

Nominations and Appointments Committee (NAC)

Overview of Annual Appointment Review Process

BACKGROUND

The Board of Trustees has charged the Nominations and Appointments Committee (NAC) with the review of non-disciplinary appointment recommendations to State Bar sub-entities and external groups.

The appointment process is cyclical, with the board review determined by the term's end date 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.

Except for outreach issues and policy discussions, the appointment issues for NAC will be conducted in closed session. Only the Board of Trustees 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 chart of key dates and deadlines for the coming year (Attachment 2).

TYPES OF APPOINTMENTS

A. Interim Appointments

Interim appointments are appointments to fill unexpected mid-year vacancies and they differ from regular appointments in that the terms 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 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 3, 2014 is the application deadline for most standing, special and section executive committees (approximately 44 committees). The application forms and descriptions of the committees are published at the State Bar's website. 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 no later than March 1.

Committee Review (March 1 - April 8). For most committees, either the committee's leadership and/or a nominating sub-committee initially review the applications. The committees review all aspects of the application, weighing the qualifications of the applicant, the letters of recommendation, the committee's requirements and needs for the coming year, and the Board's policies regarding appointment.

By early April, 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. Staff reviews the nominations for potential policy conflicts (e.g., same firm, prior service, discipline, or nomination to more than one committee) prior to distribution to NAC for review.

C. Annual Appointments Requiring Application Ranking by NAC Members

Pursuant to its procedures (Board Book, Tab 15, Article 15), NAC reviews and ranks applicants for the four entities. The entities and time frame for the application review are as follows:

<i>Entity</i>	<i>NAC Application Review</i>
American Bar Association (ABA) House of Delegates	Mid-February 2014
Judicial Council	Mid-February 2014
Committee of Bar Examiners (CBE)	Nov. 2013; May-June 2014
Commission on Judicial Nominees Evaluation (JNE)	June-July 2014
Review Committee, JNE Commission (RJNE)	June-July 2014
LAP Oversight Committee	June-July 2014

NAC members typically will have two to three weeks after receiving the applications to review and rank the applications for the above entities. The rankings are submitted to the Appointments Office and then compiled for discussion and final action at the next NAC meeting. In addition, for CBE, JNE, and LAP, the board committee may conduct interviews of the chair and vice chair candidates, preferably in conjunction with a committee or board meeting. Specific procedures for these entities are noted below.

- **ABA House of Delegates:** ABA and Board policies govern these appointments.

Available positions: In 2014, the terms of six delegates will expire. Pursuant to board policy, four of the six delegates will be eligible for reappointment. The application deadline is February 3, 2014. All applicants must file an application, including incumbents seeking 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 ABA House of Delegates. The State Bar's delegates are part of the California delegation, which consists of 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. Each year for the board committee's

appointment review, the State Delegate submits a letter addressing the performance of the Bar's delegates and their suitability for reappointment.

NAC members will receive the applications in mid-February, along with the written recommendation from the State Delegate. At its March meeting, NAC will discuss the rankings and make its final recommendation to submit to the board for action in March.

- **Judicial Council:** The Judicial Council is the policymaking body of the California courts. Under the leadership of the Chief Justice and in accordance with the California Constitution, the council is responsible for ensuring the consistent, independent, impartial and accessible administration of justice. The policies of the Judicial Council are implemented by the Administrative Office of the Courts. 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 Board of Trustees; 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 State Bar's appointments to the council are: Mark G. Bonino, Angela Joy Davis, James Fox, and Mark P. Robinson.

Available Positions: In 2014, the State Bar will have two appointments to make (replacing Angela Joy Davis and Mark P. Robinson). The application deadline is February 3, 2014.

NAC members will receive the Judicial Council applications along with the ABA applications. Members will have approximately two weeks to review and rank the applicants for both entities. At its March meeting, NAC will discuss the applicant rankings and makes its selection.

Generally, NAC does not conduct interviews of the Judicial Council applicants. However, on occasion, NAC has deemed interviews important in order to make the final selection. At the March meeting, should NAC decide interviews are necessary, the interviews would be scheduled prior to, or at, the May meeting, and NAC would submit its recommendation to the Board at the May meeting.

The lawyer members appointed by the State Bar usually are invited to attend the Judicial Council's June meeting, and the official orientation occurs at the council's August meeting. The new lawyer members' three-year terms begin September 15, 2014.

- **CBE:** The CBE chair and NAC both rank the CBE applications. 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. The rankings from the NAC members and CBE are combined and discussed at the NAC meeting, and NAC votes on its final selection. The number of CBE vacancies varies between one and four positions each year.

All lawyer applicants must be in active practice, cannot be employed as a law school administrator or professor or associated with a bar review company, and cannot have a close relative taking the bar examination during the term of office.

This year, CBE has an immediate young lawyer vacancy, which will be considered by NAC at the November 2013 meeting. CBE also will have two lawyer members going off in Sept. 2014, and the application deadline for these two positions will be February 3,

2014. CBE will review the applications for these two positions in the spring and submit its recommendation to NAC. NAC members will review the applications and CBE's recommendation in June and make the appointments at the July meeting.

CBE Officer Candidates: Each spring, members of CBE interested in serving as chair or vice chair submit their names for consideration. Unlike other committees, the CBE vice chair does not necessarily go on to serve as chair, and it is not unusual for candidates to apply for both chair and vice chair positions. If there are multiple candidates for the positions, interviews are conducted by a panel consisting of the CBE chair and selected NAC members. If there is only one candidate for each office, the interviews may be waived. The interviews normally are 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 if possible, the liaison assists with the officer interviews. The panel's recommendation is reported to NAC at the July meeting.

- **Judicial Nominees Evaluation (JNE) Commission:** The JNE commission consists of up to 38 members. Terms are one year and the members normally serve three one-year terms. The annual JNE Orientation meeting, held in late January or early February, is mandatory for all new members and attendance is a condition of appointment.

Available positions: In 2014, at least 15 positions will be open for new members, plus eight alternate positions. Approximately 27 first and second-year commissioners will be eligible for reappointment. The application deadline is June 2, 2014.

JNE Leadership Review: Each year by June 1, the commissioners receive an evaluation from the JNE leadership (chair, vice chair and staff director) 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 advises NAC of its reappointment recommendations and submits a written recommendation regarding its ranking of the new applicants.

NAC Review: In 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 ranking are presented to NAC for discussion 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 in early June. Historically, the JNE vice chair goes on to serve as chair, with the vice-chair year focused on writing the JNE candidate summaries (aka blurbs) and chair training. While the vice-chair is usually the only candidate for chair, there can be multiple candidates for vice chair. NAC members typically conduct the officer interviews in early or mid-July and report their recommendation to the full board committee at the July meeting. If possible, the interviews are conducted in conjunction with a JNE meeting or the July board meeting.

- **JNE Review Committee:** 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 of Trustees, and one public member of the Board of Trustees. 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 a senior member typically serves as the chair in his or her third year.

Available Positions: In 2014, NAC will consider the chair appointment and one member appointment. The member seat vacancy in 2014 is for an at-large member, and the application deadline for this position is June 2, 2014. NAC members will receive the applications in June and the rankings will be due before the July meeting. Following discussion of the rankings at the July meeting, NAC will make its final selection and submit its recommendation to the full Board.

- **Lawyer Assistance Program (LAP) Oversight Committee:** LAP terms are set by statute at four years and terms are renewable. All terms commence January 1 and expire December 31. Because the committee membership must meet specific criteria set by statute and because of the extensive learning curve, 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. Generally, there are one or two appointments each year. All applicants, including incumbents applying for reappointment, must submit the current State Bar appointment application.

Available Positions: In 2014, the terms of two members expire: 1) a licensed mental health professional with knowledge and expertise in the identification and treatment of substance abuse and mental illness; and 2) a member of the board of directors of a statewide nonprofit organization established for the purpose of assisting lawyers with alcohol or substance abuse problems, which has been in continuous operation for a minimum of five years. The application deadline is June 2, 2014.

NAC members receive the applications in June and submit their rankings before the July meeting. At the July meeting, NAC discuss the rankings before making its final selection. NAC's recommendation for the two members and officers is submitted to the full Board the next day.

LAP Officer Candidates: Currently, the committee has a chair, but the vice chair seat remains open. If there is more than one candidate for chair or vice chair, NAC may conduct officer interviews. If there is only one candidate for chair or vice chair, the interviews may be waived.

D. Other Appointments

- **Fee Arbitration Department: Arbitrators and Presiding Arbitrator.** At its first meeting in 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 (aka lay members). The arbitrators serve one-year renewable terms which expire December 31. Each arbitrator must meet the minimum qualifications for an arbitrator throughout his or her tenure as an arbitrator. The Committee on Mandatory Fee

Arbitration recruits volunteers for the department throughout the year, and a few new arbitrator appointments generally are made at every Board meeting.

- **External Organizations.** NAC monitors the annual or bi-annual appointment recommendations for certain external organizations whose by-laws 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 current organizations are noted below:
 - California Bar Foundation Board of Directors
 - Center for Civic Education Board of Directors
 - Law School Council
 - Legal Services Programs Boards of Directors:
 1. California Indian Legal Services (CILS)
 2. California Rural Legal Assistance (CRLA)
 3. Legal Aid Foundation of Los Angeles (LAFLA)
 4. Legal Aid Society of Orange County (LASOC)
 5. Legal Services of Northern California (LSNC)

E. Awards

Each year, the California Young Lawyers Association (CYLA), the Standing Committee on Delivery of Legal Services (SCDLS), the Council on Access and Fairness (COAF), and the Witkin panel solicit nominations for annual awards recognizing outstanding achievements of individual California lawyers, law firms, and/or bar associations. Every three years, the Committee on Professional Responsibility and Conduct solicits nominations for its professional responsibility award. The awards are presented at the Awards Ceremony at the Annual Meeting.

Between January and May, each group solicits nominations, reviews the nomination materials, and selects the recipients. Award nominations are submitted to NAC and the Board at the July meetings. 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:** These annual awards recognize exemplary efforts by an attorney, law firm and bar association to increase diversity in the legal profession. The Council on Access and Fairness solicits nominations and selects recipients.
- **Education Pipeline Award:** This annual award recognizes an education pipeline program that increases student awareness about the judicial system and promotes careers in the law. The Council on Access and Fairness solicits nominations and selects the recipient(s).
- **Jack Berman Award:** This annual award recognizes the achievements in public service of a young lawyer or a lawyer who is in their first five years of practice. CYLA solicits nominations and selects the recipient.
- **Loren Miller Legal Services Award:** This is an annual lifetime-achievement award for 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. The Standing Committee on Delivery of Legal Services solicits nominations and selects the recipient.
- **President's Pro Bono Awards:** These annual awards recognize outstanding pro bono contributions by California attorneys in a variety of practice settings. The Standing Committee on Delivery of Legal Services solicits nominations and selects the recipients.

- **Witkin Medal of Honor (Witkin Selection Panel):** This annual award recognizes both lawyers and non-lawyers whose outstanding contributions and achievements have enriched the legal profession and exalted the science of jurisprudence. The Witkin Selection Panel, appointed by the State Bar President, selects the recipient.
- **Harry Sondheim California Professional Responsibility Award:** This award recognizes a member's outstanding contribution to the advancement of attorney professional responsibility standards in California. Every three years, the Committee on Professional Responsibility and Conduct solicits nominations and selects the recipient. This award was given in 2013 and the next selection period will be 2016.