

AGENDA ITEM

MAY 10 - Board of Trustees – March 13, 2015 Open Minutes

THE STATE BAR OF CALIFORNIA

OPEN MINUTES

BOARD OF TRUSTEES MEETING

SACRAMENTO, CALIFORNIA

FRIDAY, MARCH 13, 2015

The Board of Trustees of The State Bar of California convened in open session at 8:16 am at the Citizen Hotel Sacramento, Metropolitan Terrace, 926 J Street, Sacramento, CA, on Friday, March 13, 2015, Craig Holden presiding.

The following members of the Board of Trustees were present: Michael Colantuono, Glenda Corcoran, Daniel Dean, Terrance Flanigan, James Fox, Miriam Krinsky, Dennis Mangers, Joanna Mendoza, Danette Meyers, Gwen Moore, David Pasternak, Heather Rosing and David Torres.

The following members of staff were present: Dina Goldman, Robert Hawley, Teri Greenman, Ginnie Yee and Larry Yee

Also present: Jennifer Wada, the State Bar's legislative advocate.

The roll-call vote was taken, and upon motion made, seconded and unanimously adopted, it was

RESOLVED, that the roll-call vote will be substituted for the vote unless otherwise noted.

10 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, that the minutes of the special meeting of the Board of Trustees held on Monday, December 1, 2014, in Los Angeles, California, hereby are approved as written; and it is

FURTHER RESOLVED, that the minutes of the special meeting of the Board of Trustees held on Saturday, December 6, 2014, in Los Angeles, California, hereby are approved as written; and it is

FURTHER RESOLVED, that the minutes of the special meeting of the Board of Trustees held on Friday, December 19, 2014, in Los Angeles, California, hereby are approved as written; and it is

FURTHER RESOLVED, that the minutes of the special meeting of the Board of Trustees held on Friday, January 16, 2015, in San Francisco, California, hereby are approved as written; and it is

FURTHER RESOLVED, that the minutes of the special meeting of the Board of Trustees held on Sunday, January 24, 2015, in Sonoma, California, hereby are approved as written.

All members listed on the slip voted yes.

30 -1

President Holden reported on the Kids in Court Moot Court event. He advised that it was held at the State Bar Court in Los Angeles and that a second event would take place in Northern California.

He said that he had enjoyed meeting the third, fourth and fifth graders who debated the comparable merits of cake and ice cream.

President Holden thanked State Bar Court Presiding Judge Purcell and Judges Roland and Honn for their participation.

Joanna Mendoza spoke briefly about Trustee liaison outreach efforts to the State Bar Sections. Ms. Mendoza advised that she would actively encourage and monitor Trustee engagement with the Sections.

President Holden and Trustee Torres reported on the history of Minority Legal Education Resources (MLER) programs to increase bar passage rates. The MLER is the response of Northwestern alumnus and Professor Ronald E. Kennedy to the problem of low bar passage rates among minorities. Started in the summer of 1975, MLER began as a supplemental bar review course for minority law graduates of Northwestern University designed to operate in tandem with the primary Illinois bar review courses.

Mr. Torres reported on plans for a MLER pilot project that he hoped could be implemented before the next bar exam with possible funding from the State Bar Foundation.

President Holden reported on recent discussions with the Governor's office regarding vacancies on the Board of Trustees. He said that the Governor's recent appointee, Renee LaBran, would be joining the board and that another appointment was expected by the end of the 2014-15 board year.

President Holden thanked Trustee Torres, Carina Franck and other staff for their continuing outreach to the vulnerable communities on immigration fraud prevention.

A State Bar Public Service Announcement video that featured Trustee Torres was shown and an English/Spanish translation of the video was distributed.

President Holden reported on the recent State Bar district elections and asked Trustees Rosing and Torres to speak briefly about the successful candidates, Todd F. Stevens from District 4 and Brandon Stallings from District 5.

President Holden advised that he would work with Trustee Pasternak to make the fee statement more user-friendly. The revised fee statement would be circulated to the Trustees for additional input.

President Holden asked the Trustees to confer and recommend trustees to serve on the Governance in the Public Interest Task Force: Two elected Trustees – Danette Meyers and David Torres; Two public members – Dennis Mangers and Gwen Moore; Two Trustees appointed by the Supreme Court – Michael Colantuono and David Pasternak.

30-2 President Holden announced the date for the special meeting for the election of the 2015-2016 officers as Friday, July 24, 2015, at the State Bar's Los Angeles offices. He advised that the special meeting would immediately precede the regular meeting of the Board. Larry Yee reminded the Trustees that they must announce their candidacy no later than the start of the May 8, 2015 board meeting.

30-3 RESOLVED, that the Board of Trustees amends the regularly scheduled meetings of the Board as listed on the attached meeting schedule.

41/42 Mr. Hawley reported on the State Bar's immigration/anti-fraud outreach measures, which are a joint effort between the State Bar and Jennifer Wada, our governmental advocate. Ms. Wada is updating the Hispanic legislative caucus on the State Bar's external relations and town hall meetings.

Mr. Hawley announced that the Executive Director search has begun and that the Executive Director Search Working Group had met on March 6. He noted that The Hawkins Firm, the recruiter, had met with Trustees this morning and would meet with Trustees at the conclusion of this board meeting. He advised that the General Council search had begun and that the first meeting was scheduled for March 31, 2015. Both groups expect appointments to be made by summer.

Mr. Hawley introduced Samson Elsbernd, District 3 California Young Lawyers Association (CYLA) representative and co-chair of its continuing education committee.

Mr. Elsbernd stated that the CYLA was actively engaged in mentorship and education initiatives within the State Bar, including launching sixteen 10 minute educational videos which feature respected practitioners and experts in their fields. He advised that CYLA would be filming additional videos at the State Bar's Solo & Small Firm Summit and the Annual Meeting.

Mr. Elsbernd noted that President Holden had invited Emily Aldrich, the current CYLA Chair, to serve as Co-Vice Chair of the Mentorship Task Force, with Ida Abbot, an author and expert on mentorship culture. The task force is chaired by Judge Marguerite Downing and is comprised of members of the Sections, CYLA, the Council on Access & Fairness, Board of Trustees, and prominent leaders in the legal community to explore mentoring programs for young or new lawyers.

Mr. Elsbernd reported that CYLA, in response to the recommendations on post-admission competency requirements by the Task Force on Admission Regulation Reform, would stage a Practical Skills Symposium on May 21 and 22 at the State Bar's Los Angeles and San Francisco offices, at which experienced attorneys would present on a variety of basic skills and ethics topics. The symposium is part of CYLA's effort to create a catalog of basic skills programs to prepare new attorneys for practice.

Mr. Elsbernd concluded by thanking Joanna Mendoza and Miriam Krinsky, the Trustee CYLA liaisons, for their active support.

Mr. Hawley introduced Mark Ressa, Co-Chair of the Council of State Bar Sections and former Chair of the Family Law Section.

Mr. Ressa thanked President, Craig Holden, the Board of Trustees and Bob Hawley for the opportunity to provide a Sections update.

Mr. Ressa said that the Sections continue to face economic challenges, noting that over the course of two years fourteen of the sixteen sections had raised their dues and that the two remaining sections would raise dues in 2016. He stated that there are currently nine sections with dues at \$95.00, five at \$85.00 and two at \$75.00 and that it was likely that all of the sections would have \$95.00 dues in 2016.

Mr. Ressa noted that membership numbers had remained stable, although it was premature to appreciate the full effect of the dues increases on section membership.

Mr. Ressa advised that the overhead assessment paid by the Sections in 2014 was greater than estimated and, consequently, the Section leadership would expect an explanation and projections for the 2015 and 2016 overhead assessment at the April 16 meeting of the Council of State Bar Sections.

Mr. Ressa said that it was important that the sections receive a realistic overhead expenses forecast for planning purposes, as over 50% of section dues are used for State Bar overhead expenses.

Mr. Ressa explained that since January 2012 the sections have provided one hour of online ethics training as a "featured program of the month." He noted that the featured program is available 24/7 in the State Bar online CLE catalog, sells for a reduced fee and is advertised in the Education E-News that is sent to the 65,000 section members.

Mr. Ressa thanked the Board section liaisons for their outreach and encouraged continued support.

Mr. Hawley introduced State Bar Legislative Advocate, Jennifer Wada, who spoke on bills of interest to the State Bar:

Senate Bill 387(Jackson) – This bill is the State Bar fee bill which would authorize 2016 dues at the current amount.

AB 60 (Gonzalez) – This bill would extend protections in California state law against immigration fraud as immigrants and their families anticipate seeking relief under President Obama's recent immigration reform Executive Order.

Assembly Bill 686 (Daly) - This bill relates to provisions of existing law regarding the State Bar and prohibiting persons who are not active members of the State Bar from practicing law in the State. The bill expands that prohibition to include referring a person injured in the course of employment to a lawyer or law firm for professional services in connection with the injury; imposes a \$2500 civil penalty per day for each referral; and requires the State Bar to assess and collect the penalty in a civil action. Ms. Wada expects this bill to be substantially amended.

Assembly Bill 897 (Gonzalez) – This bill is the same as Senate Bill 907 from 2014. Existing law includes provisions that govern arbitration and conciliation proceedings for international commercial disputes. Existing law authorizes the parties in a conciliation proceeding to appear in person or be represented or assisted by any person of their choice, and provides that a person representing or assisting a party is not required to be a member of the legal profession or licensed to practice law in California.

This bill would recast the provision regarding representation and assistance of parties, thus making the provision applicable to any arbitration or conciliation proceeding conducted pursuant to the statutory provisions that govern arbitration and conciliation of international commercial disputes. The bill would also express the intent of the Legislature that those statutory provisions be broadly construed so as to promote California's interest in becoming a major center for international commercial arbitration.

Assembly Bill 1523 (Judiciary Committee) – The bill has been introduced to assure that a germane vehicle will be available at a later date after the deadline has passed to introduce bills. At that future date, the bill can be amended with more substance included. This bill would make a technical correction to a definition related to IOLTA accounts.

Senate Bill 8 (Hertzberg) – This bill would state legislative findings regarding the Upward Mobility Act, key provisions of which would expand the application of the Sales and Use Tax law by imposing a tax on specified services; would incentivize entrepreneurship and business creation by evaluating the Corporate Tax Law; and would examine the impacts of a lower and simpler Personal Income Tax Law.

Senate Bill 134 (Hertzberg) – This bill would expressly authorize the State Bar to collect voluntary fees on behalf of, and for the purpose of funding, the Public Interest Attorney Loan Repayment Program, which is administered by the Student Aid Commission, to provide loan repayment assistance for licensed attorneys who practice or agree to practice in public interest areas of the law in California.

Mr. Holden called for public comment, inquiring as to whether there were persons in attendance who wished to comment on a particular item on the agenda. No one present requested comment.

50 All items on the consent agenda were presented to the Board, and no objection being raised thereto, the following items on the consent agenda were deemed unanimously adopted.

54-131 RESOLVED, that upon the recommendation of the Admissions and Education Committee, the Board hereby receives the report and thanks staff for its submission of the Lawyer Assistance Program 2014 Annual Report, as presented this day.

54 - 141 A. Financial Statement for the Year Ended December 31, 2014

RESOLVED, that upon the recommendation of the Planning & Budget Committee, the Board hereby receives the financial statement in the form this day before the Board, for the year ended December 31, 2014, as certified by the Acting Chief Financial Officer, and on file in the San Francisco office of the State Bar.

B. Investment Report for the Year Ended December 31, 2014

RESOLVED, that upon the recommendation of the Planning & Budget Committee, the Board hereby receives the investment report in the form this day before the Board, for the year ended December 31, 2014, as certified by the Acting Chief Financial Officer, and on file in the San Francisco office of the State Bar.

C. Client Security Fund Report for the Year Ended December 31, 2014

RESOLVED, that upon the recommendation of the Board Planning & Budget Committee, the Board hereby receives the Client Security Fund report in the form this day before the Board, for the year ended December 31, 2014, as certified by the Acting Chief Financial Officer, and on file in the San Francisco office of the State Bar.

54-142 RESOLVED, that upon the recommendation of the Planning and Budget Committee, the Board hereby approves the fee adjustments for the State Bar members as presented this day before the Board, and on file in the San Francisco office of the State Bar.

All of the open agenda items were moved as one (111. 121, 122, 132, 133, 143, 144)

111 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, that upon the recommendation of the Board Executive Committee, the Board hereby approves the revisions to Tab 8, Article 1, Sections 5 and 6 of the Board Book, as attached, and directs staff to make those changes.

All members present and recorded on the roll-call slip voted yes.

121 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, that the Board of Trustees approves the transfer of all functions of the UPL Oversight Committee to the Regulation and Discipline Committee and retires the UPL Oversight Committee.

All members present and recorded on the roll-call slip voted yes.

122 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, that upon the recommendation of the Regulation and Discipline Committee, the Board hereby appoints Rebecca M. Rosenberg as a judge pro tempore of the State Bar Court; and it is

FURTHER RESOLVED, that the assignment of the above-referenced pro tempore judge to adjudicate or conduct particular proceedings shall be subject to the discretion of the Presiding Judge of the State Bar Court pursuant to rule 5.7 of the Rules of Procedure of the State Bar of California.

All members present and recorded on the roll-call slip voted yes.

132 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, that following a period of public comment and consideration of the public comment received, and upon recommendation of the Board Committee on Admissions and Education, the Board approves the proposed amendments to Rules 4.160(H) and 4.165(B) of the Accredited Law School Rules as attached hereto, effective immediately.

All members present and recorded on the roll-call slip voted yes.

133 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, that following a period of public comment and consideration of the public comment received, and upon recommendation of the Board Committee on Admissions and Education, the Board approves the proposed amendments to the: 1) California Rules of Court – Chapter 3. Legal Education, Rule 9.30. Law School Study in Schools Accredited or Registered by the Committee of Bar Examiners, 2) Business and Professions Code Sections 6046.7 and 6060.7, 3) Article 4 Admission to the Practice of Law, Business and Professions Code Section 6060, Qualifications, Examination and Fees, 4) State Bar Rules, Title 4. Admissions and Educational Standards, Division 2. Accredited Law School Rules and, 5) State Bar Rules, Title 4. Admissions and Educational Standards, Division 3. Registered Law School Rules as attached hereto; and it is

FURTHER RESOLVED, that staff be directed to pursue adoption of the proposed amendments to the Rule of Court and Business and Professions Code.

All members present and recorded on the roll-call slip voted yes.

143 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, that upon the recommendation of the Planning and Budget Committee, the Board of Trustees hereby amends the existing budget and other fiscal control policies and procedures as provided herein and in proposed revisions to the Board Book, as provided in Attachment A.

All members present and recorded on the roll-call slip voted yes.

144 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, that upon the recommendation of the Planning and Budget Committee, the Board hereby approves and adopts the amended 2015 budget, as presented in the attachment, with spending authority within the cost centers in that budget through the end of calendar year 2015.

All members present and recorded on the roll-call slip voted yes.

145 *WITHDRAWN*

The Board went into closed session at 9:41 am and those other persons present left the meeting. The Board considered the appointments in closed session and the action taken is reported below.

Item 6015 was removed from the consent agenda

6015 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, that upon recommendation of the Nominations and Appointments Committee, the Board hereby appoints Nancy DiCenzo to the California Board of Legal Specialization as a Member for a term effective immediately and expiring October 2, 2016.

All members present and recorded on the roll-call slip voted yes, except Ms. Rosing who recused herself.

The remaining closed consent appointment agenda was presented to the Board and, no objection being raised thereto, all below consent matters were deemed unanimously adopted.

- 6012 RESOLVED, that upon recommendation of the Nominations and Appointments Committee, the Board hereby appoints Mark Peyton Schreiber to the State Bar's Committee on Mandatory Fee Arbitration for a term effective immediately and expiring October 2, 2016.
- 6013 RESOLVED, that upon recommendation of the Nominations and Appointments Committee, the Board hereby appoints Thomas Gump to the State Bar's Business Law Section Executive Committee for a term effective immediately and expiring October 2, 2016.
- 6014 RESOLVED, that upon recommendation of the Nominations and Appointments Committee, the Board hereby appoints Dr. Jacqueline Singer to the Family Law Advisory Commission as Public Member for a term effective immediately and expiring October 2, 2016.
- 6021 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, that upon the recommendation of the Nominations and Appointments Committee, the Board hereby appoints or reappoints, as the case may be, the following, State Bar delegates, American Bar Association (ABA) House of Delegates, contingent upon appointees being of good standing with the ABA; each term is for two years and is effective upon the conclusion of the 2015 ABA Annual Meeting (August 4, 2015) and expires at the conclusion of the 2017 ABA Annual Meeting (August 15, 2017), or until further order of the Board, whichever occurs earlier:

Delegates

Name

City

Farber, Laura

Los Angeles

Kieve, Loren

San Francisco

Macias, Richard

Los Angeles

Philo, Michelle

Irvine

Young Lawyer Delegate

Hadid, Thomas

Palo Alto

Alternates

Name	City	Position
Bjornbak, Qiang	Los Angeles	1 st Alternate
Royse, Roger	Palo Alto	2 nd Alternate

All members present and recorded on the roll-call slip voted yes, except Mr. Colantuono, Ms. Corcoran, Mr. Dean and Ms. Mendoza who voted no, and Mr. Mangers who abstained.

6022 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, that upon the recommendation of the Nominations and Appointments Committee, the Board hereby appoints Patrick M. Kelly, Los Angeles, State Bar member, Judicial Council, for a three-year term commencing September 15, 2015, and expiring September 14, 2018, or until further order of the Board, whichever occurs earlier.

The Board returned to open session and adjourned its meeting at 11:01 am.

The Board may meet again at the call of the President at any time prior to the next regularly scheduled meeting of the Board, or, if no such meeting be called, at the State Bar's San Francisco offices, 180 Howard Street, San Francisco, CA 94105, on Friday, May 7, 2015, at a time to be determined.