

AGENDA ITEM

112 NOVEMBER 2016

DATE: November 1, 2016

TO: Members, Board Executive Committee
Members, Board of Trustees

FROM: Saul Bercovitch, Office of General Counsel

SUBJECT: Board Book Phase II – Policy Review
[Bagley-Keene and California Public Records Act]

EXECUTIVE SUMMARY

The State Bar of California's Board of Trustees Policy Manual (commonly known and referred to as the "Board Book") was adopted in September 2004. In July 2015, the Board requested a review of the Board Book with the goal of updating it, making it more user-friendly and better organized. Review of the Board Book was divided into two phases. Phase I was a non-substantive cleanup, and the Board has approved the Phase I changes. Phase II involves substantive revisions and will be presented to the Board in parts. This is the first part of Phase II, and contains amendments resulting from the application of the Bagley-Keene Open Meeting Act and the California Public Records Act to the State Bar.

BACKGROUND

The State Bar of California's Board of Trustees Policy Manual (commonly known and referred to as the "Board Book") was adopted in September 2004 as a compilation of statutes, Rules of the State Bar, and other policies and procedures adopted by Board resolutions that govern the operations of the Board and its oversight of the State Bar. The Board Book is intended to be a source book for the Board and State Bar staff to readily find these various provisions.

In July of 2015, the Board requested a review of the Board Book with the goal of updating it, making it more user-friendly and better organized. The ultimate goal is to make the Board Book available to the public to increase transparency and knowledge regarding the State Bar.

Review of the Board Book was divided into two phases. Phase I was a non-substantive cleanup, including revision of the organizational structure of the Board Book. Phase I was presented to the Board of Trustees over the course of several meetings, and the Board approved the Phase I changes. Phase II involves substantive revisions, and this Agenda Item contains the first part of Phase II.

DISCUSSION

This initial Phase II Agenda Item contains proposed amendments to Board policy throughout the Board Book that are needed as a result of the application of the Bagley-Keene Open Meeting Act ("Bagley-Keene") and the California Public Records Act ("CPRA") to the State Bar. These are being presented as "substantive" changes because they result in changes to the language of existing Board policy. However, Bagley-Keene and the CPRA have already superseded any contrary language by operation of law, and in all cases the State Bar is in compliance with Bagley-Keene and the CPRA, with or without the proposed amending language. These particular amendments are simply being proposed to correct language in Board policy that, on its face, contradicts or is inconsistent with Bagley-Keene or the CPRA.

The recommended amendments are redlined in Attachment A. Some recommendations relate to discrete policy provisions, but the entire Article or Section from the Board Book is included to assist in providing context. Comments on the recommendations are in the footnotes. As noted in one footnote, the language of the current Board policy is the same as the language of a State Bar Rule. The identical amendment is therefore recommended for the Rule, as part of this same Agenda Item.

FISCAL/PERSONNEL IMPACT

None.

RULE AMENDMENTS

Amendment to State Bar Rules, Title 1, Division 2, Rule 1.11.

BOARD BOOK IMPACT

Board Book amendment to the following:

- Tab 2.2, Article 3, Section 5
- Tab 2.5, Article 1, Section 2
- Tab 2.6, Article 1, Sections 3 and 4
- Tab 3.6, Title 1
- Tab 3.7, Article 2
- Tab 5.1, Article 2
- Tab 5.2, Section 2

BOARD COMMITTEE RECOMMENDATION

The Board Executive Committee recommends that the Board of Trustees approve the following resolution:

RESOLVED, that the Board of Trustees approves amendments to Board Book Tab 2.2, Article 3, Section 5; Tab 2.5, Article 1, Section 2; Tab 2.6, Article 1, Sections 3 and 4; Tab 3.6, Title 1; Tab 3.7, Article 2; Tab 5.1, Article 2; and Tab 5.2, Section 2, as presented to the board this day; and it is

FURTHER RESOLVED, that the Board of Trustees adopts the following amendment to State Bar Rules, Title 1, Division 2, Rule 1.11:

Rule 1.11 Availability of Public Comments

Public comment provided to the board regarding a rule proposal is available upon request, subject to a reasonable charge for ~~processing~~copies.

ATTACHMENT LIST

- A. Proposed Revisions to the Board Book [Bagley-Keene and California Public Records Act]