

AGENDA ITEM

704 SEPTEMBER 2016

DATE: September 12, 2016

TO: Members, Governance in the Public Interest Task Force Committee
Members, Board of Trustees

FROM: Leah Wilson, Chief Operating Officer

SUBJECT: 2016 Governance in the Public Interest Task Force (GIPITF) Report
Recommendations

EXECUTIVE SUMMARY

The 2016 Governance in the Public Interest Task Force (GIPITF) report included a number of recommendations for reform. Although many of these cannot be effectuated absent statutory change, several can be implemented by actions of the Board of Trustees. This agenda item outlines those GIPITF recommendations that can be advanced by the Board, and suggested next steps as related to their implementation.

DISCUSSION

RECOMMENDATION: ESTABLISH AN OFFICER LADDER AND MODIFY BOARD COMMITTEE

The Task Force unanimously recommended that a three person ladder of officers for the Board of Trustees be established, President, Vice President-Elect, and Treasurer, with each officer having a one year term.

In addition, the Task Force recommended the following changes in the role of the officers of the Board of Trustees. The Vice President-Elect should head the Regulation and Discipline Committee (RAD) and the RAD Committee should be restructured as a 'committee of the whole' to permit all Trustees to participate in its work. These changes were recommended because of the Task Force's recognition that discipline is the State Bar's most important responsibility, and the President should be thoroughly familiar with the operation of the discipline system before taking office. In addition, giving the Vice President-Elect the responsibility of chairing this 'committee of the whole' will provide valuable experience for the future President to chair the Board in the following year. In addition, the Task Force recommended that the Treasurer should head the Planning

and Budget Committee, to be combined with the Audit Committee (i.e. the 'Planning, Budget and Audit Committee').

IMPLEMENTATION STEPS: The Board will be asked to approve changes to the role of Board of Trustee officers and the Committee structure at its September 12, 2016, meeting. Adoption of an officer ladder will be recommended to the Board at its October 2, 2016, meeting.

RECOMMENDATION: ENHANCED TRUSTEE ORIENTATION AND TRAINING

The Task Force recommended enhanced orientation and training for State Bar Trustees.

IMPLEMENTATION STEPS: Expanded Trustee orientation is planned for November 16, 2016. This orientation will reflect a heightened focus on Trustee oversight of the discipline system, Trustee fiduciary responsibility, and the importance of the Bar's public protection, versus associational, activities.

RECOMMENDATION: ASSESS KEY REPORTING RELATIONSHIPS

A strong majority of Task Force members agreed that the State Bar should study whether recommendations should be made to the Legislature regarding the appointment and reporting framework for the Chief Trial Counsel.

IMPLEMENTATION STEPS: Staff recommends that the Board refer this recommendation to its RAD Committee for consideration; RAD should present its analysis to the Board at its January 2017 planning meeting.

RECOMMENDATION: FURTHER CLARIFY THE STATE BAR'S PUBLIC PROTECTION MISSION

The Task Force recommended that the State Bar, in conjunction with its key stakeholders, initiate the task of more clearly defining its public protection mission.

IMPLEMENTATION STEPS: Staff recommends that the Board refer this recommendation to its Executive Committee for development of an initial definition; the Executive Committee should identify key stakeholders and develop a process for their inclusion in the development process. The Executive Committee should present a proposed definition to the Board at its January meeting. Thereafter, the Board should forward that definition to the 2017 Governance in the Public Interest Task Force for review and utilization in preparation of the 2017 Task Force report.

RECOMMENDATION: REVIEW THE COMMITTEE FRAMEWORK AND STRUCTURE

The Task Force agreed that the State Bar must assess the huge number of existing committees, boards and commissions and their siloed operations and whether this has inadvertently resulted in the State Bar expanding its mission into areas that are only

tenuously related to “core” public protection activities. Additionally, as required by the State Bar’s Board Book, its operational manual, the Board must satisfy the requirement of reviewing the operational plans of all such entities on an annual basis to ensure that they are operating consistently with the State Bar’s strategic plan. The requirement for a five year ‘sunset review’ of all such bodies should also be implemented.

IMPLEMENTATION STEPS: The Board will begin work on reducing the number of committees and appointments at its September 12, 2016, meeting, with follow up planned at its November meeting. The Board should refer oversight of this work to the Executive Committee, with the further understanding that ultimately each Board Committee will be assigned responsibility for appropriate sub-entities and be charged with developing annual work plans for each and such other review as may be appropriate.

RECOMMENDATION: ADDRESS THE IMPACTS OF SILO FUNDING

A majority of Task Force members agreed that all fiscal policies must be unified under one system. The Board has addressed these differences in its own expense reimbursement policy, setting out a rigorous expense oversight control system so that, after review, all Trustee expenses are governed by the State Bar’s standard government reimbursement procedures and also set forth on the State Bar’s Public website. The Board must decide whether it will apply the same set of policies to all funds received by the State Bar, irrespective of source, and apply consistent reimbursement policies to all who work for the State Bar, particularly the Sections and related volunteer activity.

More broadly, there is a need for the Bar to operate as a coherent, consistent, organization. This means that, irrespective of funding sources, core administrative functions including human resources, finance, and information technology, should be performed by the centralized departments of the Bar responsible for these activities. Further, there must be consistent oversight of all activities and standardization of key drivers of institutional identity, including branding and web presence.

IMPLEMENTATION STEPS: Staff has begun work in this area as reflected in the September 12, 2016, Board agenda item regarding alcohol-related expenditures. The Board should refer oversight of continued work in this area to the Stakeholders, Access to Justice, and Appointments Committee. That Committee should be asked to develop a comprehensive set of recommendations designed to ensure organizational consistency, coherence, and principles of prudence and transparency in the expenditure of State Bar and sponsorship funds, for consideration by the Board at its January 2017 planning meeting.

RECOMMENDATION: DETERMINATION OF FUNDING ADEQUACY FOR STATE BAR DISCIPLINE FUNCTIONS

The Task Force agreed that the State Bar should continue its efforts to create efficiencies within its organizational structure designed to support increased resources for the Bar's disciplinary functions and the related implementation of Workforce Planning recommendations.

IMPLEMENTATION STEPS: Staff efforts in this regard are ongoing. The Board should refer oversight of staff reengineering and efficiency measures to the Planning, Budget, and Audit Committee. That Committee should report to the full Board on progress at each of its meetings.

FISCAL/PERSONNEL IMPACT

There are potential savings associated with reducing the numbers of Committees and appointments. In addition, reengineering and restructuring work associated with determining funding adequacy for discipline functions is likely to identify funds that can be reallocated within the Bar's existing resources thus increasing funding for public protection activities without impacting the Bar's overall budget.

RULE AMENDMENTS

None

BOARD BOOK IMPACT

TAB 5, Article 2, §§ 1-4, pp. 5-9

TAB 6, § 2, p. 5

TAB 17, Article 1 §§ 1-10, pp. 3 - 16; Article 2, p. 17

TAB 18, Article 2, §§ 1-3, pp. 11-16

TAB 19, Article 1, §§ 1-15, pp. 3-11; Article 2 §§ 1-11, pp. 12-19; Article 3, pp. 20-23; and Article 4 § 1-17 pp. 25 - 35; and Article 5 § 1, pp. 36-37

TAB 20, Article 1 §§ 1-8, pp. 3- 5; Article 2 §§ 1-19, pp. 6-14; and Article 3 §§, pp.15-20

TAB 23, Article 1, pp.1-4

BOARD GOALS & OBJECTIVES

1. Ensure a Timely, Fair, and Appropriately Resourced Discipline and Regulatory System
2. Proactively Inform and Educate Stakeholders about the State Bar's Responsibilities, Initiatives, And Accomplishments
3. Improve Fiscal and Operational Management, Emphasizing Integrity, Transparency, and Accountability

RECOMMENDATIONS

It is recommended that the Board of Trustees approve the following resolutions:

RESOLVED, that the Board of Trustees recommends establishment of an officer ladder and a modified board committee structure; and it is

FURTHER RESOLVED, that the Board of Trustees recommends establishment of an enhanced orientation and training for State Bar Trustees.

RESOLVED, that the Board of Trustees approves referral of the following recommendations as noted below.

RESOLVED, that the Board of Trustees refers the 2016 GIPITF recommendation: Assess Key Reporting Relationships, to the Regulation and Discipline Committee for report back to the Board at its January 2017 planning meeting; and it is

FURTHER RESOLVED, that the Board of Trustees refers the 2016 GIPITF recommendation: Further Clarify Public Protection Mission, to the Executive Committee for report back to the Board at its January 2017 planning meeting; and it is

FURTHER RESOLVED, that the Board of Trustees refers oversight of the 2016 GIPITF recommendation: Review the Committee Framework and Structure, to the Executive Committee, for report back to the Board at its October and November 2017 meetings; and it is

FURTHER RESOLVED, that the Board of Trustees refers oversight of the 2016 GIPITF recommendation: Address the Impacts of Silo Funding, to the Stakeholders, Access to Justice, and Appointments Committee for report back to the Board at its January 2017 planning meeting; and it is

FURTHER RESOLVED, that the Board of Trustees refers oversight of the 2016 GIPITF recommendation: Determination of Funding Adequacy for State Bar Discipline System, to the Planning, Budget and Audit Committee, with progress reports to be provided to the Board at each of its meetings.

ATTACHMENT(S) LIST

None