior approval of the board, obligate the section or the State Bar for expenditures exceeding the amount of the funds generated by the section.

To the extent that funds generated by the section are available they shall be disbursed in the following order of priority:

- (a) Expenses: for State Bar administrative and support services provided in accordance with Business & Professions Code Section 6031.5 including:
  - (1) Finance: Services received include the expenses related to accounts payable of all invoices and travel expenses for volunteers and staff, accounts receivable, cash management and investments, general ledger and monthly operating statements, payroll, and financial analysis support and budget submission to the state legislature;
  - (2) Personnel: Direct staff support and additional personnel services received including recruiting, regular and temporary employment, Equal Employment Opportunity programs, bar-wide training programs, employee relations, labor relations, salary and wage administration, and benefits and pension administration;
  - (3) General Administration: Services include the sections' share of costs related to the appointments staff responsible for processing and screening the applications for the individual sections, support from the Governmental Affairs, Communications and Legal departments and the Executive Staff;

- (4) Occupancy: Services include "rent" on a "full service building" basis; these costs include security guards and systems, parking lot leases, building leases on a melded rate by location, building maintenance and repairs, front desk reception services, telephone switchboard, mailroom and bulk supply storeroom, law library and archives, telephone switches and travel and reservation services;
- (5) Membership Dues Billing: Includes the costs of bank processing of sections' revenue receipts, sections' share of billing, postage and printing costs, telephone costs and Public & Members Services staff unit salaries related to member questions and drops and adds;

Any expenses (including but not limited to, travel, meeting room rentals and coffee, newsletters, administrative, clerical and professional assistance) incurred in considering or acting in any manner with respect to any proposal which ultimately must be achieved by influencing action or inaction on the part of a public official or entity, and the general fund promptly shall be reimbursed from the funds generated by the section should any expenses be incurred by the general fund for these purposes.

- (b) Travel expenses of members of the executive committee in attending regular meetings of the committee;
- (c) Meeting room rental and coffee for regular meetings of the committee;
- (d) Expenses connected with the publication and distribution of the quarterly newsletter;
- (e) Expenses connected with the annual seminar;
- (f) Expenses connected with the publication and distribution of an annual roster of section members;
- (g) Expenses, as determined by the Director of Financial Services, incurred by the State Bar in furnishing administrative, clerical and professional assistance to the section.
- (h) Other expenses approved by the executive committee.

**(Source: Board of Governors' Resolutions, May 1976, June 1976, March 1977, August 1986, September 12 and September 23, 1998, September 2004.)**

**Section 11 Section Funds: Billing & Collection**

The State Bar shall bill for section member dues in conjunction with the State Bar's billings to State Bar members for mandatory State Bar membership fees in the manner consistent with the joint billing that has occurred for the years 1998, 1997, and 1996.

**(Source: Board of Governors' Resolutions September 12 and September 23, 1998.)**

Notwithstanding the other provisions of Business & Professions Code Section 6031.5, the State Bar is expressly authorized to collect voluntary fees to fund the sections on behalf of those organizations in conjunction with the State Bar's collection of its annual membership dues.

**(Source: Business & Professions Code § 6031.5.)**

**Section 12 Section Funds: Cost Allocation Methodology**

The State Bar's General Fund is relieved of any responsibility for providing staff, facilities or resource support to the sections. This support shall continue to be available to the Sections, but at the expense of the section funds. The sections shall operate without expense to the State Bar's General Fund.

Any section unable to meet its expenses shall receive no General Fund support. However, the Executive Committee of any section which has section funds, is authorized, in its discretion to contribute a portion of its sections funds to assist one or more other sections to meet section expenses.

**(Source: Board of Governors' Resolutions, September 12 and September 23, 1998; Business & Professions Code § 6031.5.)**

The Indirect Cost Allocation Accounting Methodology is used in allocating section costs. This methodology was originally developed by the federal government to allow state and local governments to recover the costs of administering federal grants without placing an undue burden on the grant recipient of tracking all administrative related costs. This same process is used by the State of California.

**(Source: Board of Governors' Resolutions, August 21, 1999, January 26, 2002.)**

[In March 2016, the Cost Allocation Plan \(CAP\) was modified to remove Office of General Counsel \(OGC\) costs from the Sections' cost allocation.](#)

[\(Source: Board of Trustees Resolution March 2016\)](#)<sup>2, 3</sup>

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<sup>2</sup> PHASE I PROPOSED CHANGE: Language updated to be consistent with current board policy.

<sup>3</sup> Phase II Pending Change: In March 2016, the board directed staff to work with Sections on a budget amendment that would address a possible one-time credit to the Sections to be equally funded by voluntary revenues and the Sections reserves.

**ARTICLE 3  
COUNCIL OF STATE BAR SECTIONS: BYLAWS**

**Section 1    *Establishment***

There is a Council of State Bar Sections consisting of a representative of each Section of the State Bar.

(Source: Board of Governors' Resolution, June 10, 2000.)

**Section 2    *Council of State Bar Sections***

The Council shall be the leadership and coordination committee for the sections. The Council shall serve as advisor on, and have the authority and responsibility to implement, the Board's policies.

(Source: Board of Governors' Resolution, June 10, 2000.)

**Section 3    *Purposes and Responsibilities***

The purposes and responsibilities of the Council of State Bar Sections are:

- (a) Representing and acting on behalf of the sections in communicating with and advising the Board of the position of the Council without restricting any individual section's ability to represent its position on any matter.
- (b) Managing and controlling the financial affairs on behalf of the sections only as to the allocation of overhead, i.e., the cost of administrative services actually charged to all of the sections by the State Bar, including the oversight and administration of said overhead. *See Article 3, Section 6 [Overhead Allocation] suspending the Council's authority in this area.*
- (c) Advising the Board on matters pertaining to policies and procedures which affect the sections generally, such as the format and content of the sections' portion of the annual dues statement published by the State Bar, but not to include the amount to be charged by any individual section for membership in such section.
- (d) Fostering communication between the Board and the sections and among the sections.
- (e) Developing and implementing efficiencies in the delivery of section services to the members of the State Bar.
- (f) Working with State Bar staff to develop, promote and implement cost-effective procedures for supporting the activities of the sections.
- (g) Implement the policies of the Board relating to the sections.

In pursuing the purposes and responsibilities set forth above, the Council may adopt resolutions and may communicate and advocate those resolutions to the Board of Trustees, State Bar staff, members of the State Bar. The Council may take such other actions as are necessary to its effective operation consistent with its purposes and responsibilities. The actions of the Council do not restrict in any way the rights and responsibilities of any Section's Executive committee regarding the subject matter of such actions, except that Council decision on matters described in subsection Section 2, above, shall bind the Sections.

(Source: Board of Governors' Resolutions, June 10, November 3, November 4, 2000, July 30, 2002.)

**Section 4 Section Representatives**

The Chair of each Section, during the term of his or her office, shall be the representative of the Section on the Council of State Bar Sections. Alternatively, the Chair of a Section may, during the term of his or her office, designate an individual to serve as the Section Representative on the Council of State Bar Sections for that Section in lieu of the Section's Chair. The individual must be a present or former member of that Section's Executive committee. The designation may be changed from time to time as necessary, and a temporary Section Representative may be designated to serve if the primary Section Representative cannot attend a particular Council meeting. Sections are expected to designate individuals who will consistently attend Council meetings to assure continuity in the Council's membership.

(Source: Board of Governors' Resolution, November 2000.)

**Section 5 Quorum: Vote Required**

Each Section Representative shall have one vote on any matter presented to the Council except those matters for which a supermajority is required by this Section or other applicable rule. A quorum of the Council is the whole number of its Section Representatives next greater than the number derived by dividing the number of Section Representatives by two (2). Actions of the Council shall be taken based on the affirmative votes of a majority of the Section representatives present at the meeting (provided that such affirmative votes are no less than a majority of the required quorum), except that the following actions shall be taken only by a supermajority vote as defined in Section 5, below:

- (a) Any action described in Section 2.2 above;
- (b) Any vote taken at an emergency meeting;
- (c) Any waiver of agenda notice requirements;
- (d) Any amendment to the Bylaws that requires a supermajority vote pursuant to Section 13 below.

(Source: Board of Governors' Resolutions, July 1986, October 1986, November 2000.)

**Section 6 Supermajority Voting Defined: Census Date**

- (a) On matters requiring a supermajority vote by virtue of Sections 2.2 and 13 of these Bylaws, each Section Representative shall have a vote weighted in proportion to the number of members duly enrolled in the Section for which the representative is voting, as determined in the manner described in subsection 5.3 and the affirmative vote by the Section Representatives holding at least three quarters (3/4) of the weighted votes of all Section Representatives then in office shall be required; provided, however, that if the number of Section Representatives voting in the negative, abstaining or not present to vote is less than three, then the affirmative vote of the Section Representatives holding a majority of the weighted votes of all Section Representative shall be required to carry the resolution.
- (b) On matters requiring a supermajority vote by virtue of Section 8 of these Bylaws, each Section Representative shall have a vote weighted in proportion to the number of members duly enrolled in the Section for which the representative is voting, as determined in the manner described in subsection 5.3, and the affirmative vote by the Section Representatives holding at least three-quarters (3/4) of the weighted votes of all Section Representatives present at the meeting shall be required; provided however, that the affirmative votes must also represent at least a majority of the weighted votes of all Section Representatives then if office.
- (c) A census of the number of members of each Section shall be taken as close as practicable to July 31 of each year. The result of such census shall be used in the calculation of votes by Section Representatives in the meetings of the Council beginning at the next Annual Meeting of the State Bar up to the Annual Meeting in the following year. For purposes of the census, associate members shall not be counted.

(Source: Board of Governors' Resolutions, November 3, November 4, 2000.)

**Section 7 Overhead Allocation**

The delegation of authority to the Council of State Bar Sections to determine the allocation of the State Bar's overhead charge among the individual sections is suspended. The Board directs that the Per Capita Allocation, as sought through petition by the Antitrust UCL & Privacy Law, Criminal Law, Environmental Law, International Law, Law Practice Management and Technology, Public Law, Real Property Law, Solo and Small Firm, Taxation, Workers Compensation Sections, be applied to the State Bar Sections.

(Source: Board of Governors' Resolution, August 24, 2002; Board of Trustees Resolution July 2015.)

The Per Capita methodology of overhead allocation shall remain in effect and shall not be changed without Board of Trustees approval.

(Source: Board of Governors' Resolution, April 16, 2003.)

### **Section 8 Officers**

The Council shall elect a chair (or two co-chairs) and a Chair-Elect (or two Co-Chairs-Elect), each of whom shall serve until the conclusion of the State Bar Annual Meeting next following his or her election. Absent unusual circumstances, the Chair-Elect (or Co-Chairs-Elect) shall automatically become the Chair (or Co-Chairs) for the year following his or her service as Chair-Elect (or Co-Chairs-Elect). The Chair (or Co-Chairs) and the Chair-Elect (or Co-Chairs-Elect) shall not have a vote on matters before the Council unless he or she is also attending the meeting as a Section Representative.

(Source: Board of Governors' Resolutions, November 3, November 4, 2000.)

### **Section 9 Regular and Special Meetings**

The Council of State Bar Sections shall meet regularly at least four (4) times annually, including once at the State Bar Annual Meeting and approximately each three (3) months thereafter. The schedule of such regular meetings shall be determined as soon as possible after the election of officers for the year and distributed to all Section Representatives, Officers and Advisors. Additional special meetings may be called by the Chair (or Co-Chair) at such times and places as may be appropriate and deemed necessary by the Chair (or Co-Chair). The Chair (or Co-Chair) shall convene a special meeting within thirty (30) days of receiving a written request to do so from five (5) or more Section Representatives. Where possible, meetings shall be convened at a location that is easily accessible to Section Representatives traveling by air and other public transit.

Section Representatives may attend meetings in person or by telephone, and they may vote by written proxy mailed or transmitted by facsimile to the Council Chair or Co-Chair.

(Source: Board of Governors' Resolutions, July 1986, November 3, November 4, 2000.)

### **Section 10 Notice of Meetings; Agendas**

Notice of all Council meetings (whether regular or special) shall be given to the Section Representatives when possible at least thirty (30) days, but in no event later than fourteen (14) days, prior to the date of the meeting. The distribution of a schedule of regular meetings for the coming year to Section Representatives shall constitute notice of the regular meetings contained on such schedule.

No action may be taken at any meeting unless the matter was described in a manner that gives reasonable notice of the topic of discussion and any specific proposals then known on a written agenda transmitted by mail, facsimile or electronic mail no later than fourteen (14) days prior to the meeting; this agenda notice requirement may be waived by a supermajority vote as described in Section 5(b) of these Bylaws. In debating any motion, the Council shall consider, where appropriate, whether the course of discussion or proposed action has changed from that described in the agenda to such an extent that providing additional time for Section Representatives to consider the matter and seek direction from their Section Executive Committees is appropriate.

(Source: Board of Governors' Resolutions November 3, November 4, 2000.)

**Section 11 Minutes**

The Chair-Elect (or a Co-Chair-Elect) or his or her delegate shall record the minutes of each Council Meeting and distribute those minutes to the Section Representatives.

(Source: Board of Governors' Resolutions, November 3, November 4, 2000.)

**Section 12 Budget; Expenses**

The Council shall review and adopt a budget for each calendar year. Travel and related expenses incurred by a Section Representative shall be borne by the Section he or she represents, subject to the policies and procedures of the State Bar for expense reimbursement.

(Source: Board of Governors' Resolutions, November 3, November 4, 2000.)

**Section 13 Advisors**

The Chair (or Co-Chairs) may request that the immediately preceding Chair (or Co-Chairs) serve as an Advisor to the Council during the year following their service as Chair (or Co-Chair). Any such Advisor shall receive all of the same notices of meetings, agendas and other materials that are sent to Section Representatives. Advisors shall not have any votes.

(Source: Board of Governors' Resolutions, November 3, November 4, 2000.)

**Section 14 Amendment of the Bylaws**

Any amendment of these Bylaws shall not be effective unless (a) each Section representative is given proper notice of the wording of the proposed amendment and the fact that it will be discussed at a duly noticed meeting pursuant to Section 8 hereof; (b) the agenda specifically states the required vote to approve the proposed amendment, as specified herein; and (c) the appropriate vote, as required herein, is obtained at such meeting. In this regard, any proposed amendment to Sections 2, 4, 5, 8, or 10 of these Bylaws or to this Section 12 shall not be effective unless the motion to amend passes by a supermajority vote calculated in the manner set forth in Section 5(a) hereof. Any other proposed amendment to the Bylaws shall only require a majority vote of Section Representatives, as described in Section 4. Notwithstanding the subsection (a) of this Section 12, the specific wording of the amendment to the Bylaws,

## TAB 5.4 Sections

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as adopted at the meeting, may vary from the wording of the amendment as proposed in the notice.

**(Source: Board of Governors' Resolutions, November 3, November 4, 2000.)**

*OTHER ORGANIZATIONS*

**Article 1 California Supreme Court Historical Society; Funding; Fees**

**Article 2 Conference of Delegates**

*Section 1 Relationship Between The State Bar of California and The  
Conference of Delegates of California Bar Associations*

*Section 2 Restriction of Funding, Voluntary Fees*

*Section 3 Memorandum of Understanding Between The State Bar of  
California and Conference of Delegates of California Bar  
Associations*

**Article 1**  
**CALIFORNIA SUPREME COURT HISTORICAL SOCIETY; FUNDING; FEES**

Notwithstanding any other provision of law, the State Bar is expressly authorized to collect, in conjunction with the State Bar's collection of its annual membership dues, voluntary fees on behalf of and for the purpose of funding the California Supreme Court Historical Society, which advances the science of jurisprudence by preserving and disseminating to the general public the history of the Supreme Court and the Judicial Branch. (Added by Stats. 2002, ch.415, effective September 9, 2002.)

(Source: Bus. & Prof. Code, § 6032.)

**Article 2**  
**CONFERENCE OF DELEGATES**

**Section 1    *Relationship Between The State Bar of California and The Conference of Delegates of California Bar Associations***

Upon recommendation of the Board Task Force on the Conference of Delegates, the Board approved a Memorandum of Understanding between the State Bar of California and the Conference of Delegates of California Bar Associations and authorized the Executive Director to execute the agreement on behalf of the State Bar of California.

(Board of Governors' Resolution September, 2002.)

**Section 2    *Restriction of Funding, Voluntary Fees***

- (a) Notwithstanding any other provision of law, the State Bar is expressly authorized to collect, in conjunction with the State Bar's collection of its annual membership dues, voluntary fees or donations on behalf of the Conference of Delegates of California Bar Associations, the independent nonprofit successor entity to the former Conference of Delegates of the State Bar which has been incorporated for the purposes of aiding in matters pertaining to the advancement of the science of jurisprudence or to the improvement of the administration of justice, and to convey any unexpended voluntary fees or donations previously made to the Conference of Delegates of the State Bar pursuant to this section to the Conference of Delegates of California Bar Associations. The Conference of Delegates of California Bar Associations shall pay for the cost of the collection. The State Bar and the Conference of Delegates of California Bar Associations may also contract for other services. The financial audit specified in Section 6145 shall confirm that the amount of any contract shall fully cover the costs of providing the services, and shall verify that mandatory dues are not used to fund any successor entity.

- (b) The Conference of Delegates of California Bar Associations, which is the independent nonprofit successor entity to the former Conference of Delegates of the State Bar as referenced in subdivision (c), is a voluntary association, is not a part of the State Bar of California, and shall not be funded in any way through mandatory dues collected by the State Bar of California. Any contribution or membership option included with a State Bar of California mandatory dues billing statement shall include a statement that the Conference of Delegates of California Bar Associations is not a part of the State Bar of California and that membership in that organization is voluntary. (Added by Stats. 1999, ch. 342. Amended by Stats. 2002, ch. 415, effective September 9, 2002; Stats. 2003, ch. 334.)

**Historical Note**

The Conference of California Bar Associations is the successor to the Conference of Delegates and Conference of Delegates of California Bar Associations)

**Section 3 Memorandum of Understanding Between The State Bar of California and Conference of Delegates of California Bar Associations<sup>1</sup>**

This Memorandum of Understanding (hereinafter "MOU") is made and entered into by and between the State Bar of California, a public corporation with its principal place of business at 180 Howard Street, San Francisco, California 94105 and the Conference of Delegates of California Bar Associations, a nonprofit Mutual Benefit Corporation with its principal place of business at the office of the Foundation of the State Bar of California, 180 Howard Street, San Francisco, California 94105. The parties agree as follows:

**WHEREAS**, the State Bar of California, a public corporation (hereinafter "State Bar") established the Conference of Delegates in 1934 as an agency of the State Bar to provide input and support from local bar associations and to coordinate the legislative programs of the respective organizations so as to effectively aid the State of California in advancing the science of jurisprudence and improving the administration of justice;

**WHEREAS**, the Conference of Delegates has provided a forum by which delegates of local, specialty and minority bar associations have developed resolutions, through detailed analyses with arguments pro and con, and high level debate among some of California's finest attorneys, that has generated numerous changes and improvements in the laws of the State over the years;

**WHEREAS**, following the United States Supreme Court's decision in *Keller v. State Bar of California*, 496 U.S. 1 (1990), which narrowed the scope of the resolutions that could be debated by the Conference of Delegates, and other events, legislative restrictions were enacted in 1999 prohibiting the funding of the Conference of Delegates by mandatory State Bar membership dues or by the State Bar's statutory legislative activity fund;

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<sup>1</sup> Phase II Proposed Change: Recommend review and/or possible deletion as contract is out of date.

**WHEREAS**, the State Bar, in view of these restrictions and the Conference of Delegates' desire to be free to take independent positions on issues of concern to the legal profession and the people of California without the limitations that necessarily accompany the State Bar's role as a regulatory agency, approved the creation of the Conference of Delegates of California Bar Associations (hereinafter "CDCBA"), a nonprofit mutual benefit organization incorporated pursuant to the provisions of California Non-Profit Mutual Benefit Corporation Law for the purposes of aiding in matters pertaining to the advancement of the science of jurisprudence or improvements in the administration of justice, as successor to the Conference of Delegates, and independent of the State Bar;

**WHEREAS**, the State Bar and the CDCBA desire that the CDCBA continue to meet annually in conjunction with the State Bar's annual meeting, to have its fees and donations for its support collected via the State Bar's yearly annual dues statement to its members, and to present for the State Bar's review and consideration legislative resolutions on matters relating to the State Bar of California and its operations, the regulation of the legal profession, professional standards governing attorneys, and other matters relating to the mission of the State Bar;

**WHEREAS, the State Bar desires that the CDCBA continue and prosper in its role as independent successor to the Conference of Delegates, so that the State Bar and the people of California continue to receive the benefits of its expertise in proposing and analyzing resolutions that generate improvements in the laws of the State of California;**

**NOW, THEREFORE**, the State Bar and the CDCBA agree to this Memorandum of Understanding:

**ARTICLE 1 - MEMBERSHIP BILLING**

- 1.1 Upon enactment of authorizing legislation, the CDCBA may solicit voluntary contributions from State Bar members utilizing the State Bar's annual member fee statement, provided that the CDCBA include notice to members of the State Bar as required by Internal Revenue Code sections 162(e) and 6113(a). The State Bar reserves the right to review such notices and disclosures prior to their inclusion in the State Bar's member fee statement.
- 1.2 The CDCBA will hold harmless the State Bar for any third party claim for damages arising from the CDCBA's failure adequately to disclose the tax deductibility of members' contributions. State Bar's review of the CDCBA's notice pursuant to Article 1.1 above will not constitute waiver of this Article 1.2.
- 1.3 The collection and processing of such voluntary contributions to support the CDCBA will be managed by the State Bar's Member Billing department. The State Bar's Office of Finance will remit any funds contributed in support of the

CDCBA to the CDCBA via check on a monthly basis, less the cost of processing, collecting and remitting said funds as defined in Article 1.4.

- 1.4 Calculation of the State Bar's cost of services rendered in the processing and remittance of voluntary contributions collected in support of the CDCBA will be based as follows:
  1. The cost of processing and collecting voluntary contributions in support of the CDCBA will be based on the ratio of the total amount of voluntary contributions collected (in support of the CDCBA) in relation to the total amount of funds collected from the member fee statement applied against the annual cost of the Member Billing department.
  2. The cost of remitting voluntary contributions to the CDCBA will be based on the number of checks made payable to the CDCBA in a given year in relation to the total number of checks written on an annual basis applied against the annual cost of the Accounts Payable cost center in the Office of Finance.
  3. The initial calculation of the reimbursement ratios to be applied for year 2002 will be based on 2001 contributions and costs. Thereafter, calculation of each subsequent year's reimbursement will use the prior year's ratios. For example, 2003 reimbursement will be based upon 2002 contributions and costs.
- 1.5 If the State Bar's actual cost of processing, collecting and remitting said funds is found to exceed the reimbursement provided pursuant to the formula set forth in this Article, the parties will meet to discuss a reformulation of Article 1.4 for the purpose of ensuring that the State Bar's costs are fully reimbursed by the CDCBA.
- 1.6 For purposes of this Article and all other references to "voluntary contributions" in this MOU, voluntary contributions do not include any monies donated to the State Bar Foundation designated for the use of the CDCBA.

## **ARTICLE 2 - CDCBA RESOLUTIONS**

- 2.1 The Board of Trustees may review those resolutions proposed by the CDCBA relating to the State Bar of California and its operations, the regulation of the legal profession, professional standards governing attorneys, and other matters relating to the mission of the State Bar, and, may give consideration to the adoption of such resolutions that it deems worthy of enactment and appropriate to the mission of the State Bar as part of the legislative program of the State Bar.

## **ARTICLE 3 - ANNUAL MEETING**

- 3.1 The State Bar and the CDCBA will hold their annual meetings together at the same time and locations in, 2003, 2004, 2005, 2006, 2007 and thereafter until such time as the parties mutually agree otherwise. Hereinafter, the “Annual Meeting” shall refer to the State Bar’s Annual Meeting.
- 3.2 As the entity in charge of the Annual Meeting, State Bar will make all final determinations regarding the Annual Meeting, including but not limited to the inclusion or exclusion of exhibits, MCLE classes, and the determination of necessary services to be provided to attendees. State Bar will be the sole registrar of attendees and will be the sole MCLE provider.
- 3.3 All Annual Meeting revenue will be used first to defray Annual Meeting general overhead. General overhead includes but is not limited to shared expenses such as promotional costs, ticketed events, computerized pre-registration and on-site registration administration, exhibition management and services, security, first aid services, printed programs, on-site meeting management, shipping and distribution of all materials on-site, meeting space, hotel attrition expenses and shuttle services. General overhead does not include educational expenses, expenses from Executive Committee or Board of Trustees Meetings, or CDCBA expenses. Gross profits will then be divided pro rata based upon CDCBA registration and non-CDCBA registration. The State Bar will subtract from the CDCBA’s share of the funds an education seat cost (the education seat cost will be seventy five percent [75%] of the average cost of an education seat at the Annual Meeting multiplied by the number of delegates attending CLE programs at the Annual Meeting). The CDCBA will pay separately for any and all CDCBA on-site expenses. The balance of the CDCBA share of the net gross profits shall be paid over to the CDCBA on or before July 31 of the year following the Annual Meeting. Both parties are responsible for the payment of their respective taxes lawfully due in connection with their share of the revenue received pursuant to this MOU.
- 3.4 The parties recognize that site contracts for the State Bar’s Annual Meeting are negotiated and signed years in advance of a particular meeting, and that the costs of such contracts are based on projected attendance, which in turn is based on historical trends. The CDCBA further acknowledges that should attendance at any Annual Meeting be significantly lower than expected, the State Bar may be liable to the venue provider under the terms of the attrition clause contained in the contract between the State Bar and the venue provider. “Attrition clause” generally means a fee charged by the venue provider for room cancellations that exceed a certain allowable percentage. Such fee is usually based on the lowest contracted room rate plus applicable taxes per room per day and may include a rate for meeting rooms and food and beverage revenue.
- 3.5 With respect to the above, and in view of contracts already in place, the CDCBA and the State Bar agree not to make any material change to the length or timing of its annual meeting through the year 2007. Both parties agree to use their best

efforts to have their members register as guests in the hotels where the annual meeting is being held. The CDCBA and the State Bar further agree that neither will promote any hotels other than those with which the State Bar has an Annual Meeting site agreement.

- 3.6 As stated in Section 3.3, above, in the event of “attrition clause” expenses, these expenses will be considered part of the overhead and deducted from the general Annual Meeting revenue. To the extent that gross profits are insufficient to reimburse fully the State Bar for Annual Meeting expenses, the CDCBA will owe the State Bar a pro rata share of attrition expenses based on CDCBA registration and non-CDCBA registration. The State Bar reserves the right to deduct any remaining and unpaid “attrition clause” expenses from the voluntary contributions collected by the State Bar on behalf of the CDCBA for the following year.
- 3.7 The State Bar’s Director of Section Education and Meeting Services and the Chairperson of the CDCBA, or their respective designees, will be the authorized representatives with respect to the planning and coordination of the annual meetings. The State Bar welcomes input from and will notify the CDCBA as to the location of each annual meeting in its customary manner. The CDCBA will continue to be responsible for working with the applicable site to make its annual meeting on-site services arrangements.
- 3.8 The CDCBA recognizes the State Bar’s desire to hold general assemblies for the purpose of conducting its ceremonial events (i.e., swearing in Board members, dignitary addresses to annual meeting attendees) and that such assemblies have traditionally been held in the space where the Conference of Delegates was convened. To accommodate the State Bar’s desire, the CDCBA agrees that the State Bar may use the CDCBA’s space at any annual meeting for such purpose so long as such assemblies do not unduly interfere with the CDCBA’s meeting activities. The State Bar and the CDCBA will work together in good faith on the planning and coordination of such events.

#### **ARTICLE 4 - MISCELLANEOUS MATTERS**

- 4.1 Websites. The CDCBA will provide a link or links, as appropriate, to State Bar website pages on the CDCBA website, and in accordance with CDCBA linking policy, if any. The State Bar will provide a link or links as appropriate to the CDCBA website on the State Bar website, in accordance with the State Bar linking policy.
- 4.2 Insurance. The State Bar as part of the annual meeting planning will have the CDCBA named as an additional insured at cost to the CDCBA on policies covering activities at the annual meeting, to the extent such coverage is necessary and available. If the CDCBA elects to have this coverage, this amount is due within thirty (30) days of receipt of notice by the CDCBA.

**ARTICLE 5 - TERM AND TERMINATION**

- 5.1 This MOU will be effective as of October 13, 2002, and will continue from the effective date for a period of five (5) years, unless terminated earlier pursuant to this Article. The MOU may be renewed for terms upon mutual agreement of the parties.
- 5.2 The terms of this MOU are for the mutual benefit of both parties. Upon a finding of cause by an affirmative vote of two-thirds (2/3) of all serving members of the Board of Trustees of the State Bar or two-thirds (2/3) of the members of the Board of Directors of the CDCBA, respectively, either party may terminate the relationship at any time upon three hundred sixty five (365) days' written notice.
- 5.3 The CDCBA acknowledges that the State Bar incurs various potential contractual liabilities for the Annual Meeting. These liabilities are undertaken based on the existence of this MOU and incurred on behalf of both parties. In acknowledgment of the difficulty of ascertaining damages and apportioning fault, if the CDCBA terminates this MOU and the State Bar incurs attrition expenses at the next Annual Meeting following the effective date of such termination of this MOU, the CDCBA agrees to pay to the State Bar an amount equal to twenty percent (20%) of the attrition expenses. This amount is due within thirty (30) days of receipt of notice by the CDCBA.
- 5.4 The State Bar acknowledges that the CDCBA incurs various contractual liabilities that are undertaken based on the existence of this MOU and that it relies upon funding obtained through contributions paid utilizing the State Bar's annual member fee statement and may suffer damages as a result of the State Bar's failure or refusal to undertake the inclusion of the CDCBA on its annual member fee statement. In acknowledgment of the significance of this undertaking, if the State Bar terminates this MOU, on written demand by the CDCBA, for a period of one year following the effective date of said termination of this MOU, the State Bar shall continue to include the CDCBA on its annual member statement on the same terms and conditions as provided in Article 1 of this MOU.

**ARTICLE 6 - DISPUTE RESOLUTION**

- 6.1 Prior to commencing a court action, the parties will use their best efforts to resolve any dispute arising under this MOU by good faith negotiation and mutual agreement. If a controversy or claim should arise and either party should desire to submit the matter to dispute resolution in accordance with this Article 6, that party will present a written request for dispute resolution to the other party, which request will make reference to this Article 6 and contain a sufficient description of the controversy to the receiving party. Said notice, if issued by the CDCBA will be signed by its Chair and, if issued by the State Bar, will be signed by the Executive Director of the State Bar. Upon tender of the request for dispute resolution, those individuals, or their respective designees, will meet and will

attempt to resolve the matter(s) identified in the request. If the matter has not been resolved within twenty (20) days of their first meeting, the matter will then be referred to the Board of Trustees of the State Bar and the Board of Directors of the CDCBA for settlement of the dispute. Both Boards, or their respective designated committees will meet for negotiations within fourteen (14) days of the end of the twenty (20) day period referred to above, at a mutually agreed time.

## **ARTICLE 7 - GENERAL PROVISIONS**

- 7.1 **Entire Agreement.** This MOU supersedes any and all other agreements, either oral or written, which may exist between the parties, and contains all of the covenants and agreements between the parties as of the last date written below. By signing below, each party acknowledges that no representations, inducements, promises or agreements which are not embodied herein have been made by any party and that no agreement, statement or promise not contained herein will be binding on the parties.
- 7.2 **Notice.** Any notices to be given by either party to the other shall be in writing, either by personal delivery or by mail, registered or certified, postage prepaid with return receipt requested, and addressed as set forth in this paragraph 7.2. Notices delivered personally shall be deemed received as of actual receipt; mailed notices shall be deemed received as of five (5) days after mailing. Mailed notices to the State Bar will be addressed to Marie Moffat, General Counsel, at 180 Howard Street, San Francisco, California 94105. Mailed notices to the CDCBA will be addressed to Stephen L. Marsh, Esq., 600 West Broadway, Suite 2600, San Diego, California 92101. Each party may change the address by written notice in accordance with this Article.
- 7.3 **Jurisdiction.** This MOU is deemed to have been made and entered into by the parties at San Francisco, California, and will be construed according to the laws of the State of California. Subject to Article 6 above, any litigation arising out of this agreement will be filed in the appropriate court in San Francisco, California.
- 7.4 **Titles.** The titles used herein are not part of this MOU and are included solely for convenience and have no bearing upon and do not in any way limit the application of the terms and conditions of this agreement.
- 7.5 **Changes.** No amendments, alteration or variation of the terms of this MOU will be valid unless made in writing and signed by both of the parties herein.
- 7.6 **Severability.** If any provision of this MOU is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

- 7.7 Assignment. Neither party shall assign all or any partial rights or obligations under this MOU.
- 7.8 Waiver. No term or provision herein shall be deemed waived and no breach excused unless such waiver or consent is in writing and signed by the party claimed to have waived or consented. Any consent to or waiver of a breach by any party to the other, whether express or implied, shall not constitute a consent to, waiver of, or excuse for any other different or subsequent breach.
- 7.9 Authority. Each party hereby represents and warrants that it has full power and authority to enter into and perform its respective obligations under this agreement and that the person signing this MOU has been properly authorized and empowered to enter into this MOU. Each party acknowledges that it has read, understands and agrees to be bound by this MOU.
- 7.10 Counterparts. This MOU may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which, when taken together, shall constitute one and the same instrument.

**IN WITNESS WHEREOF**, the parties hereto have executed this Memorandum of Understanding as of the last day and year written below.

**“STATE BAR”  
THE STATE BAR OF CALIFORNIA**

**“CDCBA”  
CONFERENCE OF DELEGATES OF  
CALIFORNIA BAR ASSOCIATIONS**

By: \_\_\_\_\_  
Joseph Dunn  
Executive Director

By: \_\_\_\_\_  
Stephen L. Marsh  
Chair

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

**(Board of Governors’ Resolution September, 2002.)**