



The State Bar *of California*

**OPEN SESSION
AGENDA ITEM
112 MARCH 2020
BOARD EXECUTIVE COMMITTEE III.B**

DATE: March 12, 2020

TO: Members, Board Executive Committee
Members, Board of Trustees

FROM: Dag MacLeod, Chief of Mission Advancement & Accountability Division

SUBJECT: Approval and Ratification of Revised Board of Trustees Policy Manual

EXECUTIVE SUMMARY

This agenda item presents revisions to the Board of Trustees Policy Manual for approval by the Board Executive Committee and ratification by the Board of Trustees.

BACKGROUND

At its January 2020 meeting, the Board of Trustees' Executive Committee approved a revised Policy Manual, also known as the "Board Book." The Board Book approved at that time contained a placeholder for Section 7.4 on the State Bar Court, because language describing the function of the court and its relationship to the Board of Trustees had not been finalized. This item presents the final language on the State Bar Court for inclusion in the Board Book, and seeks the approval of the Board Executive Committee for this new language, as well as ratification by the Board of Trustees.

DISCUSSION

The Board Book provides Trustees with a single, concise reference to assist them in fulfilling their duties. The change to the Board Book presented here represents language that has been agreed to by the State Bar Court and the interim Executive Director of the State Bar.

Upon approval of the revised Board Book, staff will make it available to all members of the Board of Trustees, State Bar staff, and the public.

FISCAL/PERSONNEL IMPACT

None

AMENDMENTS TO RULES OF THE STATE BAR

None

AMENDMENTS TO BOARD OF TRUSTEES POLICY MANUAL

Section 7.4 – State Bar Court

STRATEGIC PLAN GOALS & OBJECTIVES

Goal: None - core business operations

RECOMMENDATIONS

Should the Board Executive Committee concur in the proposed action, passage of the following resolution is recommended:

RESOLVED, that the Board Executive Committee recommends that the Board of Trustees approves the revised Board of Trustees Policy Manual.

Should the Board of Trustees concur in the proposed action, passage of the following resolution is recommended:

RESOLVED, that the Board of Trustees, upon recommendation of the Board Executive Committee approves the revised Board of Trustees Policy Manual.

ATTACHMENT(S) LIST

- A. New Board Book Section 7.4 on the State Bar Court

The State Bar Court is the court established by the Board of Trustees pursuant to section 6086.5 of the Business and Professions Code.¹ State Bar Court judges are appointed by the California Supreme Court, Legislature, or Governor, and are subject to the Rules and Regulations of the State Bar of California Pertaining to the Benefits, Terms, and Conditions Governing State Bar Court Judge Service promulgated by the State Bar Board of Trustees.²

State Bar Court judges are not judges of a court of record as defined in California Constitution, article 6, section 1. For salary and benefit purposes, judges are employees of the State Bar.³

The State Bar Court judges have independence from the State Bar with respect to the performance of their adjudicatory responsibilities and the State Bar shall not interfere with that independence to hear and decide the matters submitted to the judges fairly, correctly, and efficiently.⁴ State Bar Court judges are subject to admonition, censure, removal or retirement by the California Supreme Court on the same grounds as provided for judges of courts of record of this state.⁵

¹ Business and Professions Code Section 6086.5 [“The board of trustees shall establish a State Bar Court, to act in its place and stead in the determination of disciplinary and reinstatement proceedings and proceedings pursuant to subdivisions (b) and (c) of Section 6007 to the extent provided by rules adopted by the board of trustees pursuant to this chapter.”].

² Rules and Regulations of the State Bar of California Pertaining to the Benefits, Terms and Conditions Governing State Bar Court Judge Service, Section 1-A [“The following Rules and Regulations are adopted to govern the benefits, terms and conditions under which the judges serve the State Bar Court.”]; Section 1-B [“These Rules and Regulations are promulgated by the Board of Trustees of the State Bar and may be amended from time to time by the Board.”].

³ Rules and Regulations of the State Bar of California Pertaining to the Benefits, Terms and Conditions Governing State Bar Court Judge Service, Section 4-B [“Judges are not judges of a court of record as defined in California Constitution, article 6, section 1. For salary and benefit purposes, judges are employees of the State Bar.”]

⁴ Rules and Regulations of the State Bar of California Pertaining to the Benefits, Terms and Conditions Governing State Bar Court Judge Service, Section 4-B [“With respect to the performance of their adjudicatory responsibilities, judges are independent from the State Bar.”]; Rule 1015(a) of the Rules of Procedure of the State Bar of California [“No State Bar entity, officer, employee or agent shall interfere with the adjudicatory independence of the State Bar Court to hear and decide the matters submitted to it fairly, correctly, and efficiently.”].

⁵ Rules and Regulations of the State Bar of California Pertaining to the Benefits, Terms and Conditions Governing State Bar Court Judge Service, Section 3 [“Judges are subject to admonition, censure, removal, or retirement by the Supreme Court on the same grounds as provided for judge of California courts of record.”]; Rule 9.11(d) of the California Rules of Court [“A judge of the State Bar Court is subject to discipline or retirement on the same grounds as a judge of a court of this state.”].

In the proper exercise of its executive and fiscal authority over the State Bar, and in consultation with the presiding judge of the State Bar Court, the Board of Trustees determines the staffing levels and facilities required to meet the State Bar Court's stated priorities and adjudicatory responsibilities. The State Bar Executive Director, after consultation with the presiding judge of the State Bar Court, may designate an executive staff member to serve as the Clerk of the State Bar Court, otherwise referred to as the State Bar Court's Administrative Officer.⁶

⁶ Rule 1016 of the Rules of Procedure of the State Bar of California ["The Board of Trustees, in consultation with the presiding judge of the State Bar Court, shall determine, in the proper exercise of its executive and fiscal authority over the State Bar, the staffing levels and facilities required to meet the State Bar Court's stated priorities and adjudicatory responsibilities. [. . .] The Executive Director may, after consultation with the presiding judge, designate an executive staff member to serve as the State Bar Court's administrative officer [. . .]."]