

**COMMITTEE ON MANDATORY FEE ARBITRATION  
THE STATE BAR OF CALIFORNIA**

**AGENDA**

**Friday, March 24, 2017  
10:00 a.m. – 3:00 p.m.**

The State Bar of California  
180 Howard Street, 4<sup>th</sup> Floor  
San Francisco, CA 94105

And

Conference Call: (855) 520-7605  
Conference code: 6502212414

And

2336 Glastonbury road, Westlake Village, CA91361  
402 W. Broadway, Ste. 1820, San Diego, CA 92101

OPEN SESSION

- I. Call for Public Comment (Migliaccio)
- II. Approval of Minutes of January 27, 2016 meeting (Attachment A, p 1-3) (All)
- III. Chair's Report (Migliaccio)
- IV. Report from Presiding Arbitrator (Bacon)
- V. Report from the Office of Mandatory Fee Arbitration (Hull)
  - A. Office statistics (Attachment B, pp 4-7)
  - B. Schedule of Events (Attachment C, p 8 )
  - C. Update to Appointment Policy
  - D. Letter to California Law Revision Commission (Attachment D, pp 9-11)
- VI. Business
  - A. Incorporation of Handbook information into training materials (Straus, Bacon, Buckner)
  - B. Education subcommittee (Fish)
  - C. Future of CMFA (Attachment E, pp 12-37) (Hull)

CLOSED SESSION

I. Appointments subcommittee

Next committee meeting:

DATE: Friday, May 19, 2017  
TIME: 10:00 a.m. – 3:00 p.m.  
LOCATION: The State Bar of California  
180 Howard Street, 4<sup>th</sup> Floor  
San Francisco, CA 94105  
(415) 538-2000

**COMMITTEE ON MANDATORY FEE ARBITRATION  
THE STATE BAR OF CALIFORNIA**

**MINUTES**

**Friday, January 27, 2017  
10:00 a.m. – 3:00 p.m.**

**The State Bar of California  
845 South Figueroa Street  
Los Angeles, CA 90015  
(213)765-1000**

Members Present: Nick Migliaccio (Chair), Ken Bacon (Presiding Arbitrator), Mary Best, Carole Buckner, George Duesdieker, Michael Fish, Brandon Krueger, Patrick Maloney, Joel Mark, Sharron McLawyer, Clark Stone, Lee Straus, Lorraine Walsh (Vice Chair) and Sally Williams.

Not Present: Lee Hess, Mark Schreiber

Staff Present: Doug Hull

Also Present: Myer Sankary

The meeting was called to order at 10:15 a.m. by Chair Nick Migliaccio. Everyone introduced themselves.

I. Call for Public Comment

There were no requests for public comment.

II. Approval of Minutes of December 16, 2016 meeting

The minutes were approved with a modification of the word “cases” on page 2 .

III. Chair’s Report

There was no chair’s report but several proposals were presented. Nick discussed holding meetings via video or conference call, especially in light of the length of the agenda of the current meeting. Various ideas were discussed, but it seemed the general consensus of the committee was that in-person meetings were best, especially when discussing complicated topics. If a member wishes to appear by phone, that can be arranged, but they must be willing to post their location in the agenda at least 10 days before the scheduled meeting, and they must allow members of the public to have access to that location during the scheduled meeting.

There was a discussion of the Arbitration Advisories and if they should be updated. All of them have been reviewed over the last 3 years, but some of them may still need review/updating. The advisory regarding interest was discussed specifically.

Minutes January 27, 2016

Page 1

Joel and Mike agreed to determine whether an update or revision is necessary. Ken and Joel are going to work with Carole on an advisory regarding costs (related to the bill padding advisory). Credit card payments should be either part of that advisory or a separate advisory, depending on the work of this group.

The issue of an advanced training that focuses on writing an award, was discussed. We have such a training, but it might need some additional materials. Some members thought inclusion of good and bad sample awards would be helpful. However, there are times when members disagree about that makes a good or bad award. Doug appointed Lee, Pat and Lorraine to work on some sample awards for this purpose. Myer also mentioned a packet of material he uses for advanced trainings. He offered to share that with members of the committee.

IV. Report from Presiding Arbitrator

Ken talked about an enforcement matter that was dismissed without prejudice as the attorney in question did not receive actual notice of the motion for inactive enrollment. That matter is being re-filed.

He also mentioned bringing a resolution to the Conference of Delegates regarding tolling the malpractice statute during the MFA process. The committee generally agreed, but Doug stated that the bar is prohibited from spending money for activities connected to the Conference of Delegates.

V. Report from the Office of Mandatory Fee Arbitration

Doug mentioned that the State Bar offered employees a separation incentive. Susan took advantage of that offer and will be leaving on March 30, 2017.

a. Office statistics

Doug discussed the statistics and the increase in dispositions from 2015 to 2016. He acknowledged that Alma's hard work was reason for this productivity.

b. Schedule of Events

Attached to the agenda.

VI. Business

A. MFA Comment on New Law-Mediation Confidentiality and Attorney Malpractice

The committee reviewed Lorraine's draft letter to the California Law Revision Commission (CLRC). Saul Bercovitch joined the discussion. Two votes were taken. One to determine whether a comment should be made at all. The vote was 12-1 for. Another vote was taken to determine if the letter drafted, with the modifications proposed by Joel, should be sent to the Board of Trustees for approval to have it sent to the CLRC. That vote was 12-1 in favor of the proposal. The proposed letter will go to the Board of Trustees

at the March 9-10 meeting. Lorraine will be present to address any questions. In the event that Lorraine is not available, Joel or Carole, in that order, will be asked to speak to the Board.

- B. Incorporation of Handbook information into training materials  
Carole and Lee will work on this and share the results with Ken. The goal of the project is to review the handbook and the training materials and ensure that training materials contain everything needed for arbitrators. The plan is to phase out the handbook and use only the training materials for distribution to arbitrators.
- C. Mentor panel  
The committee discussed the concept of making members of the CMFA available to local bar chairs and vice-chairs when they encounter issues/problems. After some discussion, it was decided to bring this proposal to local bar associations to see if they'd be interested in having members of the CMFA available to them to respond to questions about cases.
- D. Education subcommittee  
Michael discussed the dearth of programs currently listed on the schedule of events. He'd like to see more programs given. He's willing to work on that and asked for volunteers. He asked Doug to help reach out to local bars.
- E. Arbitration identification prior to issue of Notice of Appointment  
Nick discussed the scenario where local bar programs provide the parties the list of arbitrators assigned prior to sending out the notice of assignment and the propriety of that practice. The committee thought that it's probably not the best way to proceed, but it is not prohibited by the rules or statute. This will be brought up at the next roundtable.
- F. APPOINTMENT POLICY  
This matter was continued to the next meeting.

The meeting adjourned at 2:05 p.m.

Next committee meeting:

DATE: Friday, March 24, 2017  
TIME: 10:00 a.m. – 3:00 p.m.  
LOCATION: The State Bar of California  
180 Howard Street, 4<sup>th</sup> Floor  
San Francisco, CA 94105  
(415) 538-2000

# STATE BAR MANDATORY FEE ARBITRATION PROGRAM STATISTICS 2017

## INTAKE ACTIVITY 2017

	JAN.	FEB.	MAR.	APR.	MAY	JUN.	JUL.	AUG.	SEP.	OCT.	NOV.	DEC.	YTD	Year End 2016
Fee Arbitration Requests	8	6											14	75
Requests with Jurisdiction Challenges or Removal Requests	1	0											1	10
Enforcement Requests	0	1											1	23
Phone Intake	340	314											654	3884

## ENFORCEMENT ACTIVITY (All cases, all years)

	JAN.	FEB.	MAR.	APR.	MAY	JUN.	JUL.	AUG.	SEP.	OCT.	NOV.	DEC.	YTD	Year End 2016
Orders Filed Assessing Administrative Penalties	2	0											2	5
Motions Filed To Enroll Attorney Inactive	0	0											0	11
Attorney Placed on Inactive Status	1	0											1	7
Prepare Motion	0	1											1	5
Impose Penalty	3	0											3	3
ExParte App. Inactive/Default	0	0											0	0
Attorney on Payment Plan	0	0											0	4
Cases Abated	1	1											2	7
Cases Paid and Closed	2	2											4	32
Cases Closed: Other	2	2											4	20

## ARBITRATION CASES: CLOSED STATUS (All Cases, all years)

	JAN.	FEB.	MAR.	APR.	MAY	JUN.	JUL.	AUG.	SEP.	OCT.	NOV.	DEC.	YTD	Year End 2016
Findings & Award Served	2	3											5	71
Cases Closed, No Award	2	4											6	27
Total Cases Closed	4	7											11	98

# STATE BAR MANDATORY FEE ARBITRATION PROGRAM STATISTICS 2017

## ARBITRATION CASE STATUS REPORT (All Cases, all years)

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	Year End 2017	Year End 2016
Case Forwarded to PA for Jurisdiction Decision	2	0												3
Fee Waiver/Filing Fee Due	2	2												1
Request Received/Not Served	0	0												2
Request Served/Reply Due	7	6												5
Ready to Assign	3	3												0
Assigned/No Hearing Set	5	11												6
Notice of Hearing Date Served	10	9												9
Findings & Award Due	3	0												2
Total Cases Currently Open	32	31												28
Cases Currently in Abeyance	0	0												0

**STATE BAR MANDATORY FEE ARBITRATION PROGRAM STATISTICS  
FEBRUARY 28, 2017**

INTAKE ACTIVITY	Through FEB. 28, 2017	Through FEB. 29, 2016	At year end <b>2016</b>
Fee Arbitration Requests	14	15	75
Requests with Jurisdiction Challenges or Removal Requests	1	2	10
Enforcement Requests	1	3	23
Phone Intake	654	655	3884

ENFORCEMENT ACTIVITY	Through FEB. 28, 2017	Through FEB. 29, 2016	At year end <b>2016</b>
Payment Plan	0	1	4
Orders Filed Assessing Administrative Penalties	2	0	5
Ex Parte App. To Enroll Inactive/Default	0	0	0
Prepare Motion	1	0	5
Motions Filed To Enroll Attorney Inactive	0	2	11
Attorney Placed on Inactive Status	1	0	7

OPEN ARBITRATION CASES CURRENT DISPOSITION	Month of FEB. 2017	Month of FEB. 2016	At year end <b>2016</b>
Jurisdiction Challenges & Removal Requests	0	6	3
Fee Waiver/Filing Fee Due	2	0	1
Request Received/Not Served	0	1	2
Request Served/Reply Due	6	3	5
Ready to Assign	3	6	0
Assigned/No Hearing Set	11	7	6
Notice of Hearing Date Served	9	7	9
Findings & Award Due	0	22	2
Total Cases Currently Open	31	52	28

	Through FEB. 28, 2017	Through FEB. 29, 2016	Year end <b>2016</b>
Findings & Award Served	5	8	71
Cases Closed With No Award	6	4	27
Total Cases Closed	11	12	98
Cases Currently in Abeyance	0	0	0

## Mandatory Fee Arbitration Requests Filed By Local Bar Programs\*

	2010	2011	2012	2013	2014	2015	2016
1 <sup>st</sup> Quarter	418	379	365	271	287	304	196
2 <sup>nd</sup> Quarter	409	373	454	323	280	273	265
3 <sup>rd</sup> Quarter	449	341	368	295	301	295	244
4 <sup>th</sup> Quarter	392	392	329	255	256	267	212
Total	1668	1485	1516	1144	1124	1139	917

\* This number is based on the number of reimbursement requests from local bars. The State Bar pays to participating local bar programs a flat \$50 fee per MFA case assigned to a mediator or arbitrator.

**Committee on Mandatory Fee Arbitration**

**Calendar of events**

<b>Date</b>	<b>Event</b>	<b>Type</b>	<b>Location</b>	<b>Participants</b>
Friday March 24, 2017 10:00 a.m. - 3:00 p.m.	CMFA Meeting	Meeting	The State Bar of California 180 Howard Street, 4th Fl. AB San Francisco, CA 94105	All members
Wednesday, April 19, 2017 1:00 p.m. - 4:00 p.m.	Training	Basic	Riverside County Law Library Indio Branch 82-995 Hwy. 111, Suite 102 Indio, CA 92201	Mark, Straus, Hull
Friday, May 19, 2017 10:00 a.m. - 3:00 p.m.	CMFA Meeting	Meeting	The State Bar of California 180 Howard Street, 4th Fl. DE San Francisco, CA 94105	All members
Friday, July 7, 2017 10:00 a.m. - 3:00 p.m.	CMFA Meeting	Meeting	The State Bar of California 845 South Figueroa Street, 2 F-G Los Angeles, CA 90017	All members
Thursday, August 24, 2017 10:00 a.m. - 3:00 p.m.	CMFA Meeting	Meeting	TBD???	All members



# Committee on Mandatory Fee Arbitration

The State Bar of California  
180 Howard Street  
San Francisco, CA 94105

March 13, 2016

VIA EMAIL ONLY-bgaal@clrc.ca.gov

Barbara Gaal  
Chief Deputy Counsel  
California Law Revision Commission

Dear Ms. Gaal:

As members of the State Bar Committee on Mandatory Fee Arbitration, we respond to the request in the Commission's Memorandum 2016-58. In the Memorandum at page 25, the Staff requested comments on whether the exception to mediation confidentiality in the draft legislation (proposed Evidence Code Section 1120.5) should apply to attorney-client fee disputes.

Our Committee was established in 1984 and oversees 29 approved local bar association programs and the State Bar's program. The Committee ensures that all programs follow the *Guidelines and Minimum Standards for the Operation of Mandatory Fee Arbitration Programs* adopted by the State Bar Board of Trustees. The Committee also has the responsibility for training volunteer attorneys and laypersons throughout the State to serve as arbitrators in mandatory fee arbitrations; drafts and publishes Arbitration Advisories on the State Bar website to educate arbitrators and programs on mandatory fee arbitration rules; and reviews statutes and case law concerning issues relating to mandatory fee arbitrations. Members of the Committee have served as voluntary arbitrators in countless mandatory fee arbitrations throughout the years.

If the Commission decides to recommend to the legislature that an exception to mediation confidentiality be created, our Committee believes the exception should apply to disputes between an attorney and client concerning fees, costs, or both, including proceedings under the State Bar Act, Chapter 4, Article 13-Arbitration of Attorneys' Fees as set forth in Business and Professions Code Sections 6200-6206.

On page 18 of the Commission's Memorandum 2016-58, this issue was framed as follows: "Whether the exception should apply in a dispute relating to an attorney-client fee agreement, not just in a State Bar disciplinary proceeding and a legal malpractice case." In reviewing Memorandum 2016-58, it appears the Commission intends to only apply the proposed exception in a legal malpractice case or in a State Bar disciplinary proceeding. (Memorandum, p. 19, 24-25)

The draft minutes of the Commission's December 1, 2016 meeting also state: "Proposed Evidence Code Section 1120.5(a)(2) in the Discussion Draft is satisfactory. No revisions of it are

needed to address attorney-client fee disputes.” The Commission’s conclusion appears to be based, at least in part, on *Lee v. Hanley*, 61 Cal. 4th 1225 (2015), and the concept that “*some but not all attorney-client fee disputes are legal malpractice claims*, at least within the meaning of the provision commonly referred to as the statute of limitations for legal malpractice.” (Memorandum 2016-58, page 24, emphasis in original.)

The question of whether an attorney-client fee dispute (by itself) is also a legal malpractice claim is separate from the question of evidence that is admissible in the attorney-client fee dispute. If the proposed exception to mediation confidentiality is created, we believe the exception should apply to disputes between an attorney and client concerning fees, costs, or both (“attorney-client fee disputes”). These proceedings – even though they are not by themselves legal malpractice cases or disciplinary proceedings – can involve claims of legal malpractice or professional misconduct that take place in the context of a mediation or mediation consultation. Moreover, under Business & Professions Code Section 6203(a), which is part of the Mandatory Fee Arbitration Act: “Evidence relating to claims of malpractice and professional misconduct, shall be admissible only to the extent that those claims bear upon the fees, costs, or both, to which the attorney is entitled. The arbitrators shall not award affirmative relief, in the form of damages or offset or otherwise, for injuries underlying the claim.”

Based on this statute, the fee arbitrator may decide the value of the attorneys services were lessened and can reduce the claimed fees, costs or both, based upon evidence of malpractice or professional misconduct presented in the fee arbitration and in no other proceeding. In fact, under Business & Professions Code Section 6201(d)(2), a client’s right to request or maintain arbitration under the Mandatory Fee Arbitration Act is waived if the client commences an action seeking “[a]ffirmative relief against the attorney for damages or otherwise based upon alleged malpractice or professional misconduct.”

In the committee’s experience with attorney-client fee disputes, arbitrators have been presented with cases involving allegations of legal malpractice or professional misconduct occurring in mediations. For example, there can be claims the attorney made a legally significant error when the attorney induced the client to settle for a lower amount, the attorney agreed to modify the written fee agreement and lower the fee and then reneged, the attorney agreed to resolve liens in the case and then failed to settle with the lienholder, the attorney agreed to absorb all the costs incurred and then required the client to pay all costs out of his or her share of the settlement, or the attorney failed to explain the tax ramifications of the proposed settlement. Under existing law, in these and similar cases, the arbitrator is not able to consider evidence concerning communications made in preparation for or in the course of a mediation or mediation consultation in order to making findings and the award.

As required under proposed Evidence Code Section 1120.5(a)(1), this evidence would be “relevant to prove or disprove an allegation that a lawyer breached a professional requirement when representing a client in the context of a mediation or a mediation consultation.” If attorney-client fee disputes are not included in the proposed legislation, an anomalous situation would be created whereby evidence would be admissible in a legal malpractice case or a State Bar disciplinary proceeding, but the *identical* evidence would not be admissible in the context of an attorney-client fee dispute, notwithstanding Business & Professions Code Section 6203(a).

We believe there is no sound basis for drawing that distinction. Therefore, if an exception to mediation confidentiality is to be created, we propose the draft legislation include attorney-client fee disputes as a third category in which the exception would apply. The language we propose is set forth below in paragraph (C).

"(2) the evidence is sought or proffered in connection with and used solely in resolving one of the following:

- (A) A complaint against the lawyer under the State Bar Act, Chapter 4 (commencing with Section 6000) of the Business & Professions Code, or a rule or regulation promulgated pursuant to the State Bar Act.
- (B) A cause of action for damages against the lawyer based upon alleged malpractice."

ADD paragraph (C)

- (C) A dispute between a lawyer and client concerning fees, costs, or both including a proceeding under the State Bar Act, Chapter 4, Article 13-Arbitration of Attorneys' Fees, Business & Professions Code Sections 6200-6206.

We thank you for the opportunity to provide these comments and hope they will benefit the Commissions' study.

**Disclaimer**

**This position is only that of the State Bar of California's Standing Committee on Mandatory Fee Arbitration. This position has not been adopted by the State Bar's Board of Trustees or overall membership, and is not to be construed as representing the position of the State Bar of California.**

Sincerely yours,

*Lorraine Walsh*

For the Committee on Mandatory Fee Arbitration  
Lorraine M. Walsh, Vice-Chair



# STATE BAR OF CALIFORNIA

**INTER-OFFICE  
COMMUNICATION**

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**DATE:** March 16, 2017

**TO:** Committee on Mandatory Fee Arbitration

**FROM:** Douglass Hull, Manager 2

**SUBJECT:** Agenda item from Governance in the Public Interest Task Force

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On March 8, 2017, the State Bar's Governance in the Public Interest Task Force discussed the continued existence of various committees and commissions at the State Bar, including the Committee on Mandatory Fee Arbitration. As earlier noted, the webcast can be found online at [http://calbar.granicus.com/MediaPlayer.php?view\\_id=3&clip\\_id=167](http://calbar.granicus.com/MediaPlayer.php?view_id=3&clip_id=167) with the discussion of the CMFA at the 10:00 minute mark.

Attached are the materials that the Task Force were reviewing during their meeting. These may help inform our discussion on March 24.



## MEMORANDUM

DATE: March 2, 2017  
TO: 2017 Governance in the Public Interest Task Force  
FROM: Elizabeth Rindskopf Parker, Executive Director  
SUBJECT: Topic C: Board Committees/State Bar Sub-entities/Other Entities

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### Introduction

The next Governance in the Public Interest Task Force (Task Force) meeting on March 8, 2017, will discuss Topic C described in the 2017 Task Force agenda as:

The role of the various sub-entities (e.g., committees and volunteers) and their relationship to the State Bar, along with how the Board's own committees should be structured for improved functioning.

Topic C includes two categories, Board Committees, composed exclusively of Trustees; and State Bar 'sub-entities,' made up of Trustees and others, and variously created by Board action alone or in combination with external stakeholders, or by direction in Court rule or statute. Attachments include a Board Committee chart, a State Bar sub-entity chart and a listing/description of other entities/projects to which the Board makes appointments or to which the State Bar facilitates voluntary financial contributions from members. The three attachments are designed to provide the Task Force with a comprehensive picture of the entities that assist the Board of Trustees in its governance and oversight role, the entities that carry out the work of the State Bar, and the entities with which the State Bar has a recognized relationship of some kind.

The Board Committees assist the Board of Trustees in the Board's governance and oversight role. The goal of Task Force C with respect to the Board Committees is to review each Committee's scope of work and structure, i.e., composition, size, and determine what, if any, recommendations can be made to improve the efficiency and effectiveness of these Committees.

The State Bar sub-entities serve the State Bar's various functional areas (i.e. licensing, regulation, discipline, justice, and ethics). Depending on the specific creating authority, design and responsibility, each may raise questions of: (a) appropriate Board oversight; (b) necessary and authorized fiscal and staffing support; (c) most effective structure for transparency and

accountability; and (d) whether a committee of volunteers provides the optimal structure for implementing core State Bar responsibilities.

The goal of Task Force Topic C discussion with respect to the sub-entities is, first, to identify the policy and structural changes that may be needed to ensure that the State Bar is achieving its statutory mandate to make the highest priority the licensing, regulation and discipline of attorneys. (Bus. & Prof. Code, § 6001.2.) Second, each sub-entity should be reviewed to ensure that it is appropriately structured with defined outcome measures, adequate oversight, and fiscal and staffing support. We can also take the opportunity to review the entities to which the Board makes appointments to determine whether State Bar participation is aligned with its mission. Together this assessment will bring the State Bar's public protection mandate into sharper focus.

### **Framework for Topic C Discussion**

**Questions:** Review of the Board Committee, sub-entities and other entities raises the following questions:

#### Common Questions

1. What is the mission? Who sets it? Is it appropriate and necessary?
2. What is the relationship to the Board?
  - \* Should it be strengthened? How?
  - \* How is Board oversight performed and is it adequate?
  - \* Does the Board liaison policy provide effective 2-way communication?
  - \* Is more regular reporting to the Board or its oversight committee needed?
3. Is the structure, i.e., composition, size, suitable for its mission?
  - \* What performance measures exist to measure effectiveness?
  - \* Is the mission effectively being advanced?
  - \* What explains performance deficiencies?
    - o Individuals (lack of training, experience, commitment);
    - o Structural/institutional constraints (inappropriate composition/size, outdated mission, insufficient funding/support);
    - o External constraints (statutory or other impediments to better functioning).

### Questions Specific to Sub-entities

1. For those created by statute, is oversight and integration complicated by:
  - \* statutory size/composition requirements; or
  - \* statutory funding requirements or restrictions?
2. Do other entities inside or outside the State Bar perform the same or similar functions, creating duplication?
3. Do other jurisdictions perform the sub-entity's function in a different manner?
4. What considerations are relevant to recommending a different manner of performance?
  - \* What sub-entity performance problems have been identified which change might correct;
  - \* Is there a factual basis for concluding that other entities inside or outside the State Bar, or other states' different manners of performance, would be more effective than the sub-entity at performing the function; and
  - \* Should the Task Force seek advice from external sources?
5. Is the professional State Bar staff better suited to manage the work of the sub-entity?

**Options:** Possible Task Force Recommendations with respect to the Board Committees, sub-entities and other entities include:

1. Maintain Status Quo
2. Further Study – with study plan and target date for completion
3. If No Further Study Needed:
  - a. Propose change in mission, Board relationship, structure (composition/size), reporting, communication, performance measures, and/or oversight
  - b. Specific to sub-entities:
    - i. Transfer function, in whole or in part, to professional staff
    - ii. Transition function, in whole or in part, to other entity inside or outside the State Bar
    - iii. Eliminate

2017 Governance in the Public Interest Task Force  
Topic C  
Sub-entities

Committee Name	Function	Program Area	Oversight Committee	Charge [Per Board Book, statutes, State Bar Rules and other like source/reference materials]	Creating Authority	# of Appointees	Appointing Authority	Funding	Status	Notes	Staff Comments/Topic C Co-Chair Recommendations
Committee on Administration of Justice		None	Stakeholders	Established in 1933, this committee 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 BOT and comment as authorized by the BOT 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 BOT. (c) Perform such other functions relevant to the committee's subject area as the BOT may from time to time assign.	BOT	36	BOT		Terminated by BOT action. Responsibility transferred to Litigation Section. It is the State Bar's expectation that the new Sections entity will take this work with them.		<b>Topic C Co-Chair Recommendation:</b> No Action Needed.
Committee on Alternative Dispute Resolution		None	Stakeholders	Established in 1997, this committee is 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 BOT and comment as authorized by BOT 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 BOT. (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 BOT may from time to time assign.	BOT	21	BOT		Terminated by BOT action. Responsibility transferred to Litigation Section. It is the State Bar's expectation that the new Sections entity will take this work with them.		<b>Topic C Co-Chair Recommendation:</b> No Action Needed.
Committee on Appellate Courts		None	Stakeholders	Established in 1970 and made a standing committee in 1973, this committee is a diverse group of attorneys drawn from such 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 BOT and comment as authorized by BOT 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 BOT. (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 BOT may from time to time assign.	BOT	16	BOT		Terminated by BOT action. Responsibility transferred to Litigation Section. It is the State Bar's expectation that the new Sections entity will take this work with them.		<b>Topic C Co-Chair Recommendation:</b> No Action Needed.
Committee on Federal Courts		None	Stakeholders	Established in 1949, this committee's charge is 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 BOT 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 BOT may from time to time to assign.	BOT	15	BOT		Terminated by BOT action. Responsibility transferred to Litigation Section. It is the State Bar's expectation that the new Sections entity will take this work with them.		<b>Topic C Co-Chair Recommendation:</b> No Action Needed.
Committee on Mandatory Fee Arbitration	Discipline	Discipline	RAD	MFA provides an informal, confidential, low-cost forum for resolving fee disputes. Most fee arbitrations are conducted through local bar association programs. The State Bar provides fee arbitration only in the absence of a local program. MFA includes a network of local programs sponsored by 41 participating county bar associations. The committee, established in 1985, is tasked with reviewing policy and making policy recommendations; assisting local bar association arbitration programs; issuing advisories to assist arbitrators and developing uniform approach; evaluating and proposing legislation.	BOT  [MFA process created by LEG (B&P 6200-6202)]	16	BOT	General Funds		Comp: attorneys, 1 arbitrator, 3-5 public.  California Supreme Court in <i>In re Attorney Discipline System</i> held that the costs of mandatory fee arbitration should be funded as component part of disciplinary system. (Fee disputes at core of many disciplinary complaints.)  MFA Staff report to chief admin officer of State Bar Court.	<b>Staff Comments:</b> The Legislature likes this program for its client-oriented protective framework.  Query whether the sub-entity is needed. Can work can be done by State Bar staff.  <b>Topic C Co-Chair Recommendation:</b> Given substantive policy work of committee in issuing opinions and interpreting the rules, unlikely work can be done by staff.

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Committee Name	Function	Program Area	Oversight Committee	Charge [Per Board Book, statutes, State Bar Rules and other like source/reference materials]	Creating Authority	# of Appointees	Appointing Authority	Funding	Status	Notes	Staff Comments/Topic C Co-Chair Recommendations
Client Security Fund Commission	Regulatory	Discipline	RAD	CSF, established by (State-Bar sponsored) legislation in 1972, reimburses clients who have lost money or property due to theft or equivalent dishonest act by lawyer acting in professional capacity. This committee, created in 1986, oversees and administers CSF; determines whether to grant an application under the rules; makes recommendations to the BOT on rules, methods for reviewing applications and financial/administrative needs.	BOT  [CSF created by LEG (B&P 6140.5)]	7	BOT	\$40 per active member / \$10 per inactive member  (B&P 6140.55)		Comp: up to 4 lawyers.  By statute, funds collected for CSF are restricted to program expenses (processing, defending, insuring of claims).  In September 2016, Chief Justice told State Bar to "ensure [CSF's] adequacy and operational efficiency."  Per statute, State Bar "may" delegate administration of CSF to State Bar Court or any Board-created committee.  CSF Staff report to chief admin officer of State Bar Court.	
Lawyer Assistance Program Oversight Committee	Regulatory	Discipline	RAD	LAP, established by statute in 2002, provides comprehensive and confidential assistance to members and former members with substance abuse problems or mental illness. LAP offers counseling, consultation, arrangements for treatment and support groups. Attorneys may self-refer into LAP or may be referred by friends, family, the judiciary or the State Bar discipline system. Board Book recognizes that the purpose of LAP is to enhance public protection by rehabilitating members, former members, candidates for admission, so that they are able to practice law competently. The committee, also established by statute, oversees LAP. By State Bar Rules, the committee may establish one or more 3-member (physician, clinician, local bar member experienced in recovery) Evaluation Committees in Northern and Southern California, authorized to accept or deny applications for admission into LAP, determine program completion and terminate individuals from participating in LAP.	LEG  [LAP & Oversight Committee created by LEG (B&P 6231-6238)]	12	BOT/GOV/LEG	\$10 per active member / \$5 per inactive member  (B&P 6140.9)]		Comp (per statute): 6 BOT (2 licensed mental health professionals; 1 physician specialist in alcoholism/substance abuse; 1 expert nonprofit board member; 2 attorneys [at least 1 in recovery]); 4 GOV (2 attorneys, 2 public); 2 LEG (1 Senate public; 1 Assembly public); members serve 4-year terms.  Per statute, confidentiality guaranteed; participants responsible for treatment and recovery expenses; State Bar may charge reasonable administrative fee to participants; State Bar required to establish financial assistance program.  LAP Staff report to chief admin officer of State Bar Court.	<b>Staff Comments:</b> LAP not part of discipline system, but is identified here as falling under Discipline Program Area because LAP staff work in close cooperation with Office of Chief Trial Counsel and State Bar Court to provide attorneys with opportunity for rehabilitation while resolving disciplinary charges.  Given statutory requirement that State Bar both establish and administer LAP and establish an oversight committee, any proposal to take this work outside the State Bar will require legislation.  Query whether it is appropriate to contract out this work if prevention is a key component of the public protection mission.  <b>Topic C Co-Chair Recommendation:</b> Further Study.
Committee of Bar Examiners	Licensing	Admissions	A&E	Established in 1927, this 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.  By statute and State Bar Rules, committee work includes:  (1) admission to practice i. development/administration of bar examination (and first year law student exam) ii. moral character evaluation/informal conferences [appeals go to State Bar Court] iii. testing accommodations petitions/reviews of denials (2) accreditation of law schools (3) registration of unaccredited law schools	LEG  [B&P 6046]	19	BOT/GOV/LEG	Self-funded  Fees:  Exam/ Application/ Admission/ Enrollment/ Law schools (accreditation and registration)		Comp (per statute): BOT 10 attorneys; 9 public (3 GOV, 6 LEG [3 Senate, 3 Assembly]); members serve 4-year terms.  By statute, funds from exam fees restricted to defraying costs of administering provisions of law relating to admission to practice law.  By legislative design, BOT has authority to establish CBE, make appointments, determine budget, fix application fees, approve CBE's rules, conduct investigations. BOT has no authority to set admission reqs or oversee the admissions process. That authority assigned to CBE. BOT has approved rules recognizing CBE's authority. A person refused certification is entitled to Supreme Court review.  February 28, 2017, letter from Chief Justice, directing the State Bar to make a report to the Court concerning the California Bar Examination by December 1, 2017, including summary of investigations/findings, recommendations for change, timeline; and to submit bi-monthly reports to the Court regarding the progress of its investigations.	<b>Staff Comments:</b> Query whether certain CBE work can be done more consistently/effectively by State Bar staff rather than volunteers, e.g., development and validation of bar examination, and/or whether certain CBE work more appropriately falls under a different regulatory framework, e.g., school accreditation.  Given CBE's legislative mandate, assigning away any CBE work related to the bar examination process, administration of the requirements for admission or certification of eligible applicants for admission would likely require a statutory change.  <b>Topic C Co-Chair Recommendation:</b> Refer to A&E for Further Study.

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Committee Name	Function	Program Area	Oversight Committee	Charge [Per Board Book, statutes, State Bar Rules and other like source/reference materials]	Creating Authority	# of Appointees	Appointing Authority	Funding	Status	Notes	Staff Comments/Topic C Co-Chair Recommendations
California Board of Legal Specialization	Licensing	Admissions	A&E	Created by the California Supreme Court to provide public protection and encourage attorney competence, this committee administers the State Bar of California Program for certifying Legal Specialists in eleven areas of law, with the assistance of specialty advisory commissions. CBLS recommends program rules and provides policies and guidelines for certification of specialists; develops testing and legal education criteria for specialists; develops outreach efforts to increase awareness of the program; and advises BOT on establishment of specialty fields and appointment of advisory commissions. CBLS is authorized by the Supreme Court to approve other entities to designate specialists.  There are currently 11 Advisory Commissions, one commission for each of the certification specialty areas. The commissions review applications for certification; draft and grade the examinations with the assistance of professional consultants; and recruit high quality providers of legal specialist education.	BOT  [State Bar Legal Specialization Program created by Supreme Court (Rule 9.35)]	CBLS - 15  Advisory Commission - 9	BOT	Self-funded  Fees:  Exam/ Application/ Recertification/ Annual/ Approval Specialty Education Providers/ Approval Other Certification Entities	BOT directed staff to work with Stakeholders to modify the appointment process for the advisory commissions. The idea under discussion is to change advisory commissions to advisory panels appointed by CBLS to assist CBLS. This change will underscore that there are not 11 separate entities with separate agendas, but rather 1 CBLS, advised by subject matter experts in 11 key areas, with 1 single goal of public protection.  Steps taken to streamline the program, increase the role of public members and decrease the size of CBLS; efficiencies, including the transfer of regulatory duties to staff, have led to the reduction in frequency of advisory commission meetings. The addition of paid drafters and graders will lessen the need for meetings and allow for greater efficiencies.  This is coming before the BOT in March 2017.	Comp: CBLS - 12 attorneys, 3 public; Advisory Commissions - up to 8 attorneys, 1 public; members serve 4-year terms.  BOT has authority to approve additional areas of legal specialization on recommendation from CBLS.  BOT may authorize other entities to grant certification on recommendation by CBLS.	<b>Topic C Co-Chair Recommendation:</b> In determining the right size of work the State Bar can manage, query whether work of CBLS and CBE should be considered together for possible reorganization into separate entity under Judicial Branch. Further Study.
Law School Council	Licensing	Admissions	None	By statute, this committee advises CBE on the content and format of the bar examinations, curriculum and law school education relating to the bar examination process. It acts as a 2-way channel of communication, sounding board and source of expertise.  The statute requires CBE to communicate and cooperate with this committee.	BOT  [affirmed by/reference d in LEG (B&P 6046.6)]	14	BOT/CBE	Admissions Fund Budget  (except law schools pay for expenses of law school members)	Given statutory requirements, staff has recently advised BOT to continue making appointments.	Comp: BOT 10 (law school deans elected by their category of school), CBE 3, 1 Trustee.	<b>Staff Comments:</b> The Trustee member is the Chair of the Board committee that has oversight responsibility for CBE (A&E). The Board Book does not assign oversight responsibility to any Board committee for this sub-entity, but the 2016-2017 roster lists Trustee Terrance W. Flanigan, A&E Chair, as the Trustee Member.
Commission for Revision of Rules of Professional Conduct (2nd Commission)	Ethics	Professional Competence	RAD	B&P 6076 provides that the BOT may formulate rules of professional conduct subject to Supreme Court approval. The commission is responsible for developing proposed amendments to the California Rules of Professional Conduct.  The 2nd Commission for Revision of Rules of Professional Conduct was formed in 2014/2015 by request of the Supreme Court Administrator. A deadline of March 31, 2017, was imposed for the completion and submission of proposed rules to the Court for final consideration.	BOT	19  plus 4 advisors  and  1 consultant	BOT	General Funds	The Rules Revision Commission is winding down. Its work will be completed on March 31, 2017.	BOT liaison: Jason Lee Supreme Court liaison: Greg Fortescue  California Supreme Court in <i>In re Attorney Discipline System</i> held that the costs associated with the Office of Professional Competence are a legitimate component of a comprehensive discipline system, specifically referring to the promulgation of rules of professional conduct.	<b>Topic C Co-Chair Recommendation:</b> No Action Needed.
Committee on Professional Responsibility and Conduct	Ethics	Professional Competence	RAD	This committee assists lawyers in their desire to appreciate and adhere to ethical and professional responsibility standards of conduct. This assistance includes, but is not limited to:  (a) Issuing formal advisory ethics opinions on the ethical propriety of hypothetical attorney conduct at the request of an attorney or on its own initiative; (b) Assisting the BOT 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 performing other functions as may be assigned to the committee by the Board of Trustees; (c) Encouraging the establishment of and providing assistance to local bar association ethics committees; and (d) Assisting the public, including lawyers and judges, to understand the professional obligations of members of the State Bar, or lawyers authorized to practice in California, including sponsoring education programs and conferences.	BOT	15  plus 1 advisor	BOT	General Funds		California Supreme Court in <i>In re Attorney Discipline System</i> held that the costs associated with the Office of Professional Competence are a legitimate component of a comprehensive discipline system	<b>Staff Comments:</b> An issue has been raised whether ethics opinions issued by the State Bar raise anti-trust concerns. OGC addressed this issue at the December 2016 BOT meeting. The specific issue there was a COPRAC opinion dealing with attorney advertising. It was explained that COPRAC opinions are not binding. They are advisory in nature and do not have any regulatory effect. The State Bar does not enforce ethics opinions; rather, the State Bar enforces only the Rules of Professional Conduct and the State Bar Act. The Board Book specifically acknowledges the advisory, non-binding, nature of COPRAC opinions.  <b>Topic C Co-Chair Recommendation:</b> Further Study.

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Committee on Group Insurance Programs	None	Member Services	Stakeholders	<p>Established in 1953, this committee acts as a counselor and advisor to the BOT. Currently, State Bar sponsored group insurance programs monitored by the committee include: Accidental Death and Dismemberment, Health Care, Life, Disability Income, Long Term Care Insurance and Worker Compensation.</p> <p>The charge of the committee is as follows:</p> <p>(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.</p> <p>(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.</p> <p>(c) Work with the administrator/broker, insurance carrier, OGC and designated State Bar staff to prepare contracts for new programs and revisions to existing contracts.</p> <p>(d) Monitor ongoing approved programs and review sales literature for all approved programs on an ongoing basis.</p> <p>(e) Provide legal advice to the BOT concerning insurance law aspects of its recommendations.</p> <p>(f) The BOT designates this committee 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.</p>	BOT	15 plus 1 consultant	BOT		BOT directed staff to work with Stakeholders to study the potential of combining COGIP with COPLI into a joint insurance committee and report back to BOT by March 2017 with a proposal.		<b>Staff Comments:</b> An issue has been raised whether it is appropriate for the State Bar to be in the business of sponsoring insurance or other member benefit programs. Is there a distinction between professional liability and other insurance products? There is no antitrust issue as there is no impact in the relevant market, i.e., the market for legal services. It is a policy question as to whether it is appropriate for the State Bar to be conducting these activities, a live issue with the Sections. There is a suggestion that professional liability insurance is distinct because of its public protection function, and that if the State Bar moves to require all attorneys to hold such insurance, it would be helpful to be able to offer it. Some, however, see a potential conflict if the State Bar requires professional liability insurance as a regulatory matter and makes money from the sale of that insurance through the sponsored program.
Committee on Professional Liability Insurance	None	Member Services	Stakeholders	<p>Established in 1990, this committee's purpose is to:</p> <p>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 BOT and/or its designated board standing committee on all aspects of the State Bar approved Professional Liability Insurance Program.</p>	BOT	15	BOT		BOT directed staff to work with Stakeholders to study the potential of combining COGIP with COPLI into a joint insurance committee and report back to BOT by March 2017 with a proposal.		See <b>Staff Comments</b> under COGIP.
California Young Lawyers Association Board of Directors	13% Discipline 87% None	Sections	Stakeholders	<p>Established in 2009, this committee is defined as members in good standing of the State Bar in first 5 years of practice in California or age 36 or under. The charge of CYLA is to:</p> <p>(a) Advise BOT on strategies to make the State Bar and CYLA continually relevant and beneficial to young lawyers in California.</p> <p>(b) Promote the interests of young lawyers in California.</p> <p>(c) Be responsible for programs, services, professional development and trend analysis, to assist young lawyers in becoming respected and successful members of the State Bar, keeping both CYLA and the State Bar ahead of the curve.</p> <p>(d) Develop communication strategies that engage young lawyers in California.</p> <p>(e) Create and continually strengthen outreach efforts to the barristers' organizations throughout the State and across the country.</p> <p>(f) Assist the State Bar in the administration and implementation of its programs and responsibilities.</p> <p>(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.</p> <p>(h) Encourage and promote pro bono work.</p> <p>(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 their participation.</p> <p>(j) Comment and advise on issues of relevance and importance to young lawyers in California.</p> <p>(k) Screen applicants and make recommendations to the BOT for recipients of the Annual Jack Berman Award of Achievement.</p> <p>(l) CYLA will provide regular reports to the BOT. There will be a permanent place on the board committee agenda for CYLA reports and updates.</p> <p>(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.</p>	BOT	20	BOT	13% - General Funds 87% - Unfunded	<p>BOT directed staff to work with CYLA to repurpose areas of focus to include: (1) partnering with LAP staff and LAP Oversight Committee to develop and implement an outreach and education initiative for law students and new lawyers; and (2) assisting in the identification of appropriate topics for the new 10-hour MCLE requirement effective and in the development of web-based curriculum.</p> <p>BOT directed staff to work with CYLA to prepare an annual plan for A&amp;E review and approval, beginning in November 2017, to ensure that upon conclusion of CYLA's 2017 activities, BOT will continue to exercise appropriate oversight over the remaining CYLA initiatives. Staff has completed this work.</p>		<b>Staff Comments:</b> Latest version of the fee bill has CYLA as part of the successor Sections entity. (Section 1(h).)
Committee on Delivery of Legal Services	Justice	Legal Services	Stakeholders	<p>Established in 2000, this committee's areas of concern are the delivery of legal services to poor and middle-income individuals in California. The charge of the committee is as follows:</p> <p>(a) Identify, develop and support improvements in the delivery of legal services to poor and middle-income individuals.</p> <p>(b) Serve as a resource to BOT in legal services issues of importance to the State Bar.</p> <p>(c) Develop and disseminate educational materials to improve the delivery of legal services to poor and middle-income individuals.</p> <p>(d) Develop liaison relationships with other State Bar entities concerning legal services issues of importance to the State Bar.</p> <p>(e) Analyze, report to BOT, and comment where requested by BOT 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.</p>	BOT	20	BOT	General Funds	<p>Board directed staff to pursue the integration of SCDLS into the California Commission on Access to Justice. If proposed integration is effectuated, BOT to be presented with formal proposal to increase number of appointees from 10 to 12, dedicating the 2 additional seats for staff from nonprofit legal services and pro bono organizations.</p> <p>This item is returning to BOT in March 2017.</p>		<b>Topic C Co-Chair Recommendation:</b> Explore consolidation of all Access to Justice related sub-entities - SCDLS, CCAJ and LSTFC.

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Committee Name	Function	Program Area	Oversight Committee	Charge [Per Board Book, statutes, State Bar Rules and other like source/reference materials]	Creating Authority	# of Appointees	Appointing Authority	Funding	Status	Notes	Staff Comments/Topic C Co-Chair Recommendations
California Commission on Access to Justice	Justice	Legal Services	Stakeholders	<p>Established in 1997 to implement one of the recommendations from <i>And Justice for All: Fulfilling the Promise of Equal Access to Justice in California</i>, the final report of the State Bar's Access to Justice Working Group, this committee pursues fundamental improvements in the civil justice system so that it is accessible for all. It is a collaborative effort involving all 3 branches of government dedicated to finding long-term solutions to the chronic lack of legal assistance available for low-income, vulnerable Californians.</p> <p>The Pro Bono Coordinating Committee initially was formed jointly by CCAJ and SCDLS in 2010, but currently functions as a sub-committee of CCAJ. Its charge is to encourage, facilitate and coordinate statewide pro bono efforts.</p>	BOT	26	BOT/Judicial Council/Judges Assn/GOV/LEG/Supreme Ct/AG/Chamber of Commerce/League of Women Voters/Labor Federation/Council Churches/Consumer Attys/Council of County Law Librarians/Legal Aid Association	General Funds		<p>Comp: BOT 10, Other 16 (Judicial Council 2, GOV 2, remaining 12 appointing authorities 1 each); CCAJ recommends members to oversight committee for appointment; BOT names chair and vice-chair upon recommendation by CCAJ.</p> <p>The budget for the California Commission on Access to Justice is \$28,600 plus staff time. Total State Bar operating budget is \$146.1 million.</p> <p>Although the California Supreme Court declined to fund Center on Access to Justice and the California Commission on Access to Justice in its 2017 regulatory fee assessment as not related to discipline, the Court stated that they serve an important non-discipline public protection function, and encouraged the State Bar to find a way to provide funding.</p>	<b>Topic C Co-Chair Recommendation:</b> Explore consolidation of all Access to Justice related sub-entities - SCDLS, CCAJ and LSTFC.
Legal Services Trust Fund Commission	Justice	Legal Services	Stakeholders	<p>Established pursuant to State Bar Rules 3.660 et. seq. in September 1982 to manage the Interest on Lawyers' Trust Account (IOLTA) program, LSTFC is responsible for grant distribution to 94 nonprofit legal aid organizations serving every county in California from the following sources:</p> <p>(1) "IOLTA grants" include IOLTA revenue and voluntary contributions through the dues bill. In 2016, \$11,107,919 was given to 75 legal services providers and 21 statewide support centers.</p> <p>(2) "Equal Access Fund (EAF) grants" are state appropriations in Judicial Counsel budget for legal aid, administered by LSTFC under contract with Courts. In 2016, \$12,773,000 was given under IOLTA formula, and \$1,419,000 was given to fund legal aid partnerships with court self-help programs.</p> <p>(3) In 2015, Bank of America and Citi Group settlements provided \$6,085,197 to fund grants for (a) foreclosure prevention legal services or (b) community redevelopment legal services. In 2016, LSTFC distributed \$4,132,790 through an RFP process.</p> <p>(4) In 2016, the Bank of America settlement resulted in an additional \$44,728,659 for community redevelopment and foreclosure prevention services grants.</p> <p>With CCAJ, LSTFC manages outreach, education and administration relating to the Justice Gap Fund (created in 2006 by the Legislature and implemented by BOT in 2008) and the Campaign for Justice. Pursuant to B&amp;P 6033, the State Bar is authorized to facilitate the collection and distribution of voluntary financial contributions from members and other donors to support nonprofit organizations that provide free legal services to indigent and low-income Californians. The Justice Gap Fund is included in the annual fee bill as a means of collecting voluntary contributions from members.</p>	BOT	24 21 voting 3 non-voting judicial advisors	BOT/Chief Justice	Self-funded [IOLTA (B&P 6216)]		<p>Comp: BOT 14 voting (10 attorneys; 4 public), Chief Justice 7 voting (5 attorneys; 2 public), Chief Justice 3 non-voting judges including one appellate justice; Board appoints chair and vice-chair; members serve at pleasure of appointing authorities.</p> <p>BOT has delegated to LSTFC oversight of the grant-making process, including application, budget and allocation review and approval; ensuring compliance; and termination of grants when necessary. BOT approves LSTFC's recommendation for IOLTA distribution each year.</p>	<b>Topic C Co-Chair Recommendation:</b> Explore consolidation of all Access to Justice related sub-entities - SCDLS, CCAJ and LSTFC.
Council on Access and Fairness	Justice	Legal Services	Stakeholders	<p>Established in November 2006, the COAF's charge is as follows:</p> <p>(a) Advise BOT on strategies to develop collaborative activities and efforts along the diversity pipeline to raise interest in the legal profession.</p> <p>(b) Serve as liaison between the State Bar and the diverse stakeholders and constituencies in the legal profession.</p> <p>(c) Identify and encourage individuals from diverse backgrounds to enter the legal profession.</p> <p>(d) Encourage full and equal opportunity for individuals from diverse backgrounds to remain and advance in the legal profession.</p> <p>(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 BOT for increasing that participation.</p> <p>(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.</p> <p>(g) Study and report on the status of attorneys from diverse backgrounds in the legal profession and in State Bar activities.</p> <p>(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.</p> <p>(i) Comment, when requested by BOT or the Executive Director, on barriers directly related to access opportunities within the profession for attorneys from diverse backgrounds.</p> <p>(j) Screen applicants and make recommendations to the Board of Trustees for recipients of the Annual Diversity Awards.</p> <p>(k) Educate all attorneys of State Bar policy within the authority of this charge.</p>	BOT	25	BOT	EOB/Bar Relations Fund [opt-out/voluntary donation]			<b>Staff Comments:</b> Need to determine best way to advance diversity goals and whether COAF has been successful in this effort.

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Judicial Nominees Evaluation Committee	Justice	Executive Directors Office	Stakeholders [de facto - annual reporting]	Established pursuant to Government Code § 12011.5 in 1979, JNE evaluates all candidates who are under consideration for a judicial appointment by the governor. The 38-member commission is composed of lawyers in active practice, one or more retired judges, and non-lawyers.  Upon receipt from GOV of names of candidates for judicial office, State Bar shall use confidential procedures to evaluate and determine candidates' qualifications. Within 90 days of submission of name, State Bar shall report, in confidence, to GOV its recommendation whether candidate is exceptionally well qualified, well qualified, qualified or not qualified, and the reasons for the recommendation.	LEG [Govt 12011.5]	38	BOT	General Funds		Statute refers to JNE as a State Bar agency, the membership of which shall consist of attorney and public members.  Although the California Supreme Court declined to fund JNE in its 2017 regulatory fee assessment as not related to discipline, the Court stated that it serves an important non-discipline public protection function, and encouraged the State Bar to find a way to provide funding.	
Judicial Nominees Evaluation Review Committee	Justice	Executive Directors Office	Stakeholders [de facto - annual reporting]	Established pursuant to State Bar Rule 7.66 of Title 7, Division 1, Chapter 3, Article 6, RJNE is charged with reviewing requests from those candidates who are seeking reconsideration of JNE's "not qualified" rating. RJNE evaluates information pertaining to the investigation of the candidate and focuses on possible violations of rules or procedure.	State Bar Rule [Rule 7.66]	5	BOT	General Funds	Staff was asked to report on RJNE at the November 2016 BOT meeting and recommended retaining RJNE under the existing structure.	Comp: BOT 2 (1 attorney, 1 public), 1 past member of JNE, 2 at-large (not current Trustees).  Although the California Supreme Court declined to fund JNE in its 2017 regulatory fee assessment as not related to discipline, the Court stated that it serves an important non-discipline public protection function, and encouraged the State Bar to find a way to provide funding.	

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### Topic C: BOARD COMMITTEES

EXECUTIVE COMMITTEE (EXCOM) <sup>1</sup>	OPTIONS <sup>2</sup>	DISCUSSION QUESTIONS
<p><b>Chair and Vice Chair</b> Chair of ExCom is BOT President Vice Chair of ExCom is BOT Vice President</p> <p><b>Membership</b> [per current practice] Officers; Chairs of RAD, Stakeholders, A&amp;E, P&amp;B, Audit; Reps of each appointing authority: Governor, Supreme Court, Senate, Assembly and Governor; President, ex-officio (per description of President duties in Board Book); Executive Director, non-voting (per Board Book).</p> <p>[Currently, most of the ExCom members fill 2 spots, e.g.: Trustee Meyers fills Vice Chair and RAD Chair; Trustee Colantuono fills Assembly appointee and Stakeholders Chair; Trustee LeBran fills Governor appointee and Audit Chair.]</p> <p><b>Responsibilities</b> (1) Effective functioning of Board; (2) Board-ED relationship; (3) oversight of high-level internal operations.</p> <p><b>Accomplished By</b> (1) Coordinating work of Board committees; (2) updating Board mission; (3) setting Trustee performance standards and monitoring performance; (4) informing legal community about work of Board; (5) executing Trustee capacity building program (orientation, continuing education, mentoring); (6) overseeing Board Secretary function; (7) updating ED job description, negotiating ED performance targets, evaluating ED progress in meeting targets; (8) addressing legal issues and overseeing litigation; (9) addressing non-delegable internal operational issues (MOU ratification, changes to conflict of interest rules); (10) taking action on behalf of Board in emergencies.</p>	<ul style="list-style-type: none"> <li>▪ Status quo</li> <li>▪ Change membership</li> <li>▪ Change how members are appointed</li> <li>▪ Review the Board Book charter provisions, especially in light of functions ExCom has taken on recently that fall outside of its charter authority</li> </ul>	<ul style="list-style-type: none"> <li>▪ Members to be?</li> <li>▪ Should we consider smaller size?  E.g., President; Vice President (RAD Chair); Treasurer [possibly eliminated per Governance Task Force Topic B recommendation]; representatives from each appointing authority: Governor (Public), Supreme Court (Attorney or Public), Senate (Public), Assembly (Public).</li> <li>▪ Are there Governance Task Force Topic B leadership ladder implications?</li> <li>▪ Would make-up vary depending on Board Committee structure?</li> <li>▪ Should there be a public member majority?</li> </ul> <p><b>Staff Comments/Questions:</b></p> <ul style="list-style-type: none"> <li>▪ Would like to see current composition adopted either by Board resolution or statute, the former seemingly more appropriate and easily done.</li> <li>▪ September 8, 2016, letter from Chief Justice stated support for committee structure provided for in failed fee bills, i.e., executive committee with all appointing authorities represented.</li> </ul>

<sup>1</sup> Information in the committee description column is from committee charters and other policy statements in the Board Book and from other like source/reference materials.

<sup>2</sup> Except for Staff Comments/Questions, information in the options and discussion questions columns is supplied by Topic C Co-Chairs.

## 2017 Governance in the Public Interest Task Force

### Topic C: BOARD COMMITTEES

REGULATION AND DISCIPLINE COMMITTEE (RAD)	OPTIONS	DISCUSSION QUESTIONS
<p><b>Chair and Vice Chair</b> Chair of RAD is BOT Vice President (per 9/12/16 Board action).</p> <p><b>Membership</b> All Trustees, except current appointees to the Supreme Court’s Applicant Evaluation and Nomination Committee (AENC).</p> <p><b>Responsibilities</b> Monitoring the operational and financial performance of Client Security Fund, State Bar Court, Discipline, and Mandatory Fee Arbitration; not responsible for planning.</p> <p><b>Accomplished By</b> (1) Establishing reporting process; (2) overseeing Chief Trial Counsel per statute; (3) approving changes to policy-level quality control measures applicable to Office of Chief Trial Counsel, Client Security Fund, Office of Probation; (4) reviewing performance reports and reporting back to Board; (5) identifying needed corrective actions requiring no change in approved program goals or budget; (6) overseeing development and implementation of operational policies requiring no change in approved program goals or budget; (7) overseeing preparation of assessment of past year’s fiscal and program performance for presentation at annual strategic work session; (8) reviewing internal and external audit reports and overseeing corrective action; (9) overseeing annual discipline report process and reviewing underlying statistics.</p>	<ul style="list-style-type: none"> <li>▪ Status quo</li> <li>▪ Reduce membership back down in size</li> <li>▪ Change charter to agendize fewer matters and put other matters on full Board agenda (likely in combination with reduction in committee size)</li> <li>▪ Eliminate and put <i>all</i> matters on full Board agenda</li> <li>▪ Determine best practices for how appointments are made</li> <li>▪ Determine best practices for how Chair is selected</li> </ul>	<ul style="list-style-type: none"> <li>▪ If RAD agenda items were put on full Board agenda, would that create any problems going forward, e.g., Rule of Court 9.11?</li> <li>▪ Are there administrative issues more appropriate for a smaller Discipline Committee? Or can such issues be addressed in consent by the full Board?</li> <li>▪ Should the Chair be required to have previously served as a Trustee for a minimum of 2 years, (easier to do with 4-year terms)?</li> <li>▪ Should Chair and Vice Chair be selected by the Board, appointed by the Supreme Court, or appointed by the President and/or ED?</li> <li>▪ Are there Governance Task Force Topic B leadership ladder implications?</li> </ul> <p><b>Staff Comments/Questions:</b></p> <ul style="list-style-type: none"> <li>▪ Rule of Court 9.11 governs AENC [for selection of State Bar Court judges] and requires that two member of AENC be current members of State Bar Board of Trustees who do not sit on Board’s Discipline Committee.</li> <li>▪ B&amp;P Code sec. 6079.5 requires that the Chief Trial Counsel report to the Board’s Discipline Committee.</li> <li>▪ Any changes relating to RAD must take into consideration implications arising out of Rule 9.11 and B&amp;P Code sec. 6079.5.</li> <li>▪ The Board Book gives the President the authority to appoint board committees, their chairs and liaisons.</li> </ul>

REGULATION AND DISCIPLINE COMMITTEE (RAD)	OPTIONS	DISCUSSION QUESTIONS
<p><b>Oversight Responsibility:*</b></p> <ul style="list-style-type: none"> <li>▪ Committee on Mandatory Fee Arbitration</li> <li>▪ Committee on Professional Responsibility and Conduct (COPRAC)</li> <li>▪ Commission for Revision of Rules of Professional Conduct</li> <li>▪ Client Security Fund Commission</li> <li>▪ Lawyer Assistance Program (LAP) Oversight Committee</li> </ul>		

## 2017 Governance in the Public Interest Task Force

### Topic C: BOARD COMMITTEES

ADMISSIONS & EDUCATION COMMITTEE (A&E)	OPTIONS	DISCUSSION QUESTIONS
<p><b>Chair and Vice Chair</b> Not addressed in charter.</p> <p><b>Membership</b> Not addressed in charter.</p> <p><b>Responsibilities</b> Monitoring the operational and financial performance of the Committee of Bar Examiners, Professional Competence, Special Admissions, Legal Specialization, pre-licensing and continuing education, with a focus on preventative public protection.</p> <p><b>Accomplished By</b> (1) Establishing reporting process; (2) reviewing performance reports and reporting to Board; (3) identifying needed corrective actions requiring no change in approved programs/budget; (4) overseeing development and implementation of operational policies requiring no change in approved program goals or budget (including MCLE requirements); (5) overseeing preparation of assessment of past year’s fiscal and program performance for presentation at annual strategic work session.</p> <p><b>Oversight Responsibility:*</b></p> <ul style="list-style-type: none"> <li>▪ California Board of Legal Specialization</li> <li>▪ Committee of Bar Examiners</li> </ul>	<ul style="list-style-type: none"> <li>▪ Status quo</li> <li>▪ Change charter to agendize fewer matters and put other matters on full Board agenda</li> <li>▪ Eliminate and put all matters on full Board agenda</li> <li>▪ Determine best practices for how appointments are made</li> <li>▪ Determine best practices for how Chair is selected</li> </ul>	<ul style="list-style-type: none"> <li>▪ Should A&amp;E be treated like RAD given that it too oversees a core regulatory function?</li> <li>▪ If not, should the charter be reviewed to determine whether some of the functions should go to Board directly rather than through A&amp;E?</li> <li>▪ If not, how should Trustees be selected to serve on this committee?</li> <li>▪ Should the Chair be required to have previously served as a Trustee for a minimum of 2 years (easier to do with 4-year terms)?</li> <li>▪ Should Chair and Vice Chair be selected by the Board, appointed by the Supreme Court, or appointed by the President and/or ED?</li> </ul> <p><b>Staff Comments/Questions:</b></p> <ul style="list-style-type: none"> <li>▪ What is the Education in A&amp;E?</li> <li>▪ What is the rationale for placing oversight responsibility for the COPRAC and the Commission for Revision of Rules of Professional Conduct under RAD rather than A&amp;E?</li> <li>▪ The Board Book gives the President the authority to appoint board committees, their chairs and liaisons.</li> </ul>

## 2017 Governance in the Public Interest Task Force

### Topic C: BOARD COMMITTEES

STAKEHOLDER RELATIONS, ACCESS TO JUSTICE, AND APPOINTMENTS COMMITTEE	OPTIONS	DISCUSSION QUESTIONS
<p><b>Chair and Vice Chair</b> Not addressed in charter.</p> <p><b>Membership</b> Not addressed in charter.</p> <p><b>Responsibilities</b> (1) Effective relationships with State Bar stakeholders; and (2) Positive relationships with attorney members and Sections Council.</p> <p><b>Accomplished By</b> (1) Overseeing development of strategies for building respect for State Bar, lawyers and legal profession and building relationships with key stakeholders; (2) overseeing the administration of member/customer/constituency services and surveys, reviewing surveys and reporting results back to Board; (3) overseeing development and implementation of operational policies requiring no change in approved program goals or budget; (4) helping expand resources for legal aid providers; (5) ensuring State Bar’s relationships with Sections and other State Bar entities are positive and productive; (6) monitoring and developing programs relating to attorney member practice issues and service programs for the benefit of attorney members, including diversity; (7) overseeing development of legislative relations policies; (8) overseeing Trustee participation in outreach; (9) overseeing Access to Justice programs; (10) recommending non-disciplinary appointments; (11) ensuring adequate public notice of appointment opportunities; (12) overseeing sub-entity appointment process.</p>	<ul style="list-style-type: none"> <li>▪ Status quo</li> <li>▪ Revise/update charter to align with updated role of State Bar</li> <li>▪ Determine best practices for how appointments are made</li> <li>▪ Determine best practices for how Chair is selected</li> <li>▪ Direct report to Board</li> <li>▪ Phase out in 2018</li> </ul>	<ul style="list-style-type: none"> <li>▪ Questions remain as to necessity of this committee after Sections separate and other committees are “pared down.”</li> <li>▪ Can remaining functions be put onto full Board agenda given limited role of committee, especially over last couple of years?</li> <li>▪ Can committee simply be phased out?</li> <li>▪ If not, we need to look at same issues of Chair/Vice Chair appointments and qualifications.</li> <li>▪ Once the GTF and Board are able to reach agreement on the Committee structure of the State Bar going forward, and with the separation of the Sections and anticipated elimination of other committees, it is hoped that this committee will have less work. However, it will still have regular appointments for remaining State Bar committees, and access to justice responsibilities. Therefore, we still need to determine which Board members should be on this committee.</li> <li>▪ With peel off of Sections, should this committee be replaced by 2, one for Nominations and Appointments, the other for Access to Justice? Would Chairs be members of ExCom? Would new committees report to ExCom or full Board?</li> </ul> <p><b>Staff Comments/Questions:</b></p> <ul style="list-style-type: none"> <li>▪ The Board Book gives the President the authority to appoint board committees, their chairs and liaisons.</li> </ul>

STAKEHOLDER RELATIONS, ACCESS TO JUSTICE, AND APPOINTMENTS COMMITTEE	OPTIONS	DISCUSSION QUESTIONS
<p><b>Oversight responsibility:*</b></p> <ul style="list-style-type: none"> <li>▪ California Commission on Access to Justice (CAAJ)</li> <li>▪ Legal Services Trust Fund Commission</li> <li>▪ Standing Committee on Delivery of Legal Services (SCDLS)<sup>3</sup></li> <li>▪ Council on Access/Fairness</li> <li>▪ California Young Lawyers Association Board of Directors (CYLA)<sup>4</sup></li> <li>▪ Committee on Administration of Justice<sup>5</sup></li> <li>▪ Committee on Alternative Dispute Resolution<sup>3</sup></li> <li>▪ Committee on Appellate Courts<sup>3</sup></li> <li>▪ Committee on Federal Courts<sup>3</sup></li> <li>▪ Committee on Group Insurance Programs<sup>6</sup></li> <li>▪ Committee on Professional Liability Insurance<sup>4</sup></li> <li>▪ [de facto] Commission on Judicial Nominees Evaluation and Review Committee [annual reporting only]</li> </ul>		

<sup>3</sup> Board voted to pursue integration of SCDLS into CCAJ; if integrated, 2 appointments will be added from nonprofit legal aid and pro bono organizations. This item is returning to the Board in March 2017.

<sup>4</sup> Board voted to repurpose focus on (1) partnering with LAP staff and LAP Oversight Committee on outreach and (2) new 10-hour MCLE requirement; and to prepare annual work plan for A&E to review/approve. The work plan has been completed. The proposed fee bill has CYLA as part of the successor Sections' entity.

<sup>5</sup> Board voted to terminate these committees and transfer responsibility to the Litigation Section; it is the State Bar's expectation that the successor Sections' entity will take this work with them.

<sup>6</sup> Board voted to study combining 2 insurance committees. This item is returning to the Board in March 2017 with a proposal.

## 2017 Governance in the Public Interest Task Force

### Topic C: BOARD COMMITTEES

AUDIT COMMITTEE	OPTIONS	DISCUSSION QUESTIONS
<p><b>Chair and Vice Chair</b> Chair of Audit is BOT Treasurer.</p> <p><b>Membership</b> Not addressed in charter.</p> <p><b>Responsibilities</b> Role and responsibility is oversight; not responsible for preparation or operation, just oversight. (State Bar management responsible for preparation of financial statements, operating the State Bar, assuring legal compliance; outside auditors responsible for auditing the financial statements.)</p> <p><b>Accomplished By</b> (1) Selecting independent auditor for annual audit; (2) monitoring progress of audit; (3) evaluating results of audit; (4) ensuring that control weaknesses and legal compliance violations are remedied; (5) serving as communications link between Board and independent auditor; (6) monitoring adequacy of internal control structure.</p> <p><b>Customary Activities</b> (A) <i>External Audit</i> – recommending appointment of external auditors; reviewing annual audit scope and fees; evaluating auditor’s independence; evaluating reports; (B) <i>Financial Management</i> – evaluating adequacy of internal controls and implementation of auditor’s recommendations; reviewing results of biennial State Bureau of Audits audit; (C) <i>Other</i> – give advice and counsel to ED and COO; quarterly review of travel/expense reimbursements.</p>	<ul style="list-style-type: none"> <li>▪ Status quo</li> <li>▪ Revise and update charter</li> <li>▪ Determine best practices for how appointments are made</li> <li>▪ Determine best practices for how Chair is selected</li> </ul>	<ul style="list-style-type: none"> <li>▪ Recently looked at and agreed should not be eliminated.</li> <li>▪ Need to address how we appoint the Chair/Vice Chair and qualifications.</li> <li>▪ Need to discuss scope of functions and whether we want to expand them as a matter of best practices for Board governance.</li> <li>▪ With respect to the biennial State Bureau of Audits, it covers a broad range of non-fiscal subjects; need to ensure that this committee’s review responsibility is limited to the fiscal components of the audit and that review of the non-fiscal components is assigned to another committee.</li> </ul> <p><b>Staff Comments/Questions:</b></p> <ul style="list-style-type: none"> <li>▪ The Board Book gives the President the authority to appoint board committees, their chairs and liaisons.</li> </ul>

## 2017 Governance in the Public Interest Task Force

### Topic C: BOARD COMMITTEES

PLANNING & BUDGET COMMITTEE (P&B)	OPTIONS	DISCUSSION QUESTIONS
<p><b>Chair or Vice Chair</b> Chair of P&amp;B is BOT Treasurer.</p> <p><b>Membership</b> Not addressed in charter.</p> <p><b>Responsibilities</b> Leading planning, budget preparation and program implementation.</p> <p><b>Accomplished By</b> (1) Consulting with President, Vice President and ED on design of State Bar’s planning and budget development cycle and on the annual planning calendar; (2) coordinating with President and Vice President the overseeing and preparation for, and hosting of, the annual strategic work session; (3) recommending to the Board strategic issues to add to strategic plan; (4) ensuring all program plans include both financial and programmatic performance targets that the oversight committees can use in monitoring performance within their areas; (5) designing input and participation of non-governing standing committees.</p> <p><b>Treasurer’s Duties</b> (1) Serve as the Chair of the Planning and Budget Committee; (2) serve as the Chair of the Audit Committee; (3) serve as Co-Chair of the annual Strategic Work Session; (4) consult with the ED and CFO and report to the Board regarding matters involving the budget and internal financial controls; (5) take primary responsibility for ensuring the Board’s attention to the Bar’s fiscal position, budget, audit reports, and stewardship of Bar assets to ensure protection of the public.</p>	<ul style="list-style-type: none"> <li>▪ Status quo</li> <li>▪ Revise and update charter</li> <li>▪ Determine best practices for how appointments are made</li> <li>▪ Determine best practices for how Chair is selected</li> <li>▪ Eliminate and put all remaining matters on full Board agenda</li> </ul>	<ul style="list-style-type: none"> <li>▪ Financial oversight of the Bar is of sufficient importance that those functions should be placed on the full Board agenda.</li> <li>▪ Consent/Action would remain same.</li> <li>▪ Strategic planning function of this committee has been phased out – at least the committee hasn’t been used for this function the past two years. Main aspects of strategic planning are done at full Board level.</li> <li>▪ Per action taken by Board at 9/12/16 Board meeting, Vice President and Treasurer now charged with responsibility for the annual strategic planning session.</li> <li>▪ If committee not eliminated, we need to address how we appoint Chair/Vice Chair and qualifications, especially if the position of Treasurer is eliminated per Governance Task Force Topic B recommendation.</li> <li>▪ Don’t we want stronger Board attention on the financial function; isn’t one way to do that by renaming this committee the “Finance Committee” and assigning officer responsibility to chairing it – Treasurer or a 2<sup>nd</sup> Vice Chair?</li> <li>▪ Regarding the planning function, is ExCom a more appropriate forum for longer, more robust planning process?</li> </ul> <p><b>Staff Comments/Questions:</b></p> <ul style="list-style-type: none"> <li>▪ With departure of non-governing standing committees (e.g., Com on Appellate Courts), #5 under “Accomplished by” list is no longer needed.</li> <li>▪ Historically, the 2 major difficulties the State Bar has faced are with managing the discipline function and managing fiscal matters. Given the tremendous fiscal complexity involved, isn’t the chair role worthy of an officer position,</li> </ul>

PLANNING & BUDGET COMMITTEE (P&B)	OPTIONS	DISCUSSION QUESTIONS
		<p>someone tasked with overseeing budget preparation and strategic planning; going through the officer leadership ladder would prepare person for role.</p> <ul style="list-style-type: none"> <li>▪ Regarding the planning function, it is currently carried in several places – Governance Task Force, Strategic Planning, ExCom and P&amp;B. Wouldn't it be helpful to streamline?</li> <li>▪ B&amp;P 6140.1 – proposed baseline budget for following fiscal year due Nov. 15; proposed final budget due Feb. 15, so that budget can be reviewed and approved in conjunction with fee bill.</li> <li>▪ B&amp;P 6140.12 – 5-year strategic plan, updated every 2 years; 1st 5-year strategic plan was submitted February 2012; 2nd 5-year strategic plan was submitted February 2017.</li> <li>▪ B&amp;P 6001.2 – Governance in the Public Interest Task Force every three years (2011, 2014 [submitted in 2016], 2017, 2020, etc.)</li> <li>▪ Per B&amp;P 6020, officers required by statute are a President, a Vice President, a secretary and a treasurer.</li> <li>▪ The Board Book gives the President the authority to appoint board committees, their chairs and liaisons.</li> </ul>

## 2017 Governance in the Public Interest Task Force

### Topic C: BOARD COMMITTEES

BOARD LIAISON POLICY	OPTIONS	DISCUSSION QUESTIONS
<p><b>Generally</b></p> <ul style="list-style-type: none"> <li>▪ President determines need for and selection of liaisons</li> <li>▪ Liaisons serve 3 year terms</li> <li>▪ Liaisons are to attend at least 1 meeting per year</li> <li>▪ Historically, President and Vice President and/or designated members of the Stakeholders committee have served as liaisons to Committee of Bar Examiners and Judicial Nominees Evaluation Commission; currently, however, the President has designated 2 members of the Stakeholders committee as the all-purpose appointments liaisons; consequently they serve as the liaisons to Committee of Bar Examiners and Judicial Nominees Evaluation Commission.</li> <li>▪ Trustees are required to attend every Committee meeting held at State Bar conferences including annual meeting.</li> </ul> <p><b>Responsibilities at Meetings:</b></p> <ul style="list-style-type: none"> <li>▪ Demonstrate appreciation.</li> <li>▪ Ascertain where assistance needed.</li> <li>▪ Determine if there are overlapping goals/projects.</li> <li>▪ Report on Board activities/goals.</li> <li>▪ Report to back to Stakeholders committee and Board.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Status quo</li> <li>▪ Revise and update policy</li> <li>▪ Determine best practices for how Board liaison appointments are made</li> <li>▪ Eliminate liaison policy</li> </ul>	<ul style="list-style-type: none"> <li>▪ The liaison policy has become an oversight issue. Failure to properly engage in liaison function over the years has resulted in sub-entities becoming “autonomous” and not recognizing Board oversight. Need to determine what is required of Board liaisons. With fewer significant committees and commissions as a result of governance restructuring, the liaison work will be more manageable and might simply require regular phone calls with chairs.</li> </ul> <p><b>Staff Comments/Questions:</b></p> <ul style="list-style-type: none"> <li>▪ Liaison structure is designed as a communication, not oversight, device.</li> </ul>
<p><b>Subject Matter Board Liaisons</b></p>	<ul style="list-style-type: none"> <li>▪ Draft Board policy/description</li> <li>▪ Determine best practices for how Board liaison appointments are to be made</li> <li>▪ If they exist, eliminate</li> </ul>	<ul style="list-style-type: none"> <li>▪ Subject Matter Board liaisons were never formally approved, as the Board was awaiting written descriptions. No vote ever occurred. If Trustees are acting in this capacity without Board approval, we should correct for that and decide best way to proceed going forward.</li> </ul> <p><b>Staff Comments/Questions:</b></p> <ul style="list-style-type: none"> <li>▪ The Board need not approve liaisons, though Minutes from the November 2016 Board meeting show that</li> </ul>

BOARD LIAISON POLICY	OPTIONS	DISCUSSION QUESTIONS
		<p>liaisons were affirmed by Board vote; the Board Book gives the President the authority to appoint board committees, their chairs and liaisons; need descriptions of what they do.</p> <ul style="list-style-type: none"> <li>▪ Consider bringing liaison and oversight role together in Board Committees, so that liaisons can be more formally integrated into Board structure and thereby more effective in their role.</li> </ul>

\*The oversight committees (RAD, A&E, Stakeholders) are responsible for assessing the accomplishments of the advisory/standing committees including (1) evaluating program performance; (2) tracking progress against work plan; (3) identifying improvements; (4) recognizing/rewarding performance. The advisory/standing committees are to periodically report to their assigned oversight committee and provide status reports as requested. (Work Plan Review Process, Memo from Francisco Gomez, Committee Coordinator to Board Committees, October 3, 2005.)

## 2017 Governance in the Public Interest Task Force

### Topic C

#### Other Entities<sup>1</sup>

The State Bar *makes appointments* to the following organizations outside the State Bar:

1. American Bar Association (ABA) House of Delegates, the ABA's policymaking body
  - \* House of Delegates considers and adopts new policy resolutions on a broad range of issues related to the legal profession.
  - \* Pursuant to a formula contained in the ABA Constitution, the State Bar appoints up to 11 delegates of the California Delegation: 1 young lawyer, 1 immediate past member of the ABA Board of Governors; 1 immediate past officer of the ABA from the California ABA delegation; 2 with leadership skills even if without substantial volunteer experience; 6 with substantial bar experience typical of other State Bar appointments.
  - \* The California Delegation may have up to 31 delegates. If the State Bar gave up its 11 seats, the California Delegation could continue to function with the 20 non-State Bar delegate seats.
  - \* Each delegate is eligible for reappointment to no more than 3 consecutive 2-year appointments for a maximum 6 years of consecutive service.
  - \* Delegates do not represent the State Bar.
  - \* The House of Delegates meets twice per year and the delegates pay their own travel expenses.
  - \* **Staff Comments:**
    - The State Bar should explore what role the State Bar should have in the national conversation about the direction of legal education and the legal profession generally.
    - The State Bar should think carefully about how to handle our role in participating in national organizations such as the ABA. Need to get the ABA involved in this discussion.

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<sup>1</sup> The information in this document is from the Board Book, statutes, the fee bill, websites for the Judicial Council and the American Bar Association, other like source/reference materials, and oral history.

- The proposed fee bill would transfer the State Bar’s appointment authority to the successor Sections’ entity, subject to ABA’s consent.
2. Judicial Council – the constitutionally-created policy making body for the judicial branch
- \* The Judicial Council is responsible for ensuring the consistent, independent, impartial and accessible administration of justice.
  - \* Composition of the Judicial Council is prescribed by the California Constitution, article VI, section 6: Chief Justice (chair) and 1 other Supreme Court justice; 3 justices of the Courts of Appeal; 10 superior court judges; 2 non-voting court administrators; 4 attorneys appointed by the State Bar Board of Trustees; 1 from each house of the Legislature.
  - \* Members serve 3-year staggered terms.
  - \* Members do not represent any particular constituency; members commit to act in best interest of the public and the judicial system for the purposes of maintaining and enhancing public access to the justice system, as well as preserving and enhancing impartial judicial decision-making and an independent judicial branch of government.
  - \* Commitment: 300 hours per year for meetings and assignments; plus 10-20 meetings of an assigned internal committee.
  - \* Travel expenses reimbursed by the Judicial Council.
  - \* The State Bar also appoints the lawyer member to the Judicial Council’s Information Technology Advisory Committee.
3. Continuing Education of the Bar (CEB) Governing Committee
- \* This is a joint committee of the University of California and State Bar, created by and operating under a 2001 memorandum of understanding (MOU); no expiration date; 3-months written notice termination clause.
  - \* The CEB governing committee reviews and approves CEB’s annual publishing and educational programs and overall operation of CEB.
  - \* 9 voting members: 5 appointed by UC; 4 by State Bar (including the Executive Director).
  - \* Members serve 2-year renewable terms.

\* **Staff Comments:**

- Staff recently recommended that Board study this relationship, possibly using MOU modification as an opportunity to explore enhanced MCLE efforts.
- The State Bar’s application materials state that 1 of 4 State Bar appointees must be a member who represents the interests of the Sections. With the likely departure of the Sections from the State Bar, the agreement must be revisited for that reason alone.
- The proposed fee bill would transfer the State Bar’s appointment authority to the successor Sections’ entity, subject to agreement by the University of California.

4. Boards of Directors for legal aid organizations funded by Legal Services Corporation

\* Per 45 CFR 1607.3, the legal aid boards shall have governing bodies that reasonably reflect the interests of the eligible clients in the area served. Therefore, “a majority of the members of the governing body shall be attorney members appointed by the governing body (ies) of one or more State, county or municipal bar associations, the membership of which represents a majority of attorneys practicing law in the localities in which the recipient provides legal assistance.”

\* Stakeholders committee makes recommendations to Board, upon request by a legal aid organization.

\* No State Bar funds are expended to reimburse appointees for expenses incurred in serving on these boards of directors.

\* Board Book sets out detailed guidelines for appointments.

\* **Staff Comments:**

- Following September 2016 Board meeting, staff sought input from 5 legal aid organizations to which State Bar appoints board members and learned that it would be challenging for the organizations to lose the State Bar’s support. Many of the organizations are multi-county and some statewide. Also, State Bar appointments have great gravitas, which attracts large firm resources and corporate support, critical

especially to rural programs. Appointments require minimal staff involvement, Board time or resources.

- Given value of impact of State Bar appointments and importance of appointments in advancing State Bar's access to justice mission, staff already recently advised the Board to continue to appoint members to these legal aid boards.

The State Bar *collects voluntary contributions* (through collection of annual fees) for the purpose of funding:

1. California Supreme Court Historical Society. (B&P Code, § 6032.)
2. Conference of Delegates of California Bar Association. (MOU & B&P Code, § 6031.5 [same section that authorizes State Bar to collect voluntary fees on behalf of Sections].)
  - \* Established originally in 1934 within the State Bar.
  - \* Spun off from State Bar as an independent nonprofit successor organization because of legislative restrictions enacted in 1999 prohibiting funding by mandatory fees, and desire for the Conference to be free to take independent positions on legislative resolutions.
3. Justice Gap Fund. (B&P Code, § 6033.)
  - \* The Justice Gap Fund concept was created in 1986 by legislation. Pursuant to a statutory timetable, the Board implemented the concept in 1988 by creating the Justice Gap Fund and determining a recommended voluntary contribution amount (currently \$100) and strategy for fundraising.
  - \* At first, a Justice Gap Fund committee was formed in connection with the legislation. The committee included a legislative staffer, State Bar staff, and various outside volunteers. This committee is now defunct and has been rebranded as the Campaign for Justice (see State Bar website). The function of the volunteers, from law firms and legal aid organizations mainly, is to encourage the legal community to donate to the Fund.
  - \* The State Bar's Legal Services Trust Fund Program distributes grants to 94 nonprofit legal aid organizations from the Justice Gap Fund, the Equal Access Fund (state appropriations to the Judicial Council) and IOLTA funds (Interest on Legal Trust Accounts).

- \* Jointly with the California Commission on Access to Justice, the Legal Services Trust Fund Commission administers and oversees the Justice Gap Fund. The Legal Services Trust Fund Commission also manages the Campaign for Justice.
4. California Bar Foundation (Board Resolution, September 13, 2014)
- \* The California Bar Foundation was created in 1990 pursuant to B&P Code, § 6001 to assist the State Bar in raising revenue to fund its charitable, educational and public benefit purposes. Prior to 2014, the California Bar Foundation was completely controlled by the State Bar in a manner similar to a wholly-owned and controlled subsidiary of a parent corporation (e.g., BOT appointed all Board members and approved governance documents and changes). In 2014, the California Bar Foundation became independent and the MOU with the State Bar was revised accordingly. The current recommended voluntary contribution amount on the fee bill is \$75.
  - \* The Sections' Council has proposed that the successor Sections' entity take over the State Bar's partner role with the California Bar Foundation.