

AGENDA ITEM

ExCom III B. JULY 23, 2015

Recommendations of 2015 State Auditor's Report Referrals to Board Committees

State Audit Recommendation		Response/Action by		
No.	Text	Staff	Board	Leg.
1	To ensure that its backlog does not adversely affect the quality of the discipline it imposes on attorneys who fail to fulfill their professional responsibilities, the State Bar should adhere to its quality control processes. Further, it should take steps to prevent its management or staff from circumventing those processes, such as requiring the presentation to the board of any proposed changes to quality control.	✓	RAD	
2	To ensure that it consistently counts and reports its backlog of disciplinary cases, the State Bar and the Legislature should work together to determine what cases the State Bar should include in its backlog. For example, one method of calculating the backlog would be to include every case that affects public protection that the State Bar does not resolve within six months from the time it receives a complaint. The Legislature should then amend the state law that currently defines how the State Bar should present the backlog in its discipline report. In the interim, the State Bar should comply with our 2009 recommendation to fully disclose the types of cases it includes and excludes from its backlog calculation, as well as any methodology changes from the prior year.	✓	RAD	✓

State Audit Recommendation		Response/Action by		
No.	Text	Staff	Board	Leg.
3	To provide clear and reliable information to the Legislature, the governor, and the public, the State Bar should define how it calculates case-processing speeds in its discipline report and should report this metric using the same method each year. If the State Bar elects to continue presenting the median case-processing time, it should also present the average case-processing time. Finally, it should fully disclose any methodology changes from the methodology used in the prior year.	✓	RAD	✓
4	To assure the Legislature and the public that the data in the State Bar's discipline reports are accurate, the board should implement controls over the accuracy, consistency, and sufficiency of the data gathered and methods used to compute the information included in the report. For example, the board could expand the role of an existing board committee—such as the regulation and discipline committee—to include a review of the discipline report and the underlying discipline statistics.	✓	RAD	
5	To align its staffing with its mission, the State Bar should engage in workforce planning for its discipline system. The workforce planning should include the development and formal adoption of an appropriate backlog goal, an assessment of the staffing needed to achieve that goal while ensuring that the discipline process is not compromised, and the creation of policies and procedures sufficient to provide adequate guidance to the staff of each unit within the discipline system.	✓	RAD	✓ (only if it wishes to amend §6140.16)

State Audit Recommendation		Response/Action by		
No.	Text	Staff	Board	Leg.
6	To ensure that the audit and review unit's random audits of closed case files provide an effective oversight mechanism, the State Bar should follow its policy to conduct and record meetings and trainings related to the audit report's recommendations. Additionally, the audit and review unit should oversee the retrieval of cases files for audit to ensure that it maintains control over its random selection of cases.	✓	RAD	
7	To ensure that the review function within the audit and review unit continues to provide a means for complainants to appeal the State Bar's decisions on closed cases, the State Bar should implement a policy that prohibits the chief trial counsel from dissolving the review function of the audit and review unit. Alternatively, at a minimum, it should require board approval for such an action.	✓	RAD	
8	To provide independent oversight of the Office of the Chief Trial Counsel and assurance that it properly closes its case files, the audit and review unit should report to an individual or body that is separate from the chief trial counsel, such as the executive director or the board.	✓	RAD	✓ (for reporting to the ED)
9	To ensure that it spends revenues from the membership fee appropriately, the State Bar needs to implement policies and procedures to restrict its ability to transfer money between funds that its board or state law has designated for specific purposes.	✓	P&B	

State Audit Recommendation		Response/Action by		
No.	Text	Staff	Board	Leg.
10	To ensure that it can justify future expenditures that exceed a certain dollar level, such as capital or IT projects that cost more than \$2 million, the State Bar should implement a policy that requires accurate cost-benefit analyses comparing relevant cost estimates. The policy should include a requirement that the State Bar present the analyses to the board to ensure that it has the information necessary to make appropriate and cost-effective decisions. In addition, the State Bar should be clear about the sources of funds it will use to pay for each project.	✓	P&B	
11	To justify any future special assessment that the State Bar wants to add to the annual membership fee, the State Bar should first present the Legislature with the planned uses for those funds and cost estimates for the project for which the State Bar intends to use the special assessment.	✓	Stakeholders	✓
12	To ensure that it adequately informs the Legislature about the status of the IT projects in its strategic plan, the State Bar should annually update the projects' cost estimates, their respective status, and the funds available for their completion.	✓	Stakeholders	
13	To ensure that the State Bar's fund balances do not exceed reasonable thresholds, the Legislature should consider putting a restriction in place to limit its fund balances. For example, the Legislature could limit the State Bar's fund balances to the equivalent of two months of the State Bar's average annual expenditures.	✓	Stakeholders	✓

State Audit Recommendation		Response/Action by		
No.	Text	Staff	Board	Leg.
14	To provide the State Bar with the opportunity to ensure that its revenues align with its operating costs, the Legislature should consider amending state law to, for example, a biennial approval process for the State Bar's membership fees rather than the current annual process.		Stakeholders	✓
15	To determine a reasonable and justified annual membership fee that better reflects its actual costs, the State Bar should conduct a thorough analysis of its operating costs and develop a biennial spending plan. It should work with the Legislature to set an appropriate annual membership fee based upon its analysis. The first biennial spending plan should also include an analysis of the State Bar's plans to spend its current fund balances.	✓	P&B	✓