



THE STATE BAR OF CALIFORNIA

Date: October 5, 2011

To: Members, Nominations and Appointments Committee (NAC)

From: Karen Hagelund

Re: Overview of Annual Appointment Process and NAC Review

BACKGROUND

The board has charged the Nominations and Appointments Committee (NAC) with the review of all non-disciplinary appointment recommendations to State Bar sub-entities and external groups. In addition to the appointment review, NAC approves the nominations for the State Bar's annual recognition awards which are presented at the State Bar Annual Meeting.

The appointment process is cyclical, with the board review determined by the end dates of the committee terms and the board's meeting schedule. Most appointments must be made between March and July, and therefore, the bulk of the NAC appointment review will occur during these months. The nominations for the annual awards usually are considered at the May and/or July meetings.

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

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

Attached are the list of State Bar and external entities (Attachment 1) and a list of key dates and deadlines for the coming year (Attachment 2).

TYPES OF APPOINTMENTS AND AWARDS

A. Interim Appointments

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

or declined an appointment. Interim appointments can occur throughout the year, but the most appear on the November and March agendas.

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

Historically, interim appointments have been considered on the consent agenda unless there are policy issues to be considered or a board member requests discussion of the item.

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

February 1, 2012 is the application deadline for most standing, special and section executive committees (44 of 47 committees). All applications and letters of recommendation must be submitted to the Appointments Office for processing. The applications, instructions and policies are distributed to the individual committees for their review by March 1.

Application Review by the Standing, Special and Section Executive Committees (March – April): For the standing, special and section executive committees, either the committee's leadership and/or a nominating committee initially reviews the applications. These groups review all aspects of the application, weighing the qualifications of the applicant, letters of recommendation, special committee requirements for the coming year, and the board's policies regarding appointment.

By the established deadline, each committee chair submits a ranking of the new applicant pool and a letter to NAC describing the committee's nominations for officers, reappointments (if any), and new members. Upon receipt of the committee's recommendation, staff reviews the nominations for potential policy conflicts. Historically, most of the policy issues concern nominating someone who: 1) previously served on the committee, 2) is from the same firm as a current committee member, 3) has a public record of discipline, or 4) has been nominated for appointment to another committee.

C. Annual Appointments Requiring Application Ranking by NAC Members

By board policy, NAC members review and ranks applicants for the six entities. These are:

<i>Entity</i>	<i>NAC Review Period</i>
1. American Bar Association (ABA) House of Delegates	February 2012
2. Judicial Council	February 2012
3. Committee of Bar Examiners (CBE)	May-June 2012
4. Commission on Judicial Nominees Evaluation (JNE):	June -July 2012
5. JNE Review Committee (RJNE)	June-July 2012
6. Lawyer Assistance Program (LAP) Oversight Committee	June-July 2012

NAC members typically will have two to three weeks after receiving the applications to review and rank the applications for these six entities. The rankings are submitted to the Appointments Office

and then compiled for discussion and final action at the next NAC meeting. In addition, if necessary, the board committee may conduct interviews of the chair and vice chair candidates for CBE, JNE and LAP. The officer interviews generally are conducted in conjunction with a committee or board meeting. Specific procedures for these six entities are noted below.

- ***ABA House of Delegates:*** ABA and board policies govern these appointments. The application deadline for these appointments is February 1, 2012. In 2012, the terms of six delegates will expire. This year, five of the six delegates will be eligible for reappointment.

The ABA House of Delegates (HOD) is the policy-making body of the ABA, and pursuant to the ABA rules, the State Bar of California appoints 11 delegates. The State Bar does not reimburse its delegates for any expenses associated with their service in the HOD. The State Bar's delegates are part of the California delegation, which consists of approximately 24 other delegates appointed by ten local bar associations, ABA sections and divisions, and former officers and board members. The head of the California delegation is the elected State Delegate, John L. McDonnell, Jr. of Oakland. Each year the State Delegate advises the board committee of any issues regarding the performance of the State Bar's delegates.

NAC members will receive the applications in mid-February, along with a recommendation from the State Delegate. Members will have approximately two weeks to review and rank the applicants. At its March meeting, NAC will discuss the rankings and make its final recommendation to submit to the board for action in March. Every effort is made to complete the appointments at the March meeting so that the State Bar may meet the ABA's certification deadline in timely fashion.

- ***Judicial Council:*** In 2012, the State Bar will have one appointment to make to the council. The application deadline for this position is February 1, 2012.

The Judicial Council is a state constitutional agency that provides policy direction to the courts, the Governor, and the Legislature concerning court practice, procedure and administration. The Judicial Council is composed of the Chief Justice; one associate justice of the Supreme Court, three justices of the Court of Appeal, ten judges of the superior courts; four lawyer members appointed by the State Bar; one member appointed by the legislative leaders from each house of the Legislature, two nonvoting court administrators, and other nonvoting positions as determined by the council. The four current lawyers appointed by the State Bar to the council are: Angela J. Davis, Miriam Krinsky, Edith Matthai, and Mark P. Robinson. The term of Ms. Krinsky expires this year.

In February, NAC members will have approximately two weeks to review and rank the lawyer applicants for the one position. At its March meeting, NAC will discuss the rankings and make its recommendation to the full board.

On occasion, the board committee has conducted interviews of selected applicants to the council. At the March meeting, during its discussion, should NAC deem interviews necessary, the interviews would be scheduled prior to, or in conjunction with, the board's May meeting. Every effort is made to complete the appointment review by the board's May meeting so that the new member may attend the Judicial Council's June meeting and its August orientation meeting. The lawyer member's three-year term begins September 15, 2012.

- **CBE:** The CBE leadership and NAC both rank the CBE applications. In the spring, CBE reviews the applications pursuant to its established process and submits a written recommendation to NAC. NAC members receive the CBE recommendation along with the applications, usually following the May board meeting. NAC members typically have 2-3 weeks to review the applications and submit their rankings. The rankings from the NAC members and CBE are combined and discussed at the NAC July meeting. The number of CBE vacancies varies between one and four positions each year.

CBE Officer Candidates: The chair and vice chair candidates submit their names for consideration in the spring. Unlike other committees, the vice chair does not necessarily go on to serve as chair. If there are multiple candidates for the positions, the CBE chair and selected NAC members may conduct the interviews and report a recommendation to NAC at the July meeting. The officer interviews are normally conducted in conjunction with the June/July CBE meeting or the July board meeting. By board policy, one member of NAC is a liaison to CBE, and this person normally assists with the officer interviews.

- **JNE Commission:** The application deadline for JNE is June 1, 2012. JNE terms are one year and the members normally serve three one-year terms. Typically, 10-12 new members are appointed each year, replacing the third-year commissioners going off the commission.

JNE Leadership Review: Each year by June 1, the commissioners receive an evaluation from the JNE leadership as to their performance and suitability for reappointment to an additional term. Also in early June, the JNE leadership reviews the new applications. JNE typically receives 30-50 new applications. The JNE leadership will advise NAC of its reappointment recommendations and will submit a written recommendation with its ranking of the new applicants.

NAC Review: Usually by late June, NAC members receive JNE's written recommendation for the appointments along with the applications. The tasks for the NAC members are: 1) to confirm if they support the reappointment recommendation from JNE, and 2) to rank the new applicants, weighing the JNE recommendation, the needs of the commission for the coming year and the qualifications of the applicants. The NAC members submit their rankings in advance of the July meeting.

The results of the combined ranking from NAC and JNE are discussed at the July meeting. The JNE leadership is invited to the July meeting to participate in the board committee's discussion. Following discussion, NAC votes on the final rankings and also selects the JNE chair and vice chair. The proposed slate is submitted to the full board for action in July.

JNE Officer Candidates: The chair and vice chair candidates submit their names for consideration by June 1. Because the JNE vice chair typically goes on to serve as chair, the vice chair is usually the only candidate for chair. However, there may be multiple candidates for the vice chair position. If this is the case, selected NAC members may conduct interviews and report their recommendation to the board committee at the July meeting. The interviews normally are conducted in conjunction with JNE's June meeting or with the board's July meeting. By board policy, one member of NAC is a liaison to the JNE Commission; this person usually assists with the officer interviews.

- **JNE Review Committee (RJNE):** Current JNE rules provide for the appointment of a five-member Review Committee (RJNE) to review requests for reconsideration of the JNE Commission rating of "not qualified." The five members of RJNE consist of one former JNE

commissioner, two at-large members, one lawyer member of the board, and one public member of the board. The committee focuses its investigation on possible violations of the rules of procedures; the committee does not evaluate the qualifications of the candidate. Members serve staggered three-year terms, and the most senior member usually serves as the chair in his/her third year.

- **LAP Oversight Committee:** The application deadline for the LAP Committee is June 1. LAP terms are set by statute. Members serve four-year renewable terms and all terms expire on December 31. Because the committee membership must meet specific criteria set by statute and because of the extensive learning curve, most members serve multiple terms. The State Bar appoints six of the 12 members, the Governor appoints four members and the Senate Rules Committee and the Assembly Speaker each appoint a member.

In 2012, the terms of the two lawyer members expire. One lawyer position must fill the lawyer-in-recovery criteria. If officer interviews are necessary, selected NAC members conduct the interviews in conjunction with a committee or board meeting.

D. Other Annual Appointments

- **Fee Arbitration Panel and Presiding Arbitrator:** Each November, NAC considers the appointments and reappointments to the State Bar's Fee Arbitration Department, including the Presiding Arbitrator. The Fee Arbitration Department consists of approximately 400+ volunteer lawyer and non-lawyer arbitrators. The arbitrators serve one-year terms, ending December 31. Arbitrators may serve as long as they meet the qualifications. The Committee on Mandatory Fee Arbitration recruits volunteers for the department throughout the year, and a few new appointments generally are made at every board meeting.
- **External Organizations:** NAC also monitors the annual or bi-annual appointment recommendations for certain external organizations whose bylaws or rules require that the State Bar appoint one or more of its members. The appointments to these groups are governed by the by-laws and policies of the external organization.

The board currently makes appointments to the following external organizations:

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

E. Awards

Each year, CYLA, the Standing Committee on Delivery of Legal Services Committee, the Council on Access and Fairness, and the Witkin Panel solicit nominations for annual awards

recognizing outstanding achievements of individual California lawyers, law firms, and/or bar associations. The awards are presented at the Awards Ceremony at the State Bar Annual Meeting. Between January and May, each group solicits nominations, reviews the nomination materials, and selects the recipients.

NAC and the board normally consider the award nominations at the July meetings, though on occasion, some may be considered in May. The names of those nominated for the awards and the names of the recipients are confidential until the board formally approves the selections. The current awards are:

- Diversity Awards (Council on Access and Fairness)
These awards recognize exemplary efforts by various individuals and groups to increase diversity in the legal profession.
- Education Pipeline Award (Council on Access and Fairness)
These awards recognize education pipeline programs that increase student awareness about the judicial system and promote careers in the law.
- Jack Berman Award (CYLA)
This award recognizes the achievements in public service of a young lawyer or a lawyer who is in their first five years of practice.
- Loren Miller Legal Services Award (Standing Committee on Delivery of Legal Services)
This lifetime achievement award is given annually to a lawyer who has demonstrated long term commitment to legal services and who has personally done significant work in extending legal services to the poor.
- President's Pro Bono Awards (Standing Committee on Delivery of Legal Services)
These awards recognize outstanding pro bono contributions by California lawyers in a variety of practice settings.
- Witkin Medal of Honor (Witkin Selection Panel)
This award recognizes both lawyers and non-lawyers whose outstanding contributions and achievements have enriched the legal profession and exalted the science of jurisprudence.