

AGENDA ITEM

JAN 703 Conflict of Interest Code for Designated Employees – return from comment

DATE: December 27, 2012

TO: Members, Board of Trustees

FROM: Starr Babcock, General Counsel
Lawrence C. Yee, Chief Assistant General Counsel
Cynthia Abramov, Assistant General Counsel

SUBJECT: The State Bar of California's Conflict of Interest Code for Designated Employees, Proposed Revisions – Return from 30-Day Public Comment

EXECUTIVE SUMMARY

This agenda item recommends adoption of amendments to the State Bar's Conflict of Interest Code for Designated Employees. The Code includes a list of Designated Employee Positions that are subject to the Code and a list of Disclosure Categories of financial interests that designated employees must disclose. Government Code section 87306 requires periodic revision of the Code in order to update the lists of Designated Employees and Disclosure Categories and to conform the Code to changes in the Political Reform Act ("Act") or regulations of the California Fair Political Practices Commission ("FPPC").

The recommended amendments update designated employee positions that have been added, eliminated, moved within the organization, or whose duties have changed. There was a change in the FPPC's regulations regarding the gift limit amount that requires a conforming change to the State Bar's Code.

The public comment period expired on December 19, 2012. No comments were received. Board action is needed at the January 2013 meeting so that the amendments can be implemented by March 1, 2013.

Any questions or comments may be directed to Cynthia Abramov at (415) 538-2589 or at cynthia.abramov@calbar.ca.gov.

BACKGROUND

This agenda item recommends adoption of amendments to The State Bar of California's Conflict of Interest Code for Designated Employees. The proposed revisions were published for 30 days of public comment ending on December 19, 2012. No comments were received. Revisions must be implemented in February so that the Code can be distributed to designated employees by March 1, 2013. Their deadline for filing disclosure statements under the Code is April 1, 2013.¹

ISSUE

Whether to adopt the proposed amendments to the State Bar's Conflict of Interest Code for Designated Employees.

CONCLUSION

It would be appropriate to update the Code by adopting the proposed amendments to the list of Designated Employee Positions of the State Bar's Conflict of Interest Code for Designated Employees and to the Conflict of Interest Code itself.

DISCUSSION

The Political Reform Act ("Act") requires state and local government agencies, such as The State Bar, to adopt and promulgate conflict of interest codes. The Act also requires agencies to revise their codes to reflect amendments to the mandatory standards set forth in the Act², to implement regulations adopted by the FPPC, or to update the designated employee positions that are subject to the code or the disclosure categories of financial interests that designated employees are required to disclose.

Under the Act, agencies must identify situations where persons who act on the agency's behalf must disqualify themselves from decision-making because of a financial conflict of interest. The Act requires that agencies identify designated employees who must report particular financial interests because they make or participate in making decisions that are likely to have an impact on those financial interests. The State Bar identifies these employees and their assigned reporting requirement on the list of Designated Employee Positions. Assigned disclosure categories are adjacent to each employee position on the list. Each disclosure category is represented by a number, which is the number of that disclosure category on the list of Disclosure categories.

¹ See Appendix C, State Bar's Conflict of Interest Code for Designated Employees, section 5(c).

² The State Bar is also subject to the conflict of interest standards mandated by Business and Professions Code sections 6035-6038. Section 6036 conforms to the definition of financial interest to that which is specified in Government Code section 87103.

Designated employees must disclose financial interests listed in the assigned disclosure category or categories for their position.

The list of Designated Employee Positions (Appendix A) and Disclosure Categories (Appendix B) are part of the State Bar's Code. Under the Act, the State Bar is required to periodically add, modify, or delete designated employee positions or disclosure categories based on changes in employee positions or responsibilities.

A. Revisions to the List of Designated Employee Positions

The following amendments to the list of Designated Employee Positions (see Appendix A) reflect changes in the organizational structure or designated employee positions in The State Bar.

1. Positions added:

- **Assistant Secretary** to the Office of the Executive Director (See Appendix A, I.)
- **Program/Court Systems Analyst** to the Office of Communications & Information Services (See Appendix A, I.)
- **Administrative Specialist, Confidential** to the Office of Chief Financial Officer (See Appendix A., III.)
- **Director, Finance/Controller** to the Office of Finance/General Services/ Member Information (See Appendix A., III.)
- **Director, Project Management** to the Office of Finance/General Services/ Member Information (See Appendix A., III.)
- The titles of Deputy Director Operations LA and Deputy Director Operations SF were combined into one position of **Deputy Director, General Services** (See Appendix A, III.)
- The positions of Section Chief, Administration and Section Chief, Examinations Grading under the Office of Admissions, Administration were combined into one position of **Section Chief** (See Appendix A, I.)
- The positions of Section Chief, Application Preprocessing, Section Chief, Eligibility, and Section Chief, Applicant Services under the Office of Admissions, Operations & Management were combined into one position of **Section Chief** (See Appendix A., I.)

2. Positions eliminated:

- Editor/General Manager CalBar Journal, from the Director of Media Services & Information.
- Publication & Production Assistant from the Director of Media Services and Information.
- Deputy Director Operations – LA
- Deputy Director Operations - SF

- Consultant to Chief Trial Counsel from the Office of the Chief Trial Counsel
- One Section Chief position from the Director of Operations & Management – LA.
- Section Chief, Administration from the Office of Admissions
- Section Chief, Examinations Grading from the Office of Admissions
- Senior Executive, Member Services from the formerly titled Office of Member Services
- Section Chief, Application Preprocessing from the Office of Admissions
- Section Chief, Eligibility from the Office of Admissions
- Section Chief, Applicant Services from the Office of Admissions
- Special Assistant to the Director of LAP, from the formerly titled Office of Member Services
- Clinical Director of the LAP, from the formerly titled Office of Member Services
- Assistant General Counsel from the Office of General Counsel.

3. Positions re-titled, modified, or transferred:

- The title of *Executive Director & Secretary* has been changed to **Executive Director/Chief Executive Officer (CEO)**
- The title of *Deputy Executive Director* has been changed to **Deputy Executive Director/Deputy Chief Executive Officer (DCEO)**
- The title of *Manager Planning and Administration* has been changed to **Managing Director, Planning & Administration**
- The title of *Director Office of Legal Services* has been changed to **Senior Director, Administration of Justice**, with a Disclosure Category 1.
- The title of *Director of Media Services & Information* has been changed to **Director, Communications & Information Services**
- The title of *Manager Human Resources* has been changed to **Director, Human Resources & Labor Relations**
- The title of *Director Operations* has been changed to **Director, General Services**
- The position of **Senior Librarian/Archivist** was transferred to the Office of General Counsel.
- The title of *Manager Central Administration* has been changed to **Supervisor, Administrative Services**
- The title of *Administrative Officer* has been changed to **Senior Director, State Bar Court**
- The title of *Senior Executive Admissions* has been changed to **Senior Director, Admissions**

- The title of *Director for Educational Standards* has been changed to **Director, Educational Standards**
- The title of *Director for Examinations* has been changed to **Director, Examinations**
- The title of *Director for Legal Specialization* has been changed to **Director, Legal Specialization**
- The title of *Section Chief, Legal Specialization* has been changed to **Section Chief**
- The title of *Director for Administration* has been changed to **Director, Admissions Administration**
- The title of *Director for Moral Character Determinations* has been changed to **Director, Moral Character Determinations**
- The title of *Section Chief, Moral Character Determinations* has been changed to **Section Chief**
- The title of *Director Operations & Management-LA* has been changed to **Director, Operations & Management**
- The title of *Section Chief, Examination Administration* has been changed to **Section Chief**, with modification of reporting categories
- The title of *Director Administration, Member Services* has been changed to **Managing Director, Member Records & Info Services**
- The title of *Director Section Education & Meeting Services* has been changed to **Senior Director, Education**
- The title of *Manager Section Education & Meeting Services* has been changed to **Managing Director, Section Education & Meeting Services**
- The title of *General Counsel* has been changed to **Chief Legal Officer**
- The title of *Managing Director of Administration* has been changed to **Director, Administration**
- The title of *Senior Executive for Finance/CFO* has been changed to **Chief Financial Officer**
- The title of *Manager Finance* has been changed to **Finance Manager**
- The title of *Senior Executive for Information Technology* has been changed to **Senior Director, Information Technology**
- The title of *Manager Systems Development* has been changed to **Managing Director, Systems Development**
- The title of *Manager Telecommunications* has been changed to **Managing Director, Telecommunications**
- The title of *Manager Information Technology/Systems Projects* has been changed to **Managing Director, Information Technology/Systems Projects**

B. Revisions to the State Bar's Code or List of Disclosure Categories

Under pertinent statutes and regulations³, every two years the FPPC adjusts the gift limitation, which are reflected in the governing Sections 8.1 and 9 of the State Bar's Code. (See Appendix C.) Section 8.1 deals with prohibitions on receipt of gifts in excess of the gift limitation amount, and Section 9(e) deals with disqualification based on an aggregate gift amount. The current two-year aggregate gift limitation of \$420 per year expired on December 31, 2012. Starting January 1, 2013, the gift limitation will rise to \$440. No other revisions are recommended to the State Bar's Code.

No changes are recommended for the Disclosure Categories. (Appendix B.)

FISCAL / PERSONNEL IMPACT:

None.

RULE AMENDMENTS:

None.

BOARD BOOK IMPACT:

None.

RECOMMENDATION

It is recommended that the proposed revisions to the Conflict of Interest Code for Designated Employees be adopted.

PROPOSED BOARD OF TRUSTEES RESOLUTION:

Should the Board concur with the recommendation, the following resolutions would be in order:

RESOLVED, following publication for comment and no comments having been received, the Board of Trustees of the State Bar of California hereby adopts the proposed revisions to the State Bar of California's Conflict of Interest Code for Designated Employees, in the form attached hereto and made a part hereof.

³ Government Code sections 89103(e), 89503 and 2 Cal. Code Regs. Sections 18730, 18940.2. Under Government Code section 89503(f), the FPPC must adjust the gift limitation on January 1 of each off-numbered year to reflect changes in the California Consumer Price Index ("CPI") rounded to the nearest ten dollars.

Enclosures:

Appendix A – List of Designated Employee Positions

Appendix B – List of Disclosure Categories

Appendix C – Conflict of Interest Code for Designated Employees