

AGENDA ITEM

703 JANUARY 2017

DATE: January 24, 2017

TO: Members, Board of Trustees

FROM: Dag MacLeod, Director, Office of Research and Institutional Accountability

SUBJECT: Workforce Planning Implementation Report

EXECUTIVE SUMMARY

On May 13, 2016, the California State Bar submitted a Workforce Planning Report to the California State Legislature as mandated under Business and Professions Code §6140.16. Drafted by consultants from the National Center for State Courts (NCSC) under contract with the State Bar, the report contained recommendations for changes to the organization and workflow of six Departments included in its review: the Office of the Chief Trial Counsel (OCTC), State Bar Court (SBC), the Office of Probation (Probation), the Lawyer Assistance Program (LAP) Member Records and Compliance (MRC), and the Client Security Fund (CSF).

In addition to the mandate to submit the report by May 15, 2016, the statute further directs the Bar to "complete and implement its workforce plan by December 31, 2016."

The report for this agenda item provides detail on the current status of the recommendations and the process of implementing them. While not required by the statute, this report will be provided to the Legislature in the interest of transparency.

FISCAL/PERSONNEL IMPACT

NONE

RULE AMENDMENTS

NONE

BOARD BOOK IMPACT

NONE

RECOMMENDATIONS

None

ATTACHMENT(S) LIST

- A.** Workforce Planning Implementation Status Report

The Implementation of Workforce Planning Recommendations Mandated by Business and Professions Code 6140.16: Status Report

On May 13, 2016, the California State Bar (Bar) submitted a Workforce Planning Report (Report) to the California State Legislature as mandated under Business and Professions Code 6140.16.¹ That statute also required the Bar to implement workforce planning recommendations by December 31, 2016. The report that follows provides a detailed description of the Bar's implementation process through the year and the status of this work at the end of 2016.

To comply with the statutory mandate, the Bar entered into a contract with the National Center for State Courts (NCSC) in December, 2015, to conduct a workforce planning analysis to include the following elements:

- Documentation of current business processes, workflow, staffing levels and metrics;
- Development of a workforce plan, including recommendations regarding organizational structure and staffing levels that maximize the efficiency and effectiveness of the Bar's discipline system; and
- Examination of whether consolidation of units or functions and/or the reallocation of personnel and resources will improve the efficiency or performance of the discipline system of the Bar.

Definition of the Discipline System

Business and Professions Code 6140.16 requires that the Bar "develop and implement a workforce plan for its discipline system." Although the exact scope of the Bar's discipline system is not defined in statute, for purposes of the Report the Bar's disciplinary activities were defined to include the following:

- Office of the Chief Trial Counsel (OCTC): investigates and prosecutes attorneys for violations of the Rules of Professional Conduct and State Bar Act;
- State Bar Court (SBC): hears cases in attorney discipline matters and recommends discipline to the Supreme Court;
- Office of Probation (OP): monitors disciplined attorneys who have been ordered to comply with court orders or reprobation conditions pursuant to orders issued by the Supreme Court or SBC;
- Lawyer Assistance Program (LAP): provides substance abuse and mental health support services to members participating in the Alternative Discipline Program;
- Client Security Fund (CSF): reimburses victims of attorney theft and dishonesty; and
- Member Records and Compliance (MRC): maintains the official list and status of attorneys who are licensed to practice law in California, and monitors compliance with membership requirements.

¹ See Appendix A for the full text of Business and Professions Code 6140.16. The report submitted to the Legislature can be found at:

<http://www.calbar.ca.gov/LinkClick.aspx?fileticket=sgL7pgRpfPY%3d&tabid=224&mid=1534>

At the time of the study, these Departments, combined, comprised 317 of the Bar's 530 staff, approximately 60 percent of the Bar's overall workforce.

NCSC Methodology and Research

The NCSC project team made an introductory site visit to San Francisco on February 5, 2016, to meet with a Workforce Planning Steering Committee created by the Bar and comprised of representatives of the OCTC, SBC, LAP, CSF and MRC. The team also met with the Director of Human Resources and union² representatives to discuss how the project would be conducted and to identify reports and background material on the Bar organization that should be reviewed and researched.

The NCSC also developed a staff survey for distribution to all Bar staff involved in activities related to the attorney discipline process. The survey solicited views on whether staffing levels are appropriate and where staffing could be improved; whether the employees have sufficient guidance and clarity to perform their tasks and assignments; whether the business processes for their work assignments are clearly documented and stated; whether they understand their performance expectations; whether there is duplication in work assignments within different operational areas; and whether there are tasks that can be reorganized or reengineered.

The survey instrument captured responses on 14 primary topics regarding operational functions, staffing levels, and performance measures. Survey respondents were asked to mark their level of agreement with a series of statements supplemented by open-ended requests for feedback regarding areas in need of improvement. (The Bar distributed the survey to 320 employees, managers and supervisors. 265 (83 percent) responded. The NCSC team compiled the responses and used them to identify areas that required follow-up during the upcoming site visit interviews. The responses were evaluated and used to develop follow-up questions for site visits, guide the on-site observation, and generate recommendations for the final report.

The NCSC project team conducted eight days of site visits in Los Angeles during the weeks of February 22 and 29 and another eight days of site visits in San Francisco during the weeks of March 21 and March 28. During these 16 days, the NCSC project team conducted structured interviews and focus groups with staff, observed Bar operations, and collected additional data and documentation on the Bar. All of this on-site work focused on understanding current workflow, business processes, staffing levels, outcomes and objectives, and the solicitation of ideas as to how the work of attorney discipline could be conducted more efficiently and effectively.

In total, the NCSC team interviewed approximately 170 State Bar employees, managers, supervisors, and officials, and the Presiding Judge of the SBC. Team members interviewed persons who work in each of the six operational departments included in the project scope. The NCSC project team spent approximately 112 hours interviewing managers, supervisors and

² Most State Bar employees belong to what is known as the "General Unit" and are represented by Social Services Union, Local 535, Service Employees International Union, AFL-CIO/CLC (hereinafter referred to as the "union" or SEIU).

employees individually and in groups during the time they spent on-site. An additional five hours of post-site visit interviews were conducted for follow-up purposes.

The Implementation Process

Following the delivery of the Report to the Legislature, the Bar began organizing teams to implement the recommendations.

Division of labor and assignment of departmental work streams

Recommendations in the Report were organized by departments within the Bar. Senior managers over each of the Bar departments defined as part of the discipline system were assigned responsibility for implementation of the recommendations in their respective areas. Managers worked with line staff to make them aware of the recommendations and solicit input regarding how best to implement. Staff in the Office of Research and Institutional Accountability (ORIA) was also assigned responsibility for supporting the implementation efforts, facilitating communication with the Board, tracking the progress of the work, and coordinating the implementation of recommendations that involved multiple departments. Four departments tasked with relatively few recommendations were combined into two groups of two, each supported by a single member of the ORIA team.

Because of the centrality of OCTC to the discipline system the Bar's Chief Operating Officer (COO) worked closely with the Interim Chief Trial Counsel and senior managers to advance the implementation of recommendations in OCTC. In addition to the importance of OCTC to the effective functioning of the State Bar discipline system, the large number of recommendations, and the operational complexity of the recommendations all reinforced the need for additional support from the Bar's executive management.

Finally, in deference to the independence of the State Bar Court, the implementation of recommendations related to the court was managed directly by the Presiding Judge of the Court.

For purposes of tracking progress and providing on-going communication with the Board, then, implementation of the recommendations in the six departments of the State Bar proceeded in the following four work-streams:

1. MRC and CSF;
2. OP and LAP;
3. OCTC; and
4. SBC

In June, staff in ORIA were assigned to the first two work streams and met weekly with the COO to coordinate the work and review the status of implementation efforts. Through its Court Administrator, the SBC provided regular updates to the COO.

Involvement of the Board of Trustees, State Bar committees and affected staff

In compliance with the statutory deadline, the Workforce Planning Report was delivered to the Legislature on May 13. The next full meeting of the Bar Board of Trustees (Board), however,

was not scheduled until July. To avoid unnecessary delay in advancing the December 31, 2016, recommendation implementation date, the Board President established Board working groups for each work stream.

Board working groups were tasked with reviewing the progress of staff and providing input and direction as to the development of implementation plans and timelines. Beginning in June, conference calls were scheduled with Board liaisons to review the recommendations and track the status of the implementation work. The full Board received the NCSC report at its July meeting. The Board also received implementation Gantt charts at the July meeting with projected dates for the completion of the various recommendations. The Board was also given an update on the status of implementation efforts at its December 12, 2016, meeting.

In addition to working with the Board liaisons, Bar staff also attended various committee meetings to inform committee members of recommendations that touched on operations of an area for which the committee has responsibility including the Oversight Committee of the Lawyers Assistance Program, and internal committees such as the Probation Committee.

Lead staff on the implementation effort also worked to communicate the Workforce Planning recommendations to affected staff. Meetings were held throughout the Bar to familiarize line staff with the recommendations, clarify their potential impact, and work out details related to implementation. Initial meetings generally involved distributing the recommendations, answering questions, and soliciting information on challenges and opportunities that might be encountered in the process of implementation. Subsequent meetings addressed details related to implementation, review of documents, solicitation of additional input, and further discussion of the impact of implementing the recommendations.

Follow-up meetings of entire departments were held when recommendations involved major organizational transformation. For example, the Workforce Planning recommendations for OCTC included the creation of a new team structure and the reallocation of staff into teams of generalists who might handle any of a number of different case types. Similarly, Workforce Planning recommendations related to the OP and LAP included exploring the organizational intersection of work conducted by Probation Deputies and Case Managers in the two groups and consolidating the work where practical. Implementing major organizational changes like this required additional meetings and the resolution of additional details.

Classification and Compensation Study

At the same time that Bar staff were working to implement the recommendations of the Workforce Planning Report, executive management was also negotiating with State Bar bargaining units about the recommendations contained in a study of Classification and Compensation. The Classification and Compensation study was also mandated under Business and Professions Code 6140.16 and proceeded mostly on a parallel track with the Workforce Planning recommendations.

There were, however, a number of critical areas where Workforce Planning recommendations intersected with Classification and Compensation recommendations. One particularly significant example related to the Supervising Senior Trial Counsel classification in OCTC. The

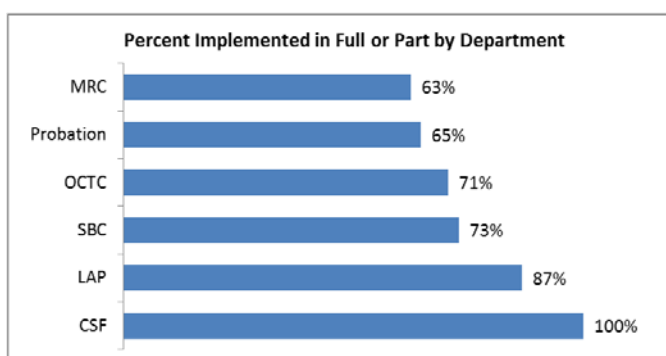
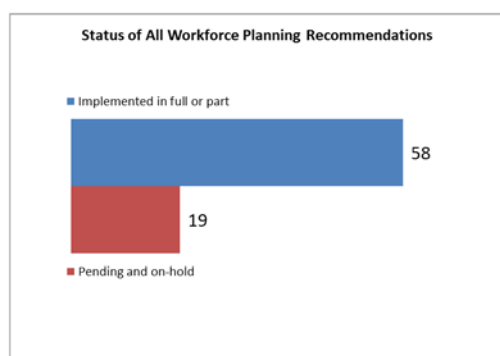
Classification and Compensation analysis suggested the need for a Supervisory Attorney position with “full-scope” supervision responsibilities. This recommendation, while developed independently from NCSC’s work, aligned with the latter’s principal OCTC-related workforce planning reform. The NCSC recommended that OCTC transition to an inter-disciplinary team based organizational structure, with each team lead by a fully empowered, and responsible, Supervising Attorney.

Although the Bar began negotiations with SEIU in July, 2016, regarding the establishment of this position, resolution was not reached until January, 2017. As of the date of this report, the position has been established, and recruitment is underway.

Recommendations

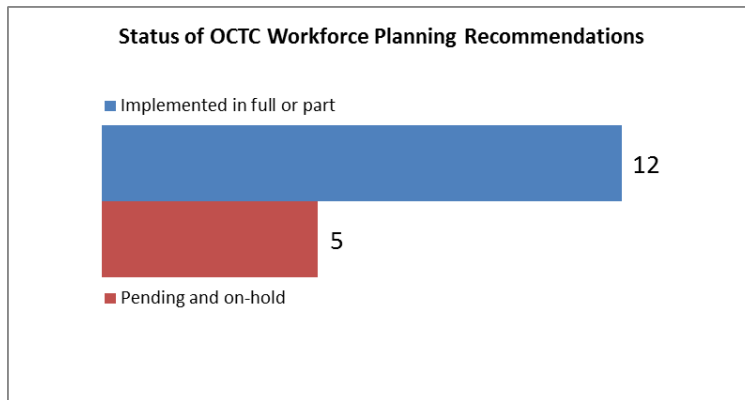
The Report contained a total of 77 recommendations for changes to the organization and workflow of the six Departments included in the workforce planning analysis. As of December 31, 58 of the recommendations (75 percent) had been implemented fully or in part while 19 of the recommendations remained pending or were placed on hold.

Recommendations that remained pending at the end of the year were primarily dependent on the implementation of a new case management system. The Bar entered into a contract at the end of 2016 with a technology vendor to replace the antiquated case management systems of OCTC, the SBC and OP. Implementation of the new system will begin in early February and is expected to require about 18 months before the system is fully deployed. Additional recommendations classified as pending were awaiting the finalization of negotiations with SEIU, the completion of a classification and compensation study, or the completion of the LAP strategic plan.



For each of the Bar’s departments covered in the Workforce Planning report, each of the following sections provides: 1) an overview of the rationale for the recommendations and the implementation process, and 2) a table listing each of the recommendations, describing the steps taken to implement the recommendation, and the current status of the recommendation.

The Office of the Chief Trial Counsel



Overview of OCTC Recommendations

With over 200 full-time employees, the Office of the Chief Trial Counsel (OCTC) represents approximately 40 percent of all State Bar staff. In addition to being the single largest department of the State Bar, OCTC's work is essential to the effective functioning of the discipline system. OCTC is responsible for investigating charges of misconduct, and for prosecuting attorneys when the evidence supports it.

In addition to complaints from the public, OCTC receives reports from courts, district attorneys' offices and banks regarding "reportable actions" of possible misconduct by attorneys. And, on its own initiative, OCTC may initiate investigations of attorneys if misconduct comes to the Office's attention through some other channel.

A large number of the Workforce Planning recommendations regarding OCTC focused on what was identified as excessive specialization within the Office and an over-centralization of authority and decision-making ability. In response to these broad observations, NCSC recommended a complete restructure of the organization of the Office.

The size and complexity of OCTC, combined with the scope of the proposed changes, made implementation of the recommendations especially complex. Some of the additional processes necessary to move these recommendations forward included:

- creating a staff Implementation Working Group (IWG) comprised of 15 OCTC staff including investigators, attorneys, and administrative staff;
- conducting weekly meetings to review, evaluate, operationalize, implement, and track the status of Workforce Planning recommendations related to OCTC;
- creating four subgroups to work out the details of specific, more complex components of the reorganization. The subgroups focused on:
 - evaluating appropriate caseloads for proposed teams of investigators, attorneys, paralegals and support staff;

- identifying the issues for which training plans would need to be developed to ensure that staff are prepared to handle a broader range of issues implied by new rotational assignments;
 - determining the size and composition of the new teams to ensure sufficient coverage for absences and for attorneys whose workload becomes dominated by a lengthy trial; and
 - evaluating appropriate levels of review for charging decisions so that decentralization of decision making doesn't undermine consistency.
- holding periodic meetings with all OCTC staff to answer questions related to the organizational changes underway;
 - developing and disseminating Frequently Asked Questions to all OCTC staff to keep them informed of the progress on the implementation;
 - designing and disseminating the new, proposed organizational structure including specific staff assignments;
 - soliciting input from staff regarding various components of the proposed reorganization, reviewing the feedback and adjusting the plans where appropriate.

A critical dependency for many of the recommendations related to OCTC was the finalization of union negotiations to change the scope of responsibilities for Supervising Senior Trial Counsels. The new organizational structure proposed for OCTC, with a flattened hierarchy of multi-purpose, cross-disciplinary teams depends on the establishment of Supervising Attorney positions with the authority and responsibility to perform full-scope supervision. Substantial progress has been made on planning the move to a new team structure, the actual transition itself will occur when the new Supervising Attorney positions are in place.

Another critical dependency for a smaller number of recommendations is the acquisition and deployment of a new case management system for OCTC. The Bar's Board of Trustees approved the selection of a vendor for a new case management system in July, 2016 and a contract with the vendor was recently signed. Work on implementing the new case management system will begin in February, 2017 and will continue for at least 18 months.

The table below provides detail on each of the recommendations, a narrative description of the work done on each, and the current status of the recommendation. Where a recommendation is simply awaiting the hiring of attorneys in the new Supervising Attorney classification, the status is marked as "Substantially Implemented" and a note is made in the Detail field about the work that has been done. References contained within

the narrative point to documents created in the process of implementation that are appended to this report.

Details of the OCTC Recommendations

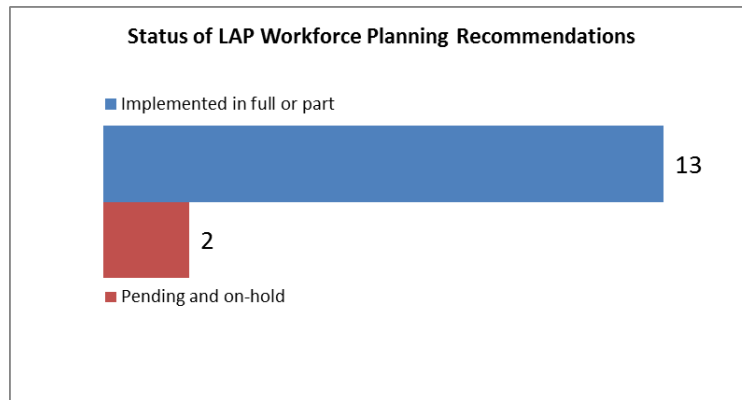
OCTC		
Recommendation	Detail	Status
1. Eliminate separate Intake and Enforcement Units. Create Intake and Enforcement teams to which staff are assigned on a rotational basis and with the expectation that team coverage will reduce the number of hand-offs, reduce the time between case receipt and case assignment, and engender accountability and ownership over the caseload.	This recommendation represents a complete organizational transformation for OCTC involving the reassignment of dozens of staff and the creation of new procedures and policies for ensuring that staff are trained to work in new areas and that charging decisions across units are applied consistently. <i>(See Appendices C & D to compare the previous organizational structure in OCTC with the proposed.)</i>	Substantially Implemented
2. Each team should be supervised by a Supervising Attorney. Teams should consist of seven to nine staff comprised of a combination of Attorneys, Investigators, Paralegals, and at least one clerical support assistant. Adoption of this model will flatten points of supervision, reduce approval times, and foster a culture of collaboration and communication.	Staff who are currently classified as Supervising Senior Trial Counsel do not perform full-scope supervision and thus could not supervise teams in the manner contemplated by NCSC. The Bar began negotiations with SEIU in July, 2016, regarding changes to the job description that would be needed to empower Supervising Senior Trial Counsels to perform team supervision. Negotiations have concluded, positions are being recruited, and final implementation is awaiting the hiring of attorneys in a new Supervising Attorney classification.	Substantially Implemented
3. Supervising Attorneys should be empowered to exercise significant discretion and decision-making as related to cases and teams. Supervising Attorneys should be responsible for general oversight of team functions and individual team member performance related to workload progress. They should have the authority to determine case and trial preparation priorities and how the team addresses those priorities. Approval steps of routine issues related to daily case management including case disposition decisions should go no higher than the Supervising Attorneys, except for highly complex or high-profile cases. Written policies related to team time and production measures should be issued by OCTC Leadership. These policies should include the definition of those limited matters requiring approval beyond the Supervising Attorney. Policy and procedural development should involve representatives from individual	In evaluating this recommendation, Implementation Working Group team members identified a number of additional steps that needed to be taken to ensure that decentralization of decision-making authority did not result in the generation of inconsistencies in the Office re: charging practices, levels of discipline or stipulated resolutions. This resulted in the proposal that a new Training and Calibration Unit be created to build out policy and procedures and to engage in training as well as on-going review of the Level of Discipline being sought by different Supervising Attorneys to ensure that these are consistent across the Office. A new Senior Training Attorney has been hired and will start in February, 2017. The Bar is currently recruiting for an Assistant Chief Trial Counsel, Calibration. That ACTC will manage the Training and Calibration Unit. Final implementation of	Substantially Implemented

OCTC		
Recommendation	Detail	Status
teams. Individual teams should also be allowed to make group based decisions related to team assignments and process implementation.	the recommendation is pending the hiring of attorneys in the new Supervising Attorney classification. <i>(See Appendix B: "Levels of Review – August 12, 2016, Draft Memorandum)</i>	
4. To obtain necessary clerical support staff for the prosecution teams, personnel from Central Administration should be reassigned to support teams.	Final implementation awaiting the hiring of attorneys in the new Supervising Attorney classification. <i>(See Appendices C & D to compare the previous organizational structure in OCTC with the proposed.)</i>	Substantially Implemented
5. Case set-up and some other narrow functions should remain centralized. However, changes in the case set-up process should include elimination of reported duplication of information entered in the initial file creation and face sheet preparation process. In addition, a limited number of other functions should remain centralized, including records management and the subpoena process.	<i>See Appendices C & D to compare the previous organizational structure in OCTC with the proposed.</i>	Partially Implemented
6. Central data staff should assign cases to intake teams on a rotational basis. The practice of supervisors and staff returning files to baskets for pick-up should be eliminated and files should be delivered directly to intake teams by central data staff.	<i>See Appendices C & D to compare the previous organizational structure in OCTC with the proposed.</i>	Partially Implemented
7. Intake teams should identify those cases that will be forwarded for investigation and should make initial complex determinations. Cases should then be assigned to enforcement teams on a rotational basis. Equality of assignment of complex cases will assist in "sharing the load" of protracted cases requiring substantial staff time.	The Implementation Working Group reviewed this recommendation and determined that, although cases that are designated as complex take longer to prosecute, they are not necessarily more complicated to prosecute. As such, it was determined that developing a process to ensure the even distribution of these cases across teams is not necessary, and may prove more complicated than the situation demands. As to the more complicated cases, the Supervising Attorney will need to ensure appropriate distribution across the team. If the Supervising Attorney determines his or her team has more complicated cases than they can effectively handle – especially because the teams are not equally balanced as to the numbers of STCs, Investigator IIIs, etc. - the Supervising Attorney will work with the ACTC to transfer cases to another team, as appropriate.	Partially Implemented (assessed and modified based on staff review)

OCTC		
Recommendation	Detail	Status
8. Specialized grouping of complaint types should be replaced with a general enforcement team model accepting complaint case assignments of all types. For purposes of cost modeling, the teams should consist of 2-3 Attorneys, 3 investigators, 1 paralegal, and 1-2 clerical staff. This will address concerns regarding unequal distribution of work; support the more efficient use of staffing resources; foster staff development and broadened skill sets; reduce process hand-off delays; and accommodate the filing of various allegations within one case.	A subgroup of the Implementation Working Group devoted considerable time to evaluating the number of attorneys, investigators, paralegals and clerical staff that would foster staff development and minimize delays while, simultaneously, allowing for coverage in the case of absences or lengthy court proceedings that limit the availability of staff. Final implementation awaiting the hiring of attorneys in the new Supervising Attorney classification. <i>(See Appendix E to the proposed.)</i>	Substantially Implemented
9. Some case types should continue to be handled by specialized team(s). Some case types are referred to a group of paralegals or a specialized inter-disciplinary team in the Intake Unit, including complaints related to conviction of an attorney Section 6180 (death, disbarment, suspension) or Section 6190 (illness, substance abuse), for a criminal offense, cessation of effective practice of law in accord with California Business and Professional Code, practice of law by non-attorneys, and reportable actions from financial institutions involving misappropriation or mismanagement of client associated funds. These case types generally share common features of requiring extensive monitoring and being long-lived. They should continue to be handled by a dedicated team(s). In addition, the process for monitoring criminal complaints against attorneys should be re-assessed, ensuring that staff is taking advantage of news services and computer readable files that allow for a more comprehensive, on-going search for criminal cases involving attorneys.	A subgroup of the Implementation Working Group reviewed recommendations regarding which cases should continue to be handled by specialized teams. The determination was made that only Appeals and Unauthorized Practice of Law by Non-Attorneys should continue to be handled by specialized teams. Final implementation awaiting the hiring of attorneys in the new Supervising Attorney classification. <i>(See Appendix E)</i>	Substantially Implemented
10. Establish point-of-action data entry wherever feasible. Point-of-action data entry eliminates unnecessary and inefficient hand-offs of tasks by requiring those who take an action (e.g. assignment, approval, correspondence, or contact update) to log the action into the AS400 CMS and directly transfer the file to the next assigned action participant with verbal or written comments, as needed. Training should be provided on point-of-action entry to all staff.	At its July 21, 2016 meeting, the Board of Trustees approved a proposal to enter into a contract with Tyler Technology to purchase and implement a new case management system for OCTC, the State Bar Court and the Office of Probation. Contract negotiations were finalized at the end of 2016 and implementation will commence in February, 2017.	Pending Implementation of New Case Management System
11. To improve access the Call Center should handle calls until 5:00 p.m.	Call Center hours were extended in September, 2016.	Implemented
12. The use of contract investigators should be discontinued. Current contract investigator		Implemented

OCTC		
Recommendation	Detail	Status
positions should be converted to standard FTE positions.		
13. The Bar should employ one or more certified Spanish translators. OCTC staff as well as staff of the SBC indicate that having certified Spanish translators available would enhance the attorney discipline process and assist in reducing case outcome delays.	The Bar hired a translator/interpreter in May of 2016.	Implemented
14. A single file number should be utilized on all complaint case actions to minimize confusion and simplify file references.	At its July 21, 2016 meeting, the Board of Trustees approved a proposal to enter into a contract with Tyler Technology to purchase and implement a new case management system for OCTC, the State Bar Court and the Office of Probation. Contract negotiations were finalized at the end of 2016 and implementation will commence in February, 2017.	Pending Implementation of New Case Management System
15. A secure complaint electronic portal should be developed to enable complaints and supporting documents to be filed electronically and to provide secure e-communications between OCTC staff and involved complaint case participants.	See 14, above.	Pending Implementation of New Case Management System
16. The use of approved electronic signatures should be authorized within the secure case file information exchange portal.	See 14, above.	Pending Implementation of New Case Management System
17. The new team structure should be introduced first in the San Francisco Enforcement Unit. The San Francisco Enforcement Unit is already operating without specialized prosecution divisions, due to workload volume and investigator vacancies. Taking the San Francisco experience a step further and implementing the generic enforcement team model with direct Supervising Attorney supervision on a pilot basis would provide an opportunity to test the new structure, identify any challenges that arise, and develop strategies and procedures for overcoming them.	The new team structure will allow for a more flexible allocation of work. Delaying the implementation of the team model would prevent this more flexible arrangement. Bar executive management determined that the recommendations should be implemented fully in both locations rather than delaying the implementation in Los Angeles where the majority of OCTC staff work.	Rejected

The Lawyer Assistance Program



Overview of Lawyer Assistance Program Recommendations

In contrast to OCTC, the Lawyer Assistance Program is a small unit within the Bar – seven staff – with a relatively narrow focus: providing assistance to attorneys who are struggling with problems of substance abuse and / or mental illness.

Recommendations regarding the Lawyer Assistance Program (LAP) focused on concerns related to the utilization of the program, the organizational structure of the office, and the efficacy of treatment.

As documented in the Workforce Planning Report, in recent years enrolment in the LAP declined sharply and the number of attorneys completing the program was a small fraction of the total number enrolled. Even these summary statistics on the program's utilization and efficacy were problematic due to inconsistent data tracking and unclear definitions related to operations.

To address these substantial challenges, the NCSC recommended that the LAP Oversight Committee engage in a strategic planning process. State Bar staff worked closely with members of the LAP Oversight Committee beginning in June to formulate a strategic plan. The planning process involved:

- Weekly conference calls with a subcommittee of the Oversight Committee to begin drafting the strategic plan;
- A public meeting of the full Oversight Committee to hear testimony from stakeholders. In addition to receiving testimony from respondents' counsel, members of the Other Bar, and treatment providers, the Bar invited nationally recognized experts to present findings related to substance abuse in the legal community and the efficacy of treatment models such as drug courts. Representatives of OCTC and the State Bar Court also attended to hear the presentations and provide input. The agenda for the meeting is attached as Appendix F;

- Oversight Committee meetings in September, November and December to review strategic plan language and consider alternatives.

While the work to finalize a new Strategic Plan for the LAP delayed implementation of some of the recommendations, it was possible nonetheless to begin work in areas where the direction was relatively clear. For example, to address the challenge of low enrolment in the LAP, Bar staff initiated conversations with representatives of the State Bar Court, OCTC, and respondent's counsel to discuss alternative case management paths. With the goal of improving public protection by identifying attorneys with substance abuse and mental health challenges early and directing them to treatment, a proposal is now being drafted to require a clinical assessment of all attorneys who come to the attention of OCTC as a result of a criminal conviction involving the use of a controlled substance .

And, on a parallel track, executive management of the State Bar began taking action on recommendations that were not dependent on the strategic planning process. In October, the position of Director over the LAP was eliminated and, shortly after that, the position was repurposed to create a single Director position over both LAP and the Office of Probation. The creation of a supervisory Case Manager position and supervising Probation Deputy position are both awaiting the finalization of classification and compensation recommendations and the outcome of negotiations with SEIU.

Details of the LAP Recommendations

LAP		
Recommendation	Detail	Status
1. The Bar should engage in a strategic planning process for the LAP to determine whether LAP is to be reactive, responsive, and corrective to issues faced, or proactive, by advertising services and sponsoring workshops and orientations about attorneys' stress, addiction, and mental health issues. This planning process should include an assessment of the current monitoring approach undertaken by the program, which is more administrative than clinical. Lastly, a determination regarding the target client population for the program is needed.	The Draft Strategic Plan (attached as Appendix G) identifies two main prongs of activity for the LAP: 1) education and outreach focused on law students, young attorneys and those at the end of their careers and; 2) program evaluation and ongoing program improvement using evidence-based models for the treatment of attorneys with substance abuse and mental health issues. Full implementation pending the adoption of the LAP strategic plan in March, 2017.	Substantially Implemented

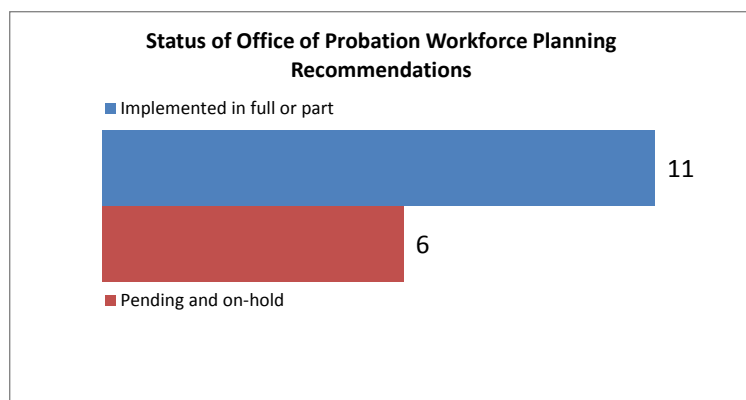
LAP		
Recommendation	Detail	Status
2. Once program purpose is established, reassess delivery model to include analysis of feasibility of contracting out LAP services. This would entail determining which functions should go to one or more contracted providers for program operations, participant oversight, ongoing monitoring, and reporting to a designated Bar manager. It would also require clear definition of which administrative and support tasks would remain within the Bar, if any. If clear performance expectations are embedded in a contract, it may make it easier for the Bar to hold contracted staff to a performance standard. A full risk assessment and review needs to occur, coupled with a cost-benefit analysis, and determination to what degree Bar executive leaders will be able to oversee work of one or more LAP contractors.	Discussions on the delivery model took place at several Oversight Committee meetings, including the public meeting to hear testimony from stakeholders. These discussions will inform the development of an operational plan that will need to be created after the finalization of the strategic plan. Full implementation pending the adoption of the LAP strategic plan in March, 2017.	Partially implemented
3. As a general matter, the NCSC recommends better coordination between LAP and the Office of Probation (OP), including:		
3A. To improve coordination, NCSC recommends that the Bar create a supervisor over LAP and a supervisor over the OP while creating a manager position that supervises both OP and LAP.	Director appointed over both LAP and OP in October 2016. Creation of Supervising Case Manager and Supervising Probation Deputy positions pending finalization of classification and compensation study.	Partially Implemented
3B. Align the work of the Office of Probation and LAP drawing on the fact that both entities deal with the supervision of attorneys who are required to comply with certain conditions imposed by the State Bar Court.	Organizational changes implemented with joint responsibilities over the OP and LAP assigned to a single Director. More work still needs to be done to integrate the work of the OP and LAP.	Partially Implemented
4. Adjust staffing based on caseload requirements.		
4A. Application of drug court staffing standards suggests that the recommended range for a Case Manager caseload is 45 to 50 cases. These caseload levels can be achieved by reducing one Case Manager position. In lieu of elimination, however, this position should be converted to a Case Manager Supervisor. The Supervisor position should be based in Los Angeles.	Full implementation pending the finalization of classification & compensation study.	Partially Implemented
4B. The size of the program does not warrant both a Supervisor and a Director; the Director position should be eliminated or re-purposed accordingly.	Former director over LAP given notice in August and terminated in October. Position was repurposed shortly after consistent with recommendation 3B.	Implemented

LAP		
Recommendation	Detail	Status
4C. In addition, one Case Manager position should be redeployed to San Francisco to address delays in serving clients in the Northern part of the state.	Caseloads in the LAP have fallen and there may not currently be sufficient workload to justify the implementation of this recommendation. Ongoing evaluation of workload will be needed to determine when sufficient caseload exists in Northern California to support a full-time case manager in San Francisco.	On Hold
5. Identify what within LAP is clinical and what is monitoring, ensuring that Case Managers perform clinical, as opposed to monitoring, activities wherever possible. If the program design does not require the current level of clinical staffing, transition away from a requirement that all Case Management staff hold clinical degrees.	Strategic plan includes a major component devoted to the on-going evaluation of program efficacy. This will be monitored by the LAP Oversight Committee on an ongoing basis. Full implementation pending the adoption of the LAP strategic plan in March 2017. <i>(See Appendix G LAP Draft Strategic Plan)</i>	Partially implemented
6. LAP should evaluate the differences in monitoring actions required for cases in various phases, and consider establishing differentiated monitoring practices. A three tiered program is specifically recommended as follows: A. Expedited LAP (or "LAP light") – a simplified and expedited program to provide information and resources for those applicants with less risk. Include initial intake and personal meeting, and referral for self-directed support, with no ongoing staff interaction. Key objective of this track: simple information provision. B. Modified LAP – a program to provide information, resources and support activities (e.g., group meetings, program referrals) with minimal LAP oversight. Key objective of this track: summary oversight. C. Monitored LAP – a program to provide the full array of LAP support and monitored functions to include ongoing group participation, testing and reporting. Key objective of this track: structured oversight and accountability by the participant. For Modified and Monitored LAP, the duration of time in the program should be identified based on assessed needs; a blanket participation period of three years should be discontinued."	A working group comprised of representatives from the State Bar Court, OCTC, and Respondents' counsel has met on three occasions to explore case management tracks, specifically to determine whether more faithful adherence to a Drug Court model would improve outcomes for attorneys who have substance abuse and / or mental health problems. In addition, this group is evaluating the question of sanctions for first-time DUIs and improving the capacity of OCTC to identify attorneys with these problems. Full implementation pending the adoption of the LAP strategic plan in March 2017. <i>(See Appendix G LAP Draft Strategic Plan)</i>	Partially Implemented
7. Combine processes and forms for LAP intake, interviews, and program plans. Move manual process to automated actions. Program administrative and clerical support functions should be evaluated to determine which are best conducted by the Case Managers, which are best	A review of clerical and clinical duties was done with staff to eliminate duplicative work. Specific process reevaluation is part of the strategic plan regarding program design and development. In addition, planning for increased reporting is currently being	Partially Implemented

LAP		
Recommendation	Detail	Status
conducted by the Program Coordinator, and which are best conducted by the Administrative Assistant.	developed and should be implementing mid next year.	
8. In addition, technological solutions are needed. For example, a quality assurance report should be developed in LAPIS in which cases with approaching or elapsed deadlines are automatically flagged for action by the Case Manager."		Pending Implementation of New Case Management System
9. A thorough review should be conducted of the use of the Evaluation Committee, to determine if it is needed as a review entity, or whether it can be eliminated, including: <ul style="list-style-type: none"> • Assessment of whether the time and preparation activity required to support it justifies its use and demonstrates a return on investment for program operations; • To what degree it performs a role of review and monitoring support for program participants; • The need to have the Committee provide a level of gravity and seriousness to approval for program participation; • The degree to which it is following clear policies and objectives; and • The level to which the Evaluation Committee has any direct ownership or responsibility for participant outcomes. 	Discussions about the Evaluation Committee took place at several Oversight Committee meetings and the draft Strategic Plan includes a major component devoted to the on-going evaluation of program efficacy. Although the Oversight Committee expressed general support for the Evaluation Committee model, it also recommended that the use of the Committee be evaluated along with the overall review of program delivery. Full implementation pending the adoption of the LAP strategic plan in March, 2017. <i>(See Appendix G LAP Draft Strategic Plan)</i>	Partially implemented
10. Data on the number of Evaluation Committee meetings held and the number of cases heard at each meeting should be tabulated and published along with the number of cases with sufficient information for program conclusion and the number of cases in which the Evaluation Committee requested or required further action by a) the program participant, b) the Case Manager, or c) some other requested follow up.	Full implementation pending the adoption of the LAP strategic plan in March 2017.	Partially Implemented
11. Data Collection and Reporting. 11A. Specific case issues should be tracked, including the reasons for referral (substance, mental health, crisis), the numbers of incoming calls to the LAP phone lines, the sources of referral to LAP (voluntary-Bar member, voluntary-Bar applicants, SBC	Preliminary evaluation of recidivism of Probationers conducted which includes subset of probationers who are enrolled in the Alternative Discipline Program (ADP) / LAP. Strategic plan includes a major component devoted to the on-going evaluation of program efficacy. This will be monitored by	Partially implemented

LAP		
Recommendation	Detail	Status
<p>ordered, CBX referred) senior or elder lawyer needs, needs by active/inactive/suspended status, and the number of cases assigned to each case manager and to any contract case management staff, as well as any additional categories related to client needs identified by staff.</p> <p>11B. Performance targets for task completion should be developed (e.g., case manager return call to applicant within one hour, conduct of face-to-face intake meeting within one week, referral to weekly support meeting with participant attendance within one week of intake meeting).</p> <p>11C. Information on outreach activities should be documented and published (e.g., presentations and briefings for parties external to the Bar) to include the number of events, the audiences, and the nature of inquiries and topics discussed."</p>	<p>the LAP Oversight Committee on an ongoing basis.</p> <p><i>(See Appendix G, LAP Draft Strategic Plan)</i></p>	
<p>12. Improve payment compliance. Attentiveness to financial assistance program payment compliance should be increased through a quality assurance program to run reports on cases either coming due or with upcoming payment deadlines.</p>	<p>Analysis of LAP debt has been conducted concurrent with work that the Bar is doing to improve payment compliance on reimbursement to the Client Security Fund and Court-ordered obligations of respondents.</p> <p>The confidentiality of the LAP makes it impossible to treat this debt in the same manner as other debt obligations (for example, placing liens on property). Staff will continue to evaluate the options for recovery of debt owed to the Bar through the LAP.</p>	<p>Partially Implemented</p>

Office of Probation



Overview of Office of Probation Recommendations

With seven full-time equivalent staff, the Office of Probation (OP) is also a relatively small unit within the State Bar. The OP operates, primarily, to monitor the compliance of attorneys with conditions that have been placed on them as a result of discipline imposed by the State Bar Court. Recommendations related to the OP focused on excessively high caseloads of Probation Deputies, a number of technology related initiatives, and the lack of coordination with the LAP.

To address the high caseloads carried by Probation Deputies, the Workforce Planning Report recommended the reallocation of some cases to OCTC and called into question the purpose of monitoring another category of cases:

- a relatively small segment of the Probation Deputies' caseload, Agreements in Lieu of Discipline, could be more effectively supervised in OCTC;
- a large and growing segment of the Probation Deputies' caseload – voluntary resignations under rule 9.20 – were being monitored for no clear reason related to public protection. Instead, because of the procedural sequence in which the Supreme Court approves voluntary resignations without pending discipline, a large number of cases were added to the caseloads of Probation Deputies awaiting compliance with the final conditions of Rule 9.20. The Workforce Planning recommendations proposed that attorneys who resign without any pending discipline complete certain steps *prior* to getting Supreme Court approval of their resignation. This would prevent these cases from ever coming onto the caseload of Probation Deputies.

As with most of the other IT related recommendations contained in the Workforce Planning Report, those that affect the OP will require the deployment of the new case management system recently purchased for OCTC, the State Bar Court and the OP.

Finally, the lack of coordination with the LAP has been addressed organizationally by placing the OP and LAP under the same Director. It's unlikely, however, that the benefits of combining these units will be realized right away. While the Workforce Planning report identified clear similarities in the functions performed by the OP and the LAP, the general orientation of Probation Deputies in the OP

and Case Managers in the LAP is significantly different. The two units have very different cultures and view their duties differently. For the merger of the two units to be successful, there will need to be a clearly defined division of labor between the two groups and a shift in the cultural orientation of both groups.

Details of the Office of Probation Recommendations

Probation		
Recommendation	Detail	Status
1. Generally - In order to increase time for staff to monitor compliance with probation conditions, particularly in complex cases, or cases in which specific respondents require a higher level of monitoring, the Bar should reduce the overall number of cases subject to monitoring. Taking the following steps will assist in reducing caseload numbers:		
1A. Eliminate the requirement to monitor attorneys whose resignations have been approved by the California Supreme Court. Once resigned from the Bar, a former attorney is no longer allowed to practice law. Should an attorney request reinstatement, any pending disciplinary action at the time of resignation should be reviewed.	The State Bar submitted a memo to the Supreme Court on December 1, 2016 requesting a change to the resignation form incorporating these changes. The court approved the changes and now the matter will go before the Board of Trustees for approval in January. Final replacement of form scheduled for March 1, 2017. See Appendix H – Memo to Supreme Court.	Implemented
1B. Eliminate the requirement to monitor compliance with agreements for attorneys who do not have pending disciplinary charges. Monitoring the conduct of attorneys who are not subject to probation conditions should not be a responsibility of the OP.	Responsibility for monitoring Agreements in Lieu of Discipline transferred to OCTC in September 2016.	Implemented
1C. Assign a level of seriousness to each case (e.g. low-level discipline, mid-level discipline, complex high-level discipline) and align the amount and time of monitoring with that level. By devoting less monitoring time to lower level discipline cases, more time will be available to monitor more complex and serious cases. Monitoring levels should correspond with the level discipline imposed by the SBC.	Probation conditions are ordered by the State Bar Court and therefore changes to these conditions must be made by the Court. The Court created a Probation Conditions Committee to evaluate current terms of probation and consider possible modifications. The Committee is chaired by a State Bar Court Judge and is currently meeting with interested parties to update the terms of probation conditions. Additionally, the Rules of Procedure of the State Bar of California are being reviewed for possible amendments and updating.	Partially Implemented

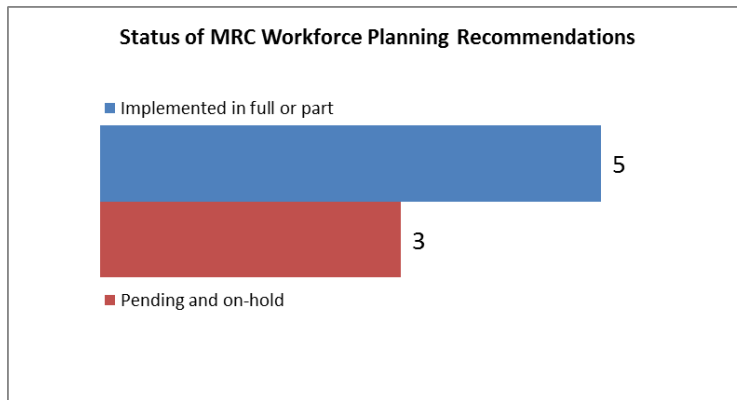
Probation		
Recommendation	Detail	Status
<p>1D. Develop a monitoring compliance policy that allows for reduced monitoring based on compliance success. As a recognized evidence-based business practice, probation departments often use a reduction in the need to provide compliance reports and compliance proof as an incentive for consistent successful compliance. In addition to these steps to reduce caseloads, the OP should transition to a process where case assignments are based on level of seriousness of the case and the corresponding level of monitoring required. Equalizing the assignment of complex cases or cases involving recalcitrant respondents would assist PDs in managing other case monitoring tasks, and may allow them to begin actual field-work, as appropriate. Knowing the number of complex type cases could also lead to consideration of other assignment options as currently being recommended for the LAP.</p>	<p>Probation conditions are ordered by the State Bar Court and therefore changes to these conditions must be made by the Court. The Court created a Probation Conditions Committee to evaluate current terms of probation and consider possible modifications. The Committee is chaired by a State Bar Court Judge and is currently meeting with interested parties to update the terms of probation conditions. Additionally, the Rules of Procedure of the State Bar of California are being reviewed for possible amendments and updating.</p>	<p>Partially Implemented</p>
<p>2. Generally: Increase the use of technology in the daily use of electronic records and the need to correspond with respondents. In particular:</p>		
<p>2A. The CMS should be upgraded to better support the services of OP and its staff. Use of an updated CMS will provide electronic access to increased information beneficial in creating metric and workload reports. Business decisions can be evidence-based through the convenient use of electronic records tracking. Case assignments could be automated ensuring an equalized assignment of a variety of cases.</p>	<p>The State Bar recently signed a contract with Tyler Technologies to implement a new case management system for the Office of Chief Trial Counsel and Probation. Implementation of the new CMS will be completed in 2018.</p>	<p>Pending Implementation of New Case Management System</p>
<p>2B. An electronic monitoring portal, through which respondents and PDs can communicate in a secure electronic environment, should be developed. Having such a communication tool would allow important correspondence to quickly pass between respondent and PD. Lengthy reports could be electronically sent, stored, and easily reviewed as an electronic probation record. Reminder notices and questions related to proof of compliance would be provided and addressed in a timely manner. The portal can be developed as part of the upgraded CMS.</p>	<p>The State Bar recently signed a contract with Tyler Technologies to implement a new case management system for the Office of Chief Trial Counsel and Probation. Implementation of the new CMS will be completed in 2018.</p>	<p>Pending Implementation of New Case Management System</p>

Probation		
Recommendation	Detail	Status
2C. An online or portal capacity, through which treatment and continuing education providers can electronically report the participation of respondents, should be developed. Utilizing this portal, service providers could be asked to efficiently provide proof of compliance, thereby reducing the time and need for contact by a PD questioning compliance. Electronic compliance histories could be established and archived for possible future use, if required.	The State Bar recently signed a contract with Tyler Technologies to implement a new case management system for the Office of Chief Trial Counsel and Probation. Implementation of the new CMS will be completed in 2018.	Pending Implementation of New Case Management System
2D. The use of social media should be tested to remind respondents of the need to comply or provide report information.	The recommendation was unclear as written and appears to have confused “social media” with other forms of electronic communication – such as text messaging, e-mailing, etc. Probation Deputies already notify the participants via email and will explore alternative communication technology.	Implemented
2E. Paper PO records and case files should be converted to electronic records and files as soon as possible. Modern records management practices are best achieved through the use of electronic case files. Access is quicker, easily updated, and much easier to store.	The State Bar recently signed a contract with Tyler Technologies to implement a new case management system for the Office of Chief Trial Counsel and Probation. Implementation of the new CMS will be completed in 2018.	Pending Implementation of New Case Management System
3. OP staff should be provided electronic monitoring and investigation access to court records, OCTC investigation records, and people-finding software. Having this level of access will reduce monitoring time that is often spent in records searches or investigation efforts to obtain information readily available through other Bar resources and online programs.	The impetus for this recommendation was the need to improve the processing of restitution payments to victims. In conversations with Probation Deputies it was determined that in many cases direct communication – even for purposes of paying victim restitution – between an attorney and that attorney’s victim is counter-productive. As a result, the Bar has determined that the most effective approach to this problem would be for the respondent attorneys to make restitution payments to the Bar, with the Bar making payments to victims on behalf of these attorneys. Staff have completed their preliminary evaluation of the issue and are developing an implementation plan to standardize the capture of data on restitution owed by probationers and extract that data for purposes of improving compliance with restitution orders.	Partially Implemented
4. Discussions with the SBC should be held to determine how best to share information needed by either SBC or the OP. Whenever possible, the easiest way to share information is through	A review of information access with the departments and information technology was performed to determine if employee’s access to information systems was sufficient	Partially Implemented

Probation		
Recommendation	Detail	Status
electronic access and electronic communicate. Discussions with the SBC involving the use of such methods of sharing information would be mutually beneficial.	to perform his or her job duties. As a result of this review some access was changed. Some further changes will require the implementation of a new case management system.	
5. The OP SA position should be converted to a Supervising Probation Deputy. The current SA position should be reassigned to an OCTC intake or enforcement team.	This is part of a larger Bar wide initiative on classification and compensation. Currently there are ongoing negotiations with union representatives and implementation is tentatively scheduled for the first half of 2017.	Pending
6. In conjunction with management recommendation in the LAP section, a manager position should be established with the responsibility for managing both OP and LAP. Management duties shared between the two departments would result in personnel savings as well as efficiencies of scale in high level oversight of compliance monitoring. Probation conditions may include active participation in LAP sponsored programs and treatment services more opportunities to have a form of centralized monitoring.	A manager over the Office of Probation and the LAP was hired in October of 2016.	Implemented
7. Tracking the amount of restitution paid to CWs through the efforts of the OP will help measure the benefit of monitoring. Restitution payments are extremely important to the victims of disciplined attorneys. Knowing the impact of monitoring payments would be beneficial when considering if improved monitoring techniques are needed.	The Bar's Office of the General Counsel is reviewing legal requirements for the creation of a Probation Restitution Trust Fund. ORIA is conducting cost analysis and developing business process for implementation. The impetus for this recommendation was the need to improve the processing of restitution payments to victims. In conversations with Probation Deputies it was determined that in many cases direct communication – even for purposes of paying victim restitution – between an attorney and that attorney's victim is counter-productive. As a result, the Bar has determined that the most effective approach to this problem would be for the respondent attorneys to make restitution payments to the Bar, with the Bar making payments to victims on behalf of these attorneys in turn.	Partially Implemented
8. Survey respondents to determine how monitoring practices could be more beneficial to respondents and CWs. Though it may appear antithetical in concept, knowing what respondent attorneys think of OP's monitoring process may lead to improved relations and improved processes.	Survey is under development and is scheduled to be implemented first quarter of 2017.	Partially Implemented

Probation		
Recommendation	Detail	Status
9. Track recidivism rates of past respondents to help determine if more effective monitoring methods can be developed.	Preliminary evaluation of recidivism of Probationers conducted. On-going data collection and reporting to the leadership of OP to be established in 2017.	Implemented
10. PDs should be provided with subpoena authority in order to timely obtain records validating compliance.	The recommendation was made with the intent that the Probation Deputy has all the tools at his or her disposal to obtain the necessary information to do their job. The burden of proof is on the respondents to show that they have complied with the specific terms of probation. OCTC has subpoena powers and could issue one on the uncommon circumstance that one would be needed.	On Hold

Member Records and Compliance



Overview of Member Records & Compliance Recommendations

The Office of Member Records and Compliance (MRC) has 26 full time staff who maintain the official list of all attorneys who are licensed to practice law in California. In addition, MRC manages the registration of law corporations and limited liability partnerships, and ensures mandatory continuing legal education compliance.

Unlike the major structural changes proposed for the OCTC, the Office of Probation and LAP, recommendations regarding MRC were generally modest. The Workforce Planning Report pointed to relatively small, incremental changes designed to make the office function more efficiently. With the exception of the proposal for a significant information technology initiative, MRC recommendations focused on opening up access to data, reorganizing specific functions to reduce the number of hand-offs, and improving the coordination of workflow.

Absent the additional steps presented by large-scale organizational change or involvement of multiple stakeholders, lead implementation staff were able to work directly with MRC leadership to implement all but three of the recommendations. The recommendations that remained unimplemented at the end of 2016 involved technology and legal review. The technology related recommendations involve a recommendations the design, development and implementation of a web portal that would allow providers of Continuing Legal Education (CLE) to upload information on courses taken by attorneys and the integration of data across the Bar that affects a member's status. The legal review requires somewhat detailed evaluation of confidentiality issues across the Bar and the drafting of clear guidelines regarding information sharing.

The intention in creating a web portal is to move to 100% validation of attorney compliance with CLE requirements. Currently, MRC pulls a 10% random sample of attorneys and audits their records to validate compliance with CLE requirements. If the Bar required certified CLE providers to upload information on all courses taken by licensed attorneys in California and then linked this data to existing records on members, it would be possible to detect all non-compliance.

Working with Bar IT staff, lead implementation staff began developing the system requirements necessary to build a web portal. Lead implementation staff:

- Held meetings with CLE providers to get information on what challenges they might face in uploading data through a web portal;
- Compiled the information and evaluated the differences in capacity between large and small CLE providers;
- Assigned the Bar's IT staff to develop initial technical specifications for a web portal and evaluate alternative development methods;
- Surveyed other states that require CLE providers to submit information on training regarding how this process works.

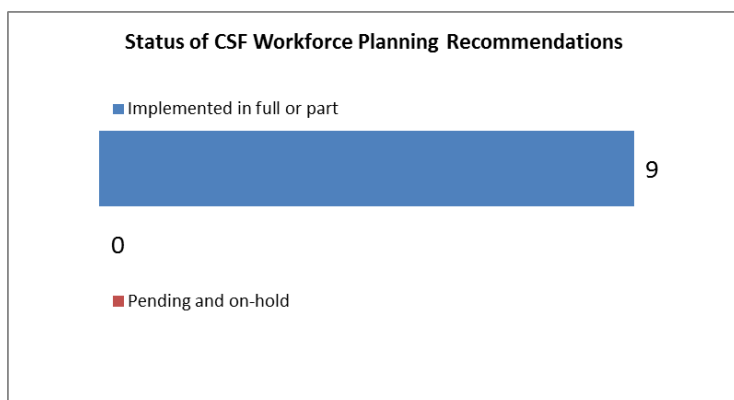
Details of the MRC Recommendations

MRC		
Recommendation	Detail	Status
1. Require approved providers of Continuing Legal Education to electronically certify satisfactory completion of a course or educational program. This change will dramatically decrease the time needed to record and audit MCLE compliance.	Held meetings for MCLE providers in Los Angeles and San Francisco to solicit public comment. Began the Development of new system requirements with IT. Compiled contact listing of other 44 states who manage a CLE program for attorneys. Analyzed detail survey responses from 25 participating state program managers to apply to new development efforts. <i>(See Appendix I, Public Comment summary, Research Roster, IT System Schematic, Survey Results</i>	Pending
2. MRC should send files to the Intake Unit electronically. This change will reduce time used to refer matters for further investigation.	All files are now scanned and sent to OCTC electronically.	Implemented
3. Provide MRC with authority and direction to access AS 400 data in the Office of the Chief Trial Counsel and other departments, and provide training to MRC staff on how to read and interpret the data on the AS400. This change, in addition to vesting responsibility for tracking reinstatement eligibility with a new SBC administrative position, will reduce the time that MRC staff spends contacting other departments and units to obtain information on the status of	Originally conceived as a need for MRC to be able to reduce time needed to confirm whether probationary conditions of disciplinary reinstatement were met prior to reinstatement. The original implementation plan was to create a new SBC position to be trained to track reinstatement eligibility; however, the Court found this recommendation to be problematic due to conflict concerns. The alternative solution was to authorize Probation to be responsible for providing SBC timely probation condition status for reinstatements if there is an "and until" condition being monitored, e.g. restitution, notifying SBC when the condition has been completed.	Implemented

MRC		
Recommendation	Detail	Status
disciplinary complaints so that MRC can issue timely Certificates of Standing and reinstatements.		
4. Once system access is provided to MRC staff, the practice of sending packets to OCTC's Intake Unit for investigation and preparation of verified Certificates of Standing should cease; MRC staff should assume this responsibility.	MRC staff trained by OCT to interpret complaint information and prepare all Certificates of Standing, including those with Complaint Check. Transfer of responsibility completed and operational, but data reporting process being streamlined for more efficient response time. <i>(See Appendix J, Sample Certificates with Complaint Check Processing Instructions)</i>	Implemented
5. Implement a policy or, if necessary, promulgate a rule, clarifying that attorneys should be notified of closed complaints and outlining when such complaints may be purged from the OCTC file.	Lead implementation staff sought a legal opinion from the Office of the General Counsel to determine the best course of action on this recommendation. The notification of attorneys that complaints had been made against them raised concerns about the confidentiality of the complaining witness; especially when the complaint was closed at the Inquiry phase of OCTC. The matter was explored further and taken up by the Board to determine the best course of action. In the deliberation by the Board, it was determined that these complaints closed at the Inquiry phase are not, technically, complaints and so should not be included on the complaint checks at all. For a full discussion of the matter, see Appendix K. <i>(See Appendix K Board Agenda Item)</i>	Implemented (Achieved by other means)
6. Implement a policy or, if necessary, promulgate a rule regarding who has authority to reinstate an attorney's license. This change will reduce delays in attorney reinstatement.	MRC and SBC confirmed clear lines of authority between discipline-related and administrative-related reinstatement categories. Documented the individual roles of each of the participants involved in the attorney reinstatement process, with the determination that MRC has the final administrative authority to reinstate a member to active status. Documented steps in the reinstatement process. Thorough review of access and procedures determined that there is a very low volume of reinstatements, and that MRC can easily get access to the information that it needs to implement reinstatements. Flagged for additional automation via a centralized conditions page configured within the new CMS platform.	Implemented
7. Upon implementation of a new case management system, require OCTC, the SBC, OP and CSF to electronically notify MRC	The State Bar recently signed a contract with Tyler Technologies to implement a new case management system for the Office of Chief Trial Counsel and Probation. Implementation of the new CMS will be	Pending Implementation of New Case Management

MRC		
Recommendation	Detail	Status
<p>of every action that impacts the attorney's disciplinary status, including when a complaint is forwarded to the Enforcement Unit, and when it is filed in the SBC. The notification should automatically be sent when an entry is made in the department and it should automatically populate the attorney's electronic MRC file, which should capture:</p> <ul style="list-style-type: none"> • All continuing education courses completed • All complaints filed with OCTC and the status of that complaint • All cases filed with the SBC and the status of the case • All probation conditions and their status • All CSF applications filed and their status" 	completed in 2018.	System
<p>8. All persons within the Bar who need access to the attorney file in order to fulfill their job responsibilities should have access to the attorney's MRC file. The public should not have access to any information in the MRC file that it does not currently have.</p>	<p>A review of information access with the departments and information technology was performed to determine if employee's access to information systems was sufficient to perform his or her job duties. As a result of this review some access was changed. Some further changes will require the implementation of a new case management system.</p>	Pending Legal Review

Client Security Fund



Overview of Client Security Fund Recommendations

With a staff of eight, the Client Security Fund is an important department within the Bar charged with reimbursing victims of attorney theft. CSF staff receive applications for reimbursement from clients who claim that they have been victimized by an attorney. CSF staff review the victim's application for reimbursement and, working with the CSF Commission, determine eligibility for claims made to the fund.

Similar to the recommendations for Member Records and Compliance, the Workforce Planning recommendations related to the Client Security Fund (CSF) were narrowly tailored. The recommendations focused primarily on streamlining operations and improving the organization of the workflow, none of which involved large-scale organizational change.

Additional CSF recommendations focused on the utilization of technology to improve communication with applicants to the CSF, better track cases and their status, and reduce the amount of printing that is done in preparation for CSF Committee meetings. Unlike many of the technology-related recommendations in other departments, it was possible to implement many of the CSF technology recommendations with existing tools and by incremental modifications to existing systems.

Details of the CSF Recommendations

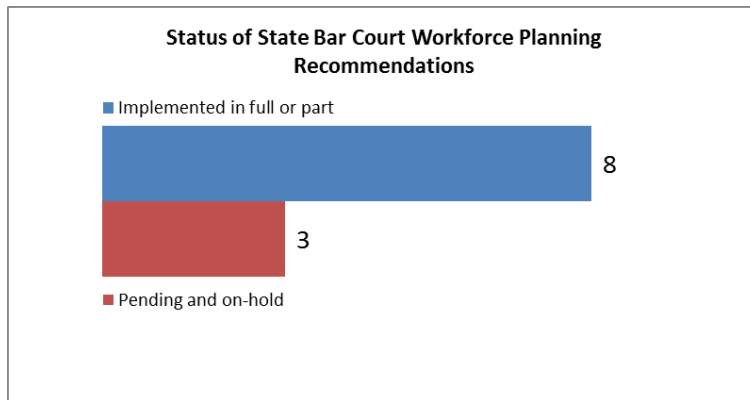
CSF		
Recommendation	Detail	Status
1. Use one vacant CSF FTE or a portion of to support the creation of an administrative support position for the State Bar Court Presiding Judge. In addition to supporting the Presiding Judge, this position	Originally conceived as one of the new functions (along with probationary conditions tracking for MRC) to be transferred to new SBC position, when that approach was determined to not be viable, an alternative solution was identified. CSF now receives notices of final discipline via email notifications directly from Supreme Court (in addition to SBC report for cases that	Partially Implemented

CSF		
Recommendation	Detail	Status
will be responsible for notifying CSF of final discipline.	do not go through Supreme Court). Notifications for respondent attorney cases closed with no action taken to be implemented within new CMS. <i>(See Appendix L, Sample Supreme Court Email Notification, State Bar Court Report (redacted))</i>	
2. A protocol for ongoing email interaction from CSF to and from applicants should be established. This could be managed to ensure that each applicant had an established email account and CSF approved access with CSF staff for email use, and a secured method of contact. Email should be used to begin providing proactive applicant notification of the status of discipline cases and applications throughout the life of the case, to ensure that applicants are kept informed, improve customer service, and reduce applicant status check calls.	Email fields added to system and solicited from applicants. A Business Intelligence tool used by staff in CSF, Cognos, was used to create reports to track proactive notifications of status. All active cases have been notified for 2016 and starting in January 2017, all applicants will be notified twice each year of the status of their CSF applications for the life of the pending case(s). <i>(See Appendix M, Sample notification Letter, Notification Status Report(s))</i>	Implemented
3. The current “pending drawer” manual process of holding cases awaiting discipline outcomes should become an electronic file and listing. Prior to that happening, all open CSF cases should be maintained or stored in a single location, whether awaiting discipline, currently in the investigation stage or awaiting CSFC review and approval. Making this change will reduce time maintaining and locating paper files.	Current paper files have been moved to a central location until electronic document storage is available. Changes to electronic document storage to be implemented with new CMS platform.	Implemented
4. The current manually-maintained spreadsheet of pending and awaiting cases should be migrated to an automated database with links to data from OCTC.	Cognos used to automatically update spreadsheet from AS400 data into a more readable/user friendly format. OCTC AS400 files for pending and awaiting cases are the master data source, with spreadsheets used for reporting and calculations only.	Implemented
5. CSF staff should be given access to the OCTC CMS and files for investigation and documentation purposes.	CSF staff currently has access to necessary OCTC data and files. Future access to data pending implementation of new CMS.	Implemented

CSF		
Recommendation	Detail	Status
6. Evaluate the current vacancy in the Records Coordinator position to determine if the tasks can be absorbed by the Administrative Assistant and the Administrative Secretary. Review of this position should be coupled with targeted task simplification, crosstraining, and redundancy elimination.	This review was completed and it was determined that the vacant position does not need to be filled	Implemented
<p>7. Create and publish more detailed reports on pending cases, including:</p> <ul style="list-style-type: none"> • The number of CSF applications pending awaiting disciplinary action by OCTC and/or by the SBC; • The length of time a case is in the system. Goals/objectives for each stage of the process should be established and compliance with those goals measured, including: <ul style="list-style-type: none"> o Time from filing of the application to completion of initial screening; o Time from initial screening to a determination by CSF whether to send a closing letter and the number and percentage of applications closed by a closing letter; o Time from filing an application to Notice of Intent to Pay Letter sent to respondent and the number of Intent to Pay Letters sent; o Time from filing an application to tentative case decision made by the CSF Commission; and o Total time from the filing of an application to closure by the CSF Commission." 	<p>Jurisdiction date information has been added to new tracking field for all cases where discipline has been established. New reports developed to track cases volumes, pending/processing times, percentages by processing method, letters sent and the total time spent from the filing of an application to closure by the CSF Commission. Status reports to be provided to the board annually or as requested otherwise. (See Appendix N, Sample Tracking Report)</p>	Implemented
8. Assess the benefit and timing of proposing an increase in the CSF fee that is assessed as part of annual member fees. Small incremental increases (e.g., increasing from the current \$40 to \$42) could assist. Interviews	Benefits of an increase in the CSF fee have been identified and a request for an increase was included in the Bar's Supplemental Petition to the Supreme Court for 2017 fee authorization. The Bar will likely pursue an increase as part of the 2018 fee bill process.	Implemented

CSF		
Recommendation	Detail	Status
indicated that the Bar has already begun consideration of using funding reserves from another area (LAP) to underwrite CSF payment needs.		
9. Establish a process whereby data is exported from the AS400 for CSFC meeting preparation and document information. This will eliminate manual steps in the transmission of files and documents.	Scanning of documents has been implemented, with the development of Microsoft's One-Drive solution readied for February 2017 Commission document distribution. <i>(See Appendix O, Screen shots of one-Drive, User's Manual for Commission)</i>	Implemented

State Bar Court



Overview of State Bar Court Recommendations

California is the only state in the nation with independent professional judges dedicated to ruling on attorney discipline cases. OCTC investigates complaints of attorney misconduct and, if it determines that an attorney's actions involve probable misconduct, formal charges are filed with the State Bar Court (SBC).

The independent SBC hears the charges and has the power to recommend that the California Supreme Court suspend or disbar attorneys found to have committed acts of professional misconduct or convicted of serious crimes. For lesser offenses, public or private reprovosals may be issued by the Court. The SBC can also temporarily remove lawyers from the practice of law when they are deemed to pose a substantial threat of harm to clients or the public.

To protect the independence of the State Bar Court, the implementation of Workforce Planning recommendations related to the Court was managed directly by State Bar Court leadership.

Details of the State Bar Court Recommendations

State Bar Court		
Recommendation	Detail	Status
1. RECOMMENDATION: Manual ticklers and tickers used outside of the case management system should be identified and then automated within the existing operating system.	All ticklers in the Review Department have been identified and are currently automated within the existing CMS operating system.	Implemented
2. RECOMMENDATION: The Review Department judges and supervisor should review the drafting process to determine whether each step is needed to	On November 29, 2016, the Presiding Judge held a joint meeting with the review judges, the Court Administrator, and all members of the Review Department (including attorneys and staff) to address this recommendation. The attendees reviewed the	Implemented

State Bar Court		
Recommendation	Detail	Status
ensure the accuracy, clarity, and quality of each opinion.	drafting process and made changes to shorten the opinion processing time without sacrificing the accuracy, clarity and quality of each opinion. Additionally, the Presiding Judge, Court Administrator, Chief Assistant Court Counsel, and administrative staff hold weekly meetings to track cases in the review department with the goal of timely filing each case and, preferably, filing cases at the earliest possible date within the CPS timeline.	
3. RECOMMENDATION: The Presiding judge should have dedicated administrative support staff, reallocated from within the SBC or Bar. The job title and responsibilities should be determined using the latest job and classification study results.	A dedicated Judicial Assistant to the Presiding Judge began employment with the SBC on October 11, 2016. In addition to providing direct support to the Presiding Judge, the Judicial Assistant also performs many tasks related to the discipline functions of the SBC.	Implemented
4. RECOMMENDATION: The Presiding Judge's new administrative staff should be given responsibility for monitoring suspended attorneys' eligibility for reinstatement and notifying MRC of eligibility when it occurs, as well as notifying CSF of final discipline orders received from the Supreme Court.	Although the SBC initially agreed with this recommendation, it has concluded that having a SBC staff member perform duties in other SB departments creates an unacceptable conflict of interest. Instead, after examining what the recommendation attempts to achieve, the SBC suggests an alternate method – that it generate a bi-weekly case disposition report, which can be transmitted to MRC and CSF. The SBC notes, however, that the Supreme Court's email notification system is the best source of timely information as to when the Supreme Court acts on a SBC recommendation for discipline for a respondent.	Implemented by Other Means See CSF Recommendation 1
5. RECOMMENDATION: The new case management system should provide all appropriate users access. Until the new system is implemented, scanned court files should be made available to staff in both court locations.	Staff has fully implemented a system which makes scanned review files available in both locations.	Implemented
6. RECOMMENDATION: The Justice Management Institute (JMI) Delphi-based case-weight metric using current filings should be used to indicate the level of administrative staffing needed in the SBC. If this Delphi-based metric is not considered valid, then a full weighted caseload study	An evaluation of the State Bar Court's staffing levels was conducted using the caseweights established by JMI. That evaluation included a review of the methodology for creating the caseweights and determined that a new workload study should be conducted. Staff in the Office of Research and Institutional Accountability (ORIA) will launch a workload study in the spring of 2017.	Implemented

State Bar Court		
Recommendation	Detail	Status
should be undertaken.		
7. RECOMMENDATION: One person should be designated as the Court Administrator.	The SBC initially questioned these recommendations due to employment and legal concerns. To that end, the SBC has requested a formal legal opinion from the OGC with respect to the proposed “special projects position.” Further, given that the “subordinate supervisor” position is subject to the SB’s collective bargaining agreement with the Union, the SBC has been unable to effectuate this component of the personnel recommendations. The SBC cannot provide meaningful comment or take action on this recommendation until it receives information with respect to the legal, employment, and Union issues.	Pending Legal Review
8. RECOMMENDATION: One Court Administrator position should be re-designated as a special projects position.	See number 7, above	Pending Legal Review
9. RECOMMENDATION: Assuming that application of the JMI analysis identifies that fewer administrative staff are needed in the SBC one or more of these positions should be redesignated as a subordinate supervisor reporting to the Court Administrator, reducing the number of direct reports for the Court Administrator.		Pending reevaluation of caseload standards
10. RECOMMENDATION: The responsibility for publishing the State Bar Court Reporter, Rules of Procedure, and Rules of Practice should be transferred to General Services.	The SBC will transfer the printing and distribution process to General Services when the next editions of these publications are distributed.	Substantially Implemented
11. RECOMMENDATION: The duties of the Court Systems Analyst position should be changed to providing administrative support for the unit.	SBC has begun the process of determining the level of administrative support needed for this position.	Partially Implemented

APPENDIX A



State of California

BUSINESS AND PROFESSIONS CODE

Section 6140.16

6140.16. (a) To align its staffing with its mission to protect the public as provided in Section 6001.1 and to provide guidance to the State Bar and the Legislature in allocating resources, the State Bar shall develop and implement a workforce plan for its discipline system and conduct a public sector compensation and benefits study. The workforce plan and compensation study shall be used to reassess the numbers and classifications of staff required to conduct the activities of the State Bar's disciplinary activities.

(b) The workforce planning shall include the development and recommendation 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.

(c) In addition to the requirements in subdivisions (a) and (b), the State Bar shall conduct a thorough analysis of its priorities and necessary operating costs and develop a spending plan, which includes its fund balances, to determine a reasonable amount for the annual membership fee that reflects its actual or known costs and those to implement its workforce plan.

(d) The State Bar shall submit a report on its workforce plan and spending plan to the Legislature by May 15, 2016, so that the plans can be reviewed in conjunction with the bill that would authorize the imposition of the State Bar's membership fee. The report shall be submitted in compliance with Section 9795 of the Government Code. The State Bar shall complete and implement its workforce plan by December 31, 2016.

(Repealed and added by Stats. 2015, Ch. 537, Sec. 14. (SB 387) Effective January 1, 2016.)

APPENDIX B

Workforce Planning Implementation Committee
August 12, 2016

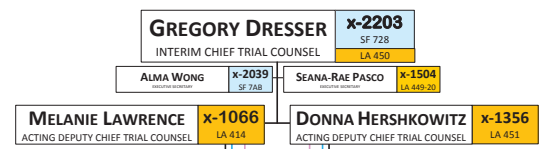
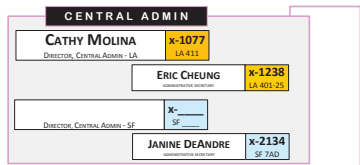
The following summarizes the recommendations regarding Training

1. There should be a separate Training Unit / Training Team to ensure necessary and appropriate training is available for and provided to Attorneys, Investigators, Paralegals, and Support Staff
2. Composition of the Training Unit / Training Team
 - a. The role and the composition of the Training Unit / Team will be different than it is currently.
 - b. New DTCs will no longer be assigned to the Training Unit/Team, but to the Enforcement or Intake teams on which they will be placed.
 - c. The Training Unit / Team will be staffed full time with a Senior Attorney (responsible for duties in 3, below, as it relates to Attorneys, Investigators, and maybe also Paralegals)
 - d. The Training Unit/Team will be staffed full time with a Senior Administrative Assistant (responsible for duties in 3, below, as it relates to non-Attorney, non-Investigator staff)
 - e. The Training Unit / Team will be staffed full time with one clerical support position (to assist with coordination, organization, maintenance of calendar, etc.)
 - f. The Training Unit / Team may require a full time Investigator be assigned for the initial ramp up period
 - g. The Training Unit / Team will report directly to an ACTC.
3. Responsibilities of the Training Unit / Team
 - a. Responsible for training / coordinating training for all staff; not limited to DTCs
 - b. Types of training
 - i. New staff training
 - ii. Continuing Education (training for existing staff, including “refresher” training, training on new rules, statutes, case law, policies, and procedures, training for professional development / growth, training needed to ensure consistency and uniformity across OCTC.
 - iii. Cross training / operation of a Training & Development program
 - iv. Oversee presentations by OCTC to outside entities and individuals (coordinate materials and speakers)
 - v. Oversee Ethics and CTA School (coordinate sign-ups, grading, materials, and presenters)

- c. The Training Unit / Team will also be responsible for the hiring of law clerks, if OCTC elects to bring in law clerks
 - d. Level of Involvement
 - i. Developing training plans
 - ii. Developing training curricula
 - iii. Delivering training (as appropriate)
 - iv. Identifying others, inside OCTC or the State Bar, or outside, to deliver training
 - v. Developing and Coordinating training materials (including policy and procedure manuals)
 - vi. Coordinating training delivery
 - vii. Development of training manuals for all classifications
 - viii. Communication regarding changes in office policy, procedure, approach to certain case-related issues, etc.
4. Role of the ACTC
- a. Direct supervisions of the Training Unit / Team
 - b. Review and calibration of all stipulations and decisions
 - c. Ensure training staff include issues arising from the calibration activities related to consistency and compliance with office policy
 - d. Update Stipulation Manual
 - e. Develop charging guidelines / manual; develop a system for cataloging discipline recommendations issued by the review department (based on allegations, numbers of priors, specific fact patterns, etc.)
 - f. Regular communication with OCTC regarding the issues identified through the calibration process.
 - g. Ensure distribution of stipulations to all attorneys; ensure stipulations are posted in a way that they are searchable
 - h. Regular communication with OCTC regarding appellate issues – including cases in which we are seeking review and arguments being advanced by the appellate team
 - i. Develop internal audit process to ensure teams are complying with office policy

APPENDIX C

APPENDIX C

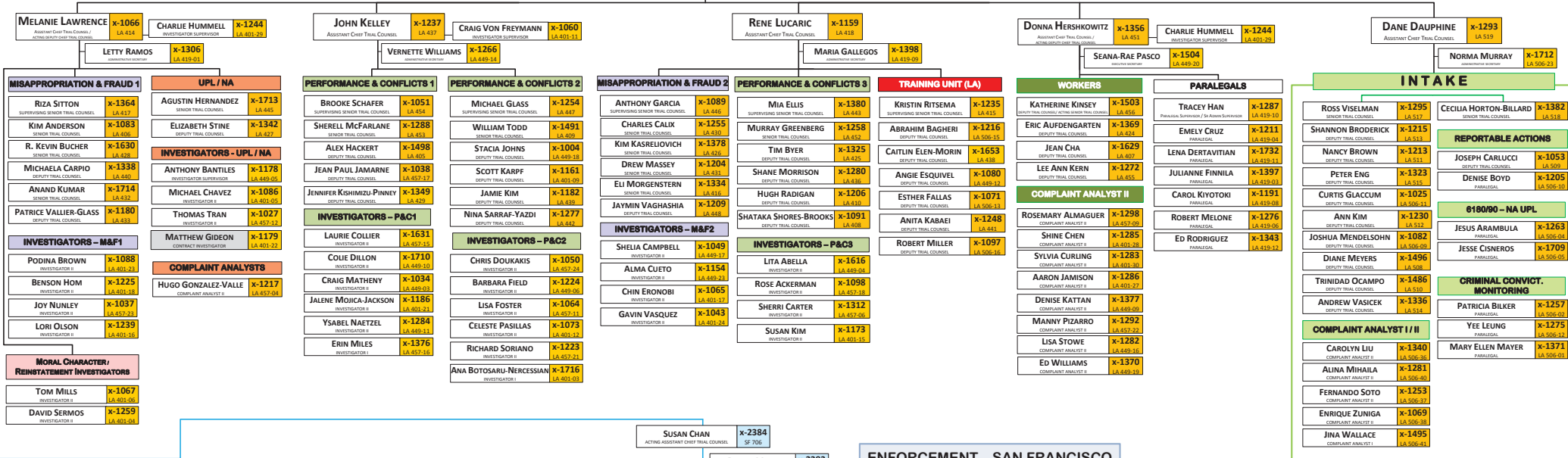


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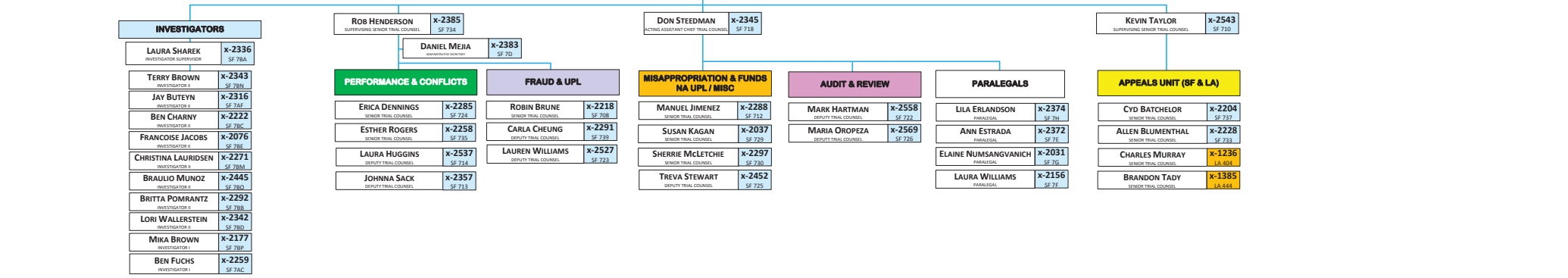


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ENFORCEMENT – LOS ANGELES



ENFORCEMENT – SAN FRANCISCO



APPENDIX D

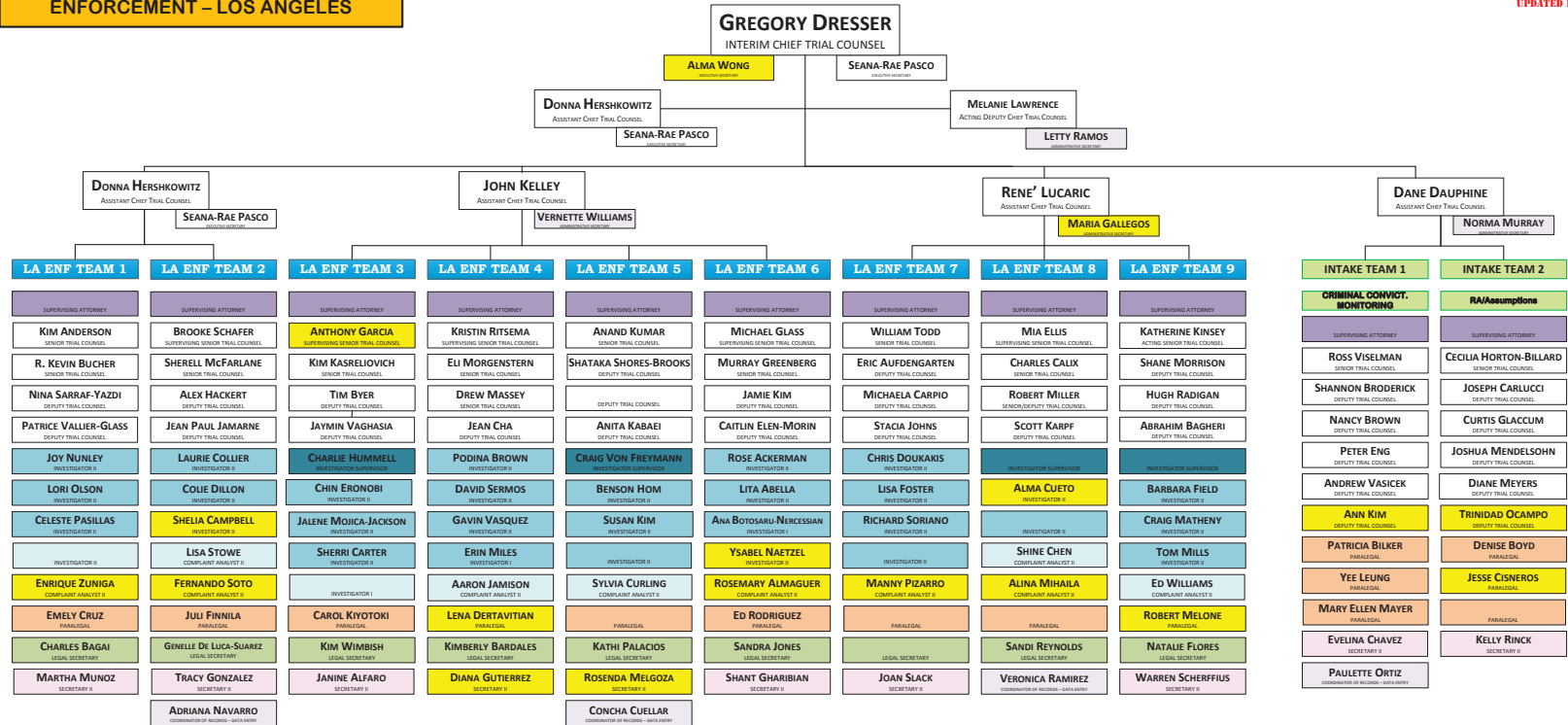
DRAFT – FOR DISCUSSION PURPOSES ONLY

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UPDATED 1/25/17



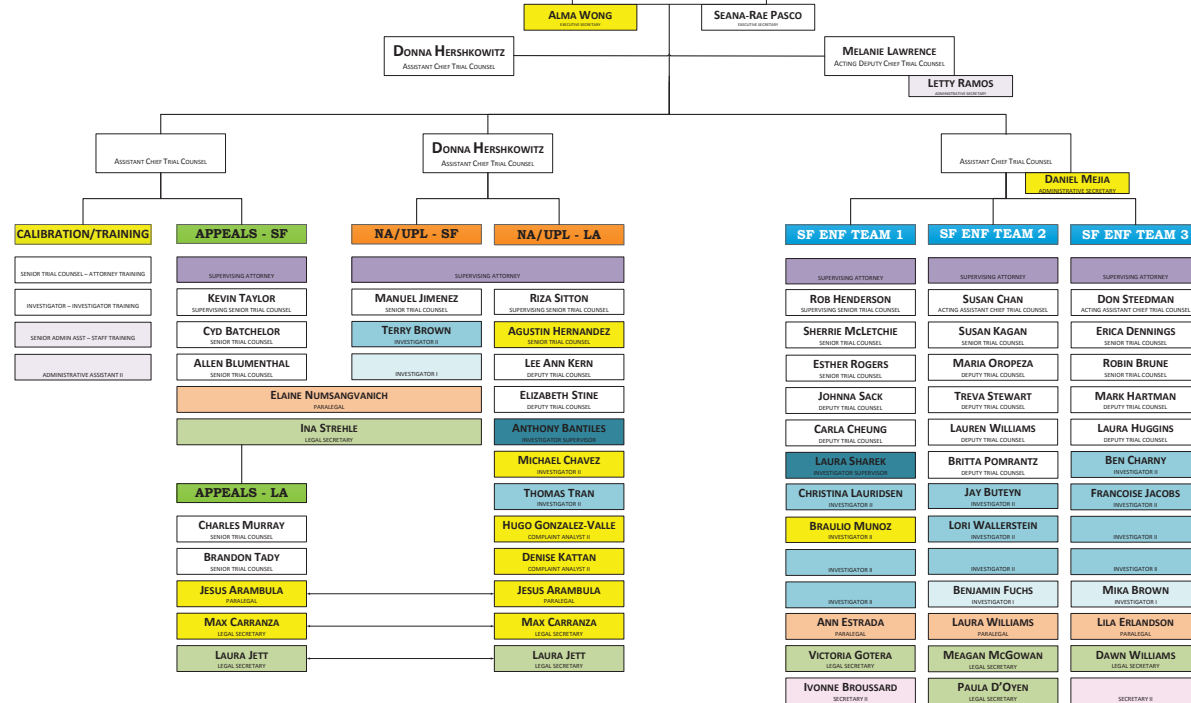
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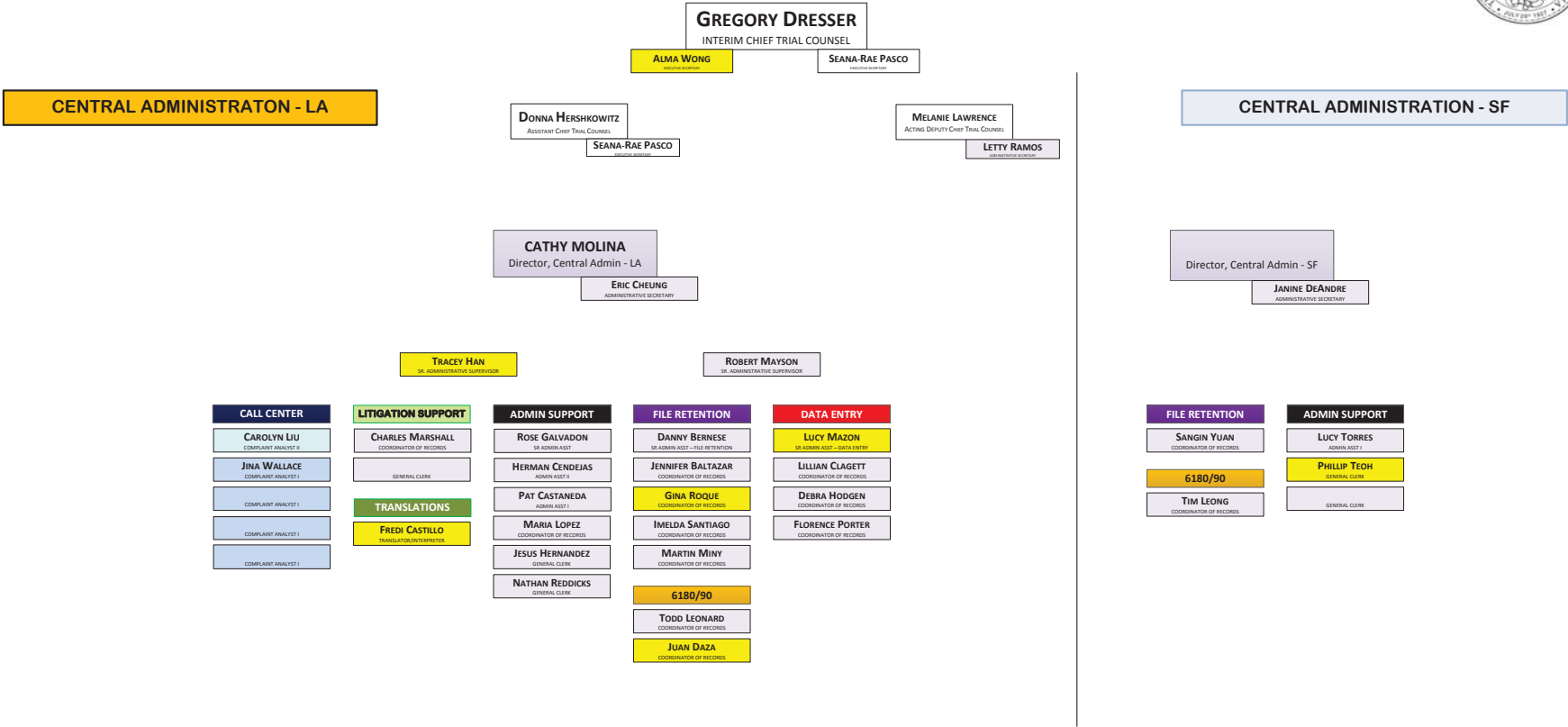
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UPDATED 1/25/17



APPENDIX E

Staffing & Coverage- Subcommittee Recommendations

Original email text	Recommendation
<p>Re the NA/UPL Team, I think it would require an administrative/investigative secretary (in addition to the legal secretary).</p>	<p>Move Max Carranza to support NA/UPL team and Appeals Team.</p> <p>New Legal Secretary hire will support NA/UPL team and Appeals Team.</p> <p>New Legal Secretary hire will replace Max Carranza's on Team 1</p>
<p>I see that no secretary has been assigned to the NA/UPL Team in the new chart. I would like to recommend my current secretary Kathi Palacios for the position. The NA/UPL Team's work is in superior court and not in the State Bar Court. Kathi was recently hired at the State Bar and comes with extensive and current superior court experience that would be valuable to our Team.</p>	<p>See above.</p>
<p>In reviewing the number of investigators per IS/Inv. III, there are 45 proposed investigators for 5 IS/ Inv. IIIs in LA, which is approximately 9 investigators for each IS/Inv III to oversee in LA. In SF the proposed ratio is 16 Investigators to 1 IS/Inv. III. An additional Inv. III position should be contemplated in SF, or the open position for the IS in LA should be transferred to SF.</p> <p>So, current rations are: 9 to 1 in LA 16 to 1 in SF</p> <p>If the position is switched from LA to SF, the ratios would be: 11 to 1 in LA 8 to 1 in SF</p> <p>If an additional position is added in SF, the ratios would be: 9 to 1 in LA 8 to 1 in SF</p>	<p>This issue is moot since the IS position is being eliminated and investigator oversight will be the responsibility of the SA.</p>

Staffing & Coverage- Subcommittee Recommendations

<p>We are a team of Seven, now due to our new WFP teams, we are reduced to three team members who will process mail and do case creations which is seventy five percent of our workload. This is not enough team members to accomplish our duties.</p> <p>As a suggestion keep Data Entry as a whole unit. Assign Coordinators/Data Entry to Teams or Silos. This way we are able to cover other duties as we are being trained on new assignments in (Intake and Enforcement) and therefore, giving us an opportunity to back up other units when we need to take sick, vacation, jury duty, or have family emergencies.</p>	<p>4 team members will remain to process mail and do case creations.</p> <p>3 team members will be assigned to assist with Teams. “Coordinator of Records” being reclassified as “Administrative Assistant I”. (They will be able to assist in mail processing/case creations, as needed).</p> <p>In SF, Sangin and Tim will need to be cross-trained to do each other’s jobs so there is adequate coverage.</p>
<p>What will be the systematic approach to absences or vacancies on a team?</p> <p>What is the plan for secretary/paralegal absences?</p>	<p>SF and LA to have Office Director/Manager (formerly “Director of Central Administration”) who will be responsible for overseeing coverage in each office.</p> <p>Fallback Recommendation:</p> <p>ACTC’s will be responsible for overseeing coverage on their Teams (the assumption is that the ACTC will oversee 3 Teams). The 3 Teams under the ACTC will provide coverage for each other.</p> <p>SF and LA to set up sick-lines (telephone and email). Responsibility for checking and reporting should rotate month-to-month among the ACTC’s (Administrative Secretaries) in each office.</p>
<p>How will coverage needs be addressed?</p>	<p>See above.</p>

APPENDIX F

LAWYER ASSISTANCE PROGRAM OVERSIGHT COMMITTEE

NOTICE & AGENDA

Video Conference Meeting

Friday, August 19, 2016

9:30 p.m. - 4:30 p.m.

State Bar of California
180 Howard Street, Rooms 4A&B
San Francisco, CA 94105

845 South Figueroa, Room 2E
Los Angeles, CA 90017

Questions regarding any agenda item should be directed to the **Committee Coordinator, Richard Carlton at (415) 538-2355, 180 Howard Street, San Francisco, CA 94105 or Chair, Stewart Hsieh at (213) 538-1365, 180 Howard Street, San Francisco, CA 94105**. Committee members are requested to notify the Committee Coordinator as early as possible in advance of the meeting if they wish to remove any item/s from the consent agenda.

Committee Members: Andrew Besser, Robert Burchuk, Kellie Condon, Justin Delacruz, Jason Kletter, Tracy LeSage, Terry Lewis, Sara Ramirez Giroux, Philip Spiegel, MD, Lawrence Terry, Sandy Wood.

The order of business is approximate and subject to change.

For meetings scheduled to take place over multiple days, items scheduled for a particular day may be moved to an earlier or later day to facilitate business of the Board and Board Committees.

I. Chair's Report

- a. Call for Public Comment
- b. Oral Report

II. Consent

- a. None

III. Business

- a. Patrick Krill, Krill Strategies –Substance Abuse and Other Mental Health Concerns in the Attorney Profession
- b. Carson Fox, National Association of Drug Court Professionals – The 10 key components of Drug Court
- c. Other Public Testimony Regarding the Lawyer Assistance Program*
 - i. Jerome Braun, The Other Bar
 - ii. Samuel Bellicini, Discipline Defense Counsel
 - iii. Martin Nicolaus, LifeRing Secular Recovery
 - iv. Steven Mazza
 - v. Other Public Members in Attendance

IV. Adjournment

CLOSED SESSION

~NONE

ADJOURNMENT

*Note: This is a list of who is expected to attend, but does not preclude others not on the list from providing public testimony.

In compliance with the Americans with Disabilities Act, those requiring accommodations at this meeting should notify Carol Madeja at (213) 765-1329. Please provide notification at least 72 hours prior to the meeting to allow sufficient time to make arrangements for accommodations at this meeting.

The notice and agenda is available at: <http://board.calbar.ca.gov/Board.aspx>

APPENDIX G

THE LAWYER ASSISTANCE PROGRAM

STRATEGIC PLAN

FROM JANUARY, 2017 TO DECEMBER, 2019



THE STATE BAR OF CALIFORNIA

STRATEGIC PLAN DEVELOPMENT

THIS STRATEGIC PLAN WAS DEVELOPED AND ADOPTED BY THE LAWYER ASSISTANCE PROGRAM (LAP) OVERSIGHT COMMITTEE TO GUIDE THE WORK OF THE LAP AND ENSURE THAT THE LAP FUNCTIONS AS INTENDED UNDER BUSINESS AND PROFESSIONS CODE 6230. THE LAP WAS ESTABLISHED “TO IDENTIFY AND REHABILITATE ATTORNEYS WITH IMPAIRMENT DUE TO ABUSE OF DRUGS OR ALCOHOL, OR DUE TO MENTAL ILLNESS, AFFECTING COMPETENCY” AND TO SEE THAT “ATTORNEYS SO AFFLICTED MAY BE TREATED AND RETURNED TO THE PRACTICE OF LAW IN A MANNER THAT WILL NOT ENDANGER THE PUBLIC HEALTH AND SAFETY.”

MEMBERS OF THE OVERSIGHT COMMITTEE ADOPTING THIS PLAN ARE:

STEWART HSIEH, CHAIR
ANDY BESSER
ROBERT BURCHUK, M.D.
KELLIE M. CONDON, PH.D.
JUSTIN DELACRUZ
SARA RAMIREZ GIROUX
JASON KLETTER, PH.D.
TRACY LESAGE
TERRY LEWIS
PHILIP M. SPIEGEL, MD
HON. LAWRENCE TERRY
SANDY WOOD

VISION STATEMENT

THE LAWYER ASSISTANCE PROGRAM (LAP) PROVIDES SUPPORT TO ATTORNEYS WHO ARE STRUGGLING WITH SUBSTANCE ABUSE AND/OR MENTAL HEALTH ISSUES. THE LAP PROVIDES A RANGE OF SERVICES AND LEVELS OF SUPPORT THAT ARE TAILORED TO THE CIRCUMSTANCES OF EACH PARTICIPANT. THE GOAL OF THE LAP IS TO PROTECT THE PUBLIC THROUGH OUTREACH AND EDUCATION ABOUT THE DANGERS OF SUBSTANCE ABUSE AND MENTAL ILLNESS IN THE LEGAL COMMUNITY AND REHABILITATION OF ATTORNEYS WHO STRUGGLE WITH THESE ISSUES.

- LAP PROVIDES OUTREACH SERVICES, TRAINING, AND CONTINUING LEGAL EDUCATION REGARDING SUBSTANCE ABUSE, STRESS, MENTAL ILLNESS AND DEMENTIA IN THE LEGAL PROFESSION;
- LAP MAKES CONFIDENTIAL REFERRALS TO COUNSELING AND FREE ASSESSMENTS FOR ATTORNEYS WHO ARE EXPERIENCING STRESS, MENTAL ILLNESS OR ARE STRUGGLING WITH SUBSTANCE ABUSE;
- LAP COLLABORATES WITH THE OFFICE OF THE CHIEF TRIAL COUNSEL, STATE BAR COURT, OFFICE OF PROBATION AND OTHERS TO MONITOR AND SUPPORT ATTORNEYS WHO PARTICIPATE IN THE LAP AS A CONDITION OF THEIR DISCIPLINE;
- LAP WORKS WITH THE OFFICE OF ADMISSIONS AT THE STATE BAR TO ASSIST WITH THE EVALUATION OF APPLICANTS TO THE BAR WHO HAVE BEEN REFERRED TO LAP AS A CONDITION OF THEIR MORAL CHARACTER REVIEW.

OVERVIEW OF THE LAP

INTRODUCED BY SENATOR JOHN BURTON, THE ATTORNEY DIVERSION AND ASSISTANCE ACT (SB 479, 2001) BECAME EFFECTIVE JANUARY 2002. THE ACT ADDED LANGUAGE TO THE BUSINESS AND PROFESSIONS CODE (6230 ET SEQ.) REQUIRING THE STATE BAR OF CALIFORNIA TO CREATE A PROGRAM TO ASSIST ATTORNEYS WITH SUBSTANCE ABUSE AND/OR MENTAL HEALTH ISSUES. AS A RESULT OF THE LEGISLATION, THE STATE BAR OF CALIFORNIA CREATED THE LAWYER ASSISTANCE PROGRAM (“LAP”). THE STATE BAR COLLECTS \$10.00 FROM EVERY ACTIVE ATTORNEY, AND \$5.00 FROM INACTIVE ATTORNEYS, TO OPERATE THE PROGRAM. STATUTE REQUIRES THAT PARTICIPANTS ARE RESPONSIBLE FOR ALL EXPENSES RELATED TO TREATMENT AND RECOVERY, BUT NO MEMBER WILL BE TURNED AWAY DUE TO LACK OF ABILITY TO PAY.

LAP HAS THREE MAIN COMPONENTS: TRANSITIONAL ASSISTANCE SERVICE, SUPPORT LAP AND MONITORED LAP.

- TRANSITIONAL ASSISTANCE SERVICES PROVIDE ATTORNEYS WITH THE OPPORTUNITY TO BE REFERRED TO OUTSIDE PERSONAL OR CAREER CAREERS COUNSELORS. PARTICIPANTS CAN GET TWO FREE SESSIONS WITH COUNSELORS.
- SUPPORT LAP PROVIDES ATTORNEYS WITH ORIENTATION AND ASSESSMENT OF THEIR SUBSTANCE ABUSE AND/OR MENTAL HEALTH ISSUE. THE ASSESSMENT IS COMPLETED BY ONE OF LAP’S LICENSED CLINICIANS. STAFF PROVIDES REFERRALS TO RESOURCES AND THE OPPORTUNITY TO PARTICIPATE IN FACILITATED GROUP SESSIONS WITH OTHER LEGAL PROFESSIONALS.
- MONITORED LAP IS THE MOST RIGOROUS FORM OF SUPPORT OFFERED BY THE LAP. IN MONITORED LAP, PARTICIPANTS RECEIVE AN ASSESSMENT FROM A LICENSED CLINICIAN, SIMILAR TO SUPPORT LAP. IN ADDITION, PARTICIPANTS RECEIVE AN EVALUATION PLAN RECOMMENDING A COURSE OF TREATMENT. EVALUATION PLANS GENERALLY INCLUDE RECOMMENDATIONS FOR PARTICIPATION IN OTHER ABSTINENCE-BASED MEETINGS, REFERRALS FOR MORE DETAILED EVALUATIONS AND RANDOM TESTING. OTHER REQUIREMENTS ARE INCORPORATED INTO EVALUATION PLANS AS APPROPRIATE, DEPENDING UPON THE PARTICIPANT’S SITUATION. IN ORDER FOR ATTORNEYS TO BE INVOLVED IN THE STATE BAR COURT’S ALTERNATIVE DISCIPLINE PROGRAM, THEY MUST PARTICIPATE IN MONITORED LAP.

THE PLAN

THE STRATEGIC PLAN THAT FOLLOWS IS DIVIDED INTO TWO BROAD SECTIONS.

- OUTREACH AND EDUCATION FOCUSES ON DISSEMINATING INFORMATION BROADLY TO MEMBERS OF THE LEGAL COMMUNITY AND THEIR FAMILIES AND PROACTIVELY IDENTIFYING THOSE MEMBERS OF THE COMMUNITY THAT ARE MOST AT RISK FOR SUBSTANCE ABUSE AND MENTAL HEALTH ISSUES BY:
 - DEVELOPING EDUCATIONAL CONTENT ABOUT THE RISKS OF SUBSTANCE ABUSE AND MENTAL ILLNESS TO ATTORNEYS AND PROMOTING HEALTHY LIFE-STYLE CHOICES;
 - ENSURING THE BROADEST POSSIBLE DISSEMINATION OF MATERIALS TO THE TARGET AUDIENCE INCLUDING THE FAMILIES OF ATTORNEYS;
 - RAISING AWARENESS AMONG THESE SAME AUDIENCES ABOUT THE SERVICES AVAILABLE THROUGH THE LAP AND IN THE COMMUNITY.
- PROGRAM DESIGN AND EFFECTIVE INTERVENTION FOCUSES ON SPECIFIC COMPONENTS OF THE LAP ESPECIALLY IN THOSE AREAS RELATED TO THE DISCIPLINE SYSTEM:
 - ESTABLISHING AND SUSTAINING COLLABORATIVE RELATIONSHIPS WITH REPRESENTATIVES OF THE OFFICE OF THE CHIEF TRIAL COUNSEL, STATE BAR COURT, AND RESPONDENTS' COUNSEL TO DEVELOP POLICY AND PROCEDURES FOR EFFECTIVE CASE MANAGEMENT AND TREATMENT OF ATTORNEYS WHO COME BEFORE THE DISCIPLINE SYSTEM;
 - IMPROVING THE IDENTIFICATION OF ATTORNEYS IN THE DISCIPLINE SYSTEM WHO WOULD BENEFIT FROM PARTICIPATION IN THE LAP AND/OR ALTERNATIVE DISCIPLINE PROGRAM;
 - PROMOTING LEGISLATION THAT WOULD ALLOW BAR APPLICANTS TO PARTICIPATE IN THE LAP;
 - TRACKING DATA AND EVALUATING THE IMPACT OF THE LAP FOR PURPOSES OF REPORTING TO THE LAP OVERSIGHT COMMITTEE AND FOR ON-GOING PROGRAM MONITORING AND IMPROVEMENT.

MONITORING THE PLAN

THE OVERSIGHT COMMITTEE OF THE LAP VIEWS THIS PLAN AS A LIVING DOCUMENT. THE COMMITTEE COMMITS TO:

- DEVELOPING AND TRACKING OPERATIONAL GOALS TO ADVANCE THE STRATEGIC GOALS ARTICULATED IN THE PLAN;
- MONITORING PROGRESS TOWARD ACHIEVING THESE GOALS AT ITS QUARTERLY MEETINGS;
- PERIODICALLY MODIFYING THE PLAN AS NEEDED BUT NO LESS THAN EVERY THREE YEARS TO ENSURE THAT THE LAP FUNCTIONS EFFECTIVELY AND EFFICIENTLY.

EDUCATION AND OUTREACH

RESEARCH ON THE PREVALENCE OF SUBSTANCE ABUSE IN THE LEGAL COMMUNITY HAS SHOWN THAT YOUNGER ATTORNEYS ARE ESPECIALLY AT RISK. IN ADDITION, MENTAL HEALTH DISORDERS, CO-MORBID DISORDERS AND ISSUES RELATED TO AGING OR COGNITIVE DECLINE ARE LIKELY TO HAVE A SIGNIFICANT IMPACT ON THE GROWING NUMBER OF OLDER ATTORNEYS PRACTICING LAW IN CALIFORNIA.

AN EFFECTIVE RESPONSE TO THESE CHALLENGES WILL REQUIRE TARGETED OUTREACH THAT INCLUDES EDUCATIONAL MATERIALS TAILORED TO SPECIFIC AUDIENCES. WHEREVER FEASIBLE, OUTREACH SHOULD INCLUDE THE FAMILIES OF ATTORNEYS AND EXTEND FROM LAW SCHOOL THROUGH RETIREMENT PREPARATION FOCUSING ON WELLNESS AND SEEKING TO DE-STIGMATIZE THOSE WHO SUFFER FROM ADDICTION, MENTAL ILLNESS, OR OTHER FORMS OF COGNITIVE IMPAIRMENT.

DURING THE PERIOD THAT THIS STRATEGIC PLAN IS IN EFFECT, THE LAP OVERSIGHT COMMITTEE SHOULD FOCUS ITS ATTENTION ON THE FOLLOWING GOALS RELATED TO EDUCATION AND OUTREACH:

- I. DETERMINING THE TARGET AUDIENCES, CONTENT AND TYPES OF OUTREACH FOR EDUCATION OF THE LEGAL COMMUNITY REGARDING SUBSTANCE ABUSE, MENTAL ILLNESS, AND AGE-RELATED COGNITIVE IMPAIRMENT.
 - A. WORKING WITH THE COMMITTEE OF BAR EXAMINERS ON OUTREACH TO LAW STUDENTS AND THEIR FAMILIES WITH SUBSTANCE ABUSE AS THE PRIMARY FOCUS:
 1. DEVELOPING TARGETS FOR THE NUMBER OF SCHOOLS AT WHICH TO GIVE PRESENTATIONS, CONDUCTING OTHER FORMS OF OUTREACH AND SEEKING TO INSTITUTIONALIZE THE DELIVERY OF INFORMATION ON SUBSTANCE ABUSE AND MENTAL ILLNESS AS PART OF GENERAL WELLNESS MATERIAL THAT EACH SCHOOL PROVIDES;
 2. DEVELOPING LISTS OF CONTACTS AT ALL LAW SCHOOLS INCLUDING ABA, CAL AND UNACCREDITED SCHOOLS.
 - B. WORKING WITH LOCAL BAR ASSOCIATIONS ON OUTREACH TO MEMBERS WITH THE PRIMARY FOCUS ON MENTAL HEALTH ISSUES AND COGNITIVE IMPAIRMENT THAT AFFECTS ELDER ATTORNEYS:
 1. EVALUATING THE DEMOGRAPHIC PROFILES OF DIFFERENT REGIONS OF THE STATE TO DEVELOP TARGETS FOR LOCAL BARS AT WHICH TO GIVE PRESENTATIONS, CONDUCT OTHER FORMS OF OUTREACH AND SEEK TO INSTITUTIONALIZE THE AWARENESS OF MENTAL HEALTH ISSUES AND SUBSTANCE ABUSE AS PART OF GENERAL WELLNESS MATERIALS THAT LOCAL BARS PROVIDE;
 2. DEVELOPING LISTS OF CONTACTS AT LOCAL BARS.
 - C. DEVELOPING GUIDELINES AND TRAINING FOR THE OFFICE OF THE CHIEF TRIAL COUNSEL TO ASSIST ATTORNEYS AND INVESTIGATORS IDENTIFY SIGNS OF SUBSTANCE ABUSE, MENTAL ILLNESS AND COGNITIVE DECLINE WHERE THESE MAY BE CONTRIBUTING FACTORS TO A DISCIPLINE CASE.
 - D. WORKING WITH THE BAR TO ENSURE THE INCLUSION OF WELLNESS / SELF-CARE MATERIALS IN THE RECENTLY MANDATED 10 HOURS OF CLE REQUIREMENTS FOR NEWLY ADMITTED LAWYERS;

1. WORKING WITH CALIFORNIA YOUNG LAWYERS ASSOCIATION (CYLA) TO ESTABLISH A CADRE OF YOUNG LAWYERS WHO CONDUCT OUTREACH AND EDUCATION ON WELLNESS;
 2. INSTITUTIONALIZING THE RELATIONSHIP BETWEEN THE LAP AND CYLA SO THAT IT IS NOT DISRUPTED BY MEMBER TURN-OVER IN EITHER ORGANIZATION;
- II. FOR EACH OF THE AREAS ABOVE, TAILORING EDUCATIONAL AND TRAINING CONTENT TO THE TARGET AUDIENCE INCLUDING ASSESSMENT OF THE APPROPRIATE MEDIUM FOR CONTENT DELIVERY – E.G., HARD COPIES, ONLINE, MOBILE APPLICATIONS, VIDEOS, ETC.
 - III. DEVELOPING SELF-ASSESSMENT TOOLS TARGETED TO THE ATTORNEY POPULATIONS MOST AT RISK FOR SUBSTANCE ABUSE AND MENTAL ILLNESS.
 - IV. EVALUATING THE “BRAND” OF THE LAP AND RETURNING TO THE OVERSIGHT COMMITTEE WITH RECOMMENDATIONS FOR ENSURING THAT THE CONNECTION OF THE LAP TO THE STATE BAR NOT BECOME A DETERRENT TO ATTORNEYS AND THEIR FAMILIES WHO MIGHT OTHERWISE SEEK ASSISTANCE FROM THE PROGRAM.
 - A. DEVELOPING A STRATEGY TO COLLABORATE WITH OTHER VOLUNTEER ORGANIZATIONS OR INDIVIDUALS TO PROVIDE OUTREACH AND SUPPORT PROMOTING THE SERVICES OF THE LAP;
 - B. CONDUCTING A MARKETING ANALYSIS TO SURVEY ATTORNEYS IN VARIOUS SETTINGS SUCH AS LAW FIRMS, LARGE EMPLOYERS AND SMALL PRACTICES ON WHAT NEEDS THEY HAVE AND THE BEST WAY TO DISSEMINATE INFORMATION
 - V. COLLECTING, EVALUATING AND REPORTING TO THE OVERSIGHT COMMITTEE ON KEY METRICS OF THE OUTREACH AND EDUCATION EFFORTS.

PROGRAM DESIGN AND EFFECTIVE INTERVENTION

IN RECENT YEARS, ENORMOUS STRIDES HAVE BEEN MADE IN DOCUMENTING AND DISSEMINATING BEST PRACTICES IN PROBATION AND DRUG COURTS FOR THE MONITORING AND TREATMENT OF DEFENDANTS STRUGGLING WITH SUBSTANCE ABUSE AND MENTAL ILLNESS. WHILE THE ATTORNEY DISCIPLINE SYSTEM IS DISTINCT FROM THE SUPERIOR COURTS WHERE THERAPEUTIC COURTS HAVE FLOURISHED, THERE ARE, NONETHELESS, IMPORTANT LESSONS THAT MAY BE BORROWED FROM THE EXPERIENCE OF THERAPEUTIC COURTS.

TO BEGIN, EFFECTIVE TREATMENT OF ATTORNEYS WHOSE ADDICTION OR MENTAL ILLNESS HAS BROUGHT THEM TO THE ATTENTION OF THE DISCIPLINE SYSTEM WILL REQUIRE A *COLLABORATIVE* APPROACH. IN ADDITION, THE LAP WILL BENEFIT FROM PAYING CLOSE ATTENTION TO THE DATA ON THE PROGRAM AND UTILIZING THAT DATA TO MODIFY THE PROGRAM.

SPECIFIC ASPECTS OF THE LAP RELATED TO PROGRAM DESIGN AND EFFECTIVE INTERVENTION ON WHICH THE OVERSIGHT COMMITTEE SHOULD FOCUS ITS ATTENTION DURING THE PERIOD OF THIS STRATEGIC PLAN INCLUDE:

- I. ESTABLISHING A FORMAL STRUCTURE OF ON-GOING COLLABORATION WITH THE STATE BAR COURT, OFFICE OF THE CHIEF TRIAL COUNSEL, AND RESPONDENTS' COUNSEL TO CLARIFY THE TREATMENT AND MONITORING MODALITIES FOR ATTORNEYS WHO COME BEFORE THE DISCIPLINE SYSTEM.
 - A. ESTABLISHING A REGULAR, FORMAL SCHEDULE OF MEETINGS TO BE HELD NO LESS THAN MONTHLY TO COORDINATE OCTC, SBC AND LAP POLICY IN A NUMBER OF AREAS INCLUDING:
 1. IDENTIFYING THE TYPES OF DISCIPLINE ISSUES THAT SHOULD BE ASSIGNED TO LAP FOR EVALUATION;
 2. DEVELOPING A "RESPONSE MATRIX" THAT SPECIFIES THE INCENTIVES AND SANCTIONS TO BE USED TO ENSURE COMPLIANCE WITH OCTC, SBC AND LAP ORDERS;
 3. CLARIFYING THE RESPECTIVE ROLES OF LAP, PROBATION, OCTC, AND SBC IN DIFFERENT TYPES OF CASES AND WHERE EACH OF THESE ENTITIES CAN BEST CONTRIBUTE TO IMPROVING THE LIKELIHOOD OF RECOVERY AND WELLNESS.
 - B. WORKING WITH THE OTHER BAR, TREATMENT PROVIDERS, COMMUNITY-BASED ORGANIZATIONS, AND OTHERS WHOSE WORK MAY BE COMPLEMENTARY TO THAT OF THE LAP.
 - C. COMPLETING THE INTEGRATION OF LAP WITH THE OFFICE OF PROBATION TO ENSURE THAT THE EVALUATION AND MONITORING OF PROBATIONERS WITH SUBSTANCE ABUSE AND MENTAL HEALTH PROBLEMS ARE TAILORED TO MEET THE INDIVIDUAL NEEDS OF PROBATIONERS AND LAP PARTICIPANTS.
 - D. EVALUATING TERMS AND CONDITIONS OF PROBATION AND WORKING WITH THE STATE BAR COURT TO INCLUDE PROBATION CONDITIONS THAT ADDRESS THE SUBSTANCE ABUSE AND MENTAL HEALTH ISSUES OF ATTORNEYS ON PROBATION.

II. EVALUATING THE VARIOUS COMPONENTS OF THE LAP INCLUDING:

- A. ASSESSING THE INTAKE / EVALUATION PROCESS AND ASSOCIATED INSTRUMENTS USED BY LAP CASE MANAGERS TO DETERMINE WHETHER AN ATTORNEY HAS ADDICTION, MENTAL HEALTH, OR COGNITIVE IMPAIRMENT ISSUE AND THE SEVERITY;
- B. REVIEWING CURRENT POLICY DOCUMENTS AND UPDATING / DEVELOPING PROCESS-FLOW DIAGRAMS TO CLARIFY PARTICIPANT OPTIONS, ALONG WITH DECISION POINTS AND POLICIES FOR CASE MANAGEMENT;
- C. REVIEWING CURRENT POLICY, PRACTICE AND THE OUTCOMES RELATED TO THE WORK OF THE EVALUATION COMMITTEE AND DETERMINING WHETHER THERE ARE CASES THAT SHOULD BE HANDLED THROUGH A DIFFERENT MODALITY OF TREATMENT / OVERSIGHT;
- D. REVIEWING CURRENT POLICY, DOCUMENTATION AND PRACTICES RELATED TO GUIDELINES FOR HANDLING REVIEWS, RELAPSE AND TERMINATION AND PROVIDING RECOMMENDED UPDATES AS NECESSARY;
- E. REVIEWING CURRENT POLICY, DOCUMENTATION AND PRACTICES RELATED TO THE UTILIZATION OF FACILITATED GROUPS, EVALUATING THE EFFICACY OF THE FACILITATED GROUP MODEL AND EXPLORING WHETHER COUNTY-CERTIFIED TREATMENT PROVIDERS ARE VIABLE ALTERNATIVES.

III. INTEGRATING THE VARIOUS TOOLS THAT ARE USED BY THE LAP AND THE DATA COLLECTED BY:

- A. ENGAGING IN ON-GOING ASSESSMENT OF THE SUCCESS OF THE PROGRAM AND IMPROVEMENT WHERE APPLICABLE;
- B. DEVELOPING METRICS THAT ALIGN WITH THE MISSION OF THE LAP AND TRACKING OUTCOMES FOR PARTICIPANTS IN THE PROGRAM;
- C. PROVIDING REGULAR REPORTS AND RECOMMENDATIONS TO THE OVERSIGHT COMMITTEE AND LAP MANAGEMENT REGARDING BASIC INDICATORS OF PROGRAM UTILIZATION AND PROGRAM SUCCESS.
- D. DETERMINING APPROPRIATE AND REALISTIC INDICATORS OF “SUCCESSFUL PROGRAM COMPLETION” AND USING THESE TO GUIDE DAY-TO-DAY MANAGEMENT OF THE PROGRAM AND ON-GOING PROGRAM DEVELOPMENT BY THE LAP OVERSIGHT COMMITTEE.

APPENDIX H

AGENDA ITEM

121 JANUARY 2017

DATE: January 4, 2017

TO: Members, Regulation and Discipline Committee
Members, Board of Trustees

FROM: Leah Wilson
Chief Operating Officer

SUBJECT: Voluntary Resignation Form Revision; Request for Approval

EXECUTIVE SUMMARY

The Regulation and Discipline Committee is asked to recommend that the Board of Trustees approve revisions to the Voluntary Resignation form required of those who wish to resign *without* charges pending to include an attestation of compliance with California Rules of Court rule 9.20 ("rule 9.20") prior to submission of the resignation application to the Supreme Court (Court). This change will streamline the process of voluntary resignations and eliminate the need for the Office of Probation (Probation) to monitor compliance with California Rule of Court rule 9.20 without any adverse consequences to public protection. Moreover, approval of the revised form will obviate the need for Supreme Court orders accepting voluntary resignation applications to include rule 9.20 directives. State Bar rule 2.45(B) requires that the Voluntary Resignation form be approved by the Board of Trustees.

The Supreme Court has considered the proposal to revise the process and the Voluntary Resignation form as described herein and has voiced no objections to the changes.

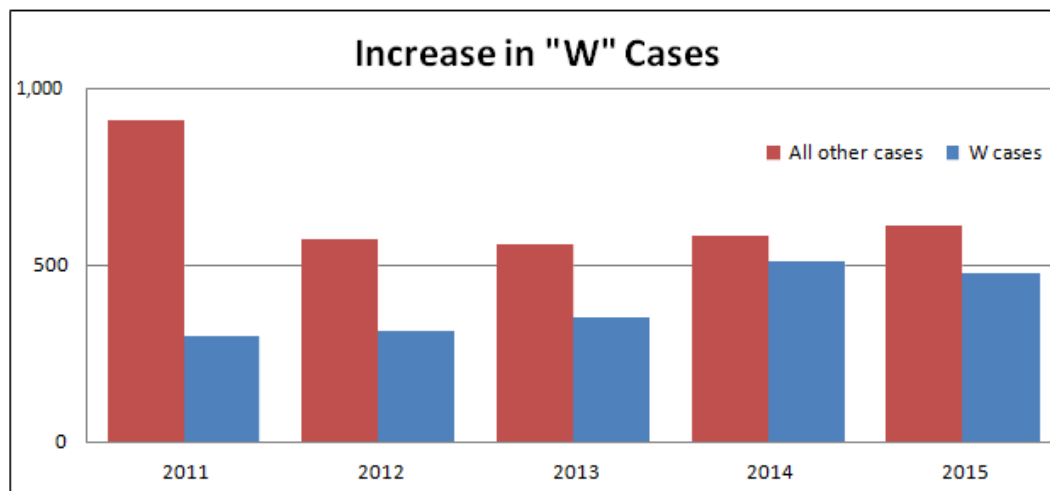
DISCUSSION

To align its resources with its primary mission to protect the public, the Legislature required the State Bar to develop a workforce plan for its discipline system. The report was submitted to the Legislature on May 13, 2016, with recommendations to be implemented by December 31, 2016. Several of these recommendations addressed the Office of Probation, with many stemming from an observation of unnecessarily high Probation caseloads. Specifically, the report suggested that there is no public protection need for Probation to be supervising all of the populations currently under its purview. One such population is comprised of attorneys resigning from the State Bar without charges pending.

Rule 9.20 provides that the Supreme Court may include in an order disbaring or suspending a member of the State Bar, or accepting his or her resignation, a direction that the member must, within such time limits as the Supreme Court may prescribe:

- (1) Notify all clients being represented in pending matters and any co-counsel of his or her disbarment, suspension, or resignation and his or her consequent disqualification to act as an attorney after the effective date of the disbarment, suspension, or resignation, and, in the absence of co-counsel, also notify the clients to seek legal advice elsewhere, calling attention to any urgency in seeking the substitution of another attorney or attorneys;
- (2) Deliver to all clients being represented in pending matters any papers or other property to which the clients are entitled, or notify the clients and any co-counsel of a suitable time and place where the papers and other property may be obtained, calling attention to any urgency for obtaining the papers or other property;
- (3) Refund any part of fees paid that have not been earned; and
- (4) Notify opposing counsel in pending litigation or, in the absence of counsel, the adverse parties of the disbarment, suspension, or resignation and consequent disqualification to act as an attorney after the effective date of the disbarment, suspension, or resignation, and file a copy of the notice with the court, agency, or tribunal before which the litigation is pending for inclusion in the respective file or files.

The Court had routinely ordered rule 9.20 compliance for attorneys resigning *with* charges pending. Sometime in 2011, Probation began receiving Supreme Court orders requiring that attorneys who resigned *without* charges pending also comply with rule 9.20 ("W" matters). This requirement has recently become problematic as the increase in the inactive membership fee appears to have caused an increase in resignations without charges pending. In 2011 there were 299 W cases, which represented 25 percent of the total probation cases opened in that year. By 2015 the number of W cases had increased to 476, 44 percent of the total cases opened, as reflected in the table below:



The task of monitoring compliance with the Court's 9.20 orders rests with the Office of Probation. In attempting to enforce compliance, however, Probation often receives calls from family or friends informing the State Bar that the attorney is unable to comply with the order because of illness or mental incapacity. In addition, many of the resigning attorneys have never practiced law in California or are judges, commissioners, or employees of the federal or state government. The cumbersome resignation process involving ongoing Probation supervision is thus impractical and ineffective.

There will be no detrimental impact on public protection by requiring attorneys who wish to resign without charges pending to attest to pre-compliance with rule 9.20 as a condition of submitting and accepting their resignation form. In fact, public protection may be better served by the proposed process as it will require members who wish to resign without charges pending to more promptly notify clients, the courts and opposing counsel of their pending resignations, and better assure that client files and unearned fees have been returned. Moreover, requiring pre-compliance with rule 9.20 directives will eliminate the need for Probation to monitor compliance of this particular group of members thereby making staff available for more pressing matters.

Request to the Supreme Court

Supreme Court staff was kept apprised of the Bar's proposed change in procedure as it was being developed. The final proposal, including the revised Voluntary Resignation form, was presented to the Supreme Court for its review at its December, 2016, administrative conference. The Court has no objections to implementation of the new procedure.

FISCAL/PERSONNEL IMPACT

Adopting this request will have a positive impact on personnel in the Office of Probation by eliminating the need for staff to monitor compliance with rule 9.20 by members who resign without charges pending.

RULE AMENDMENTS

None.

BOARD BOOK IMPACT

None.

BOARD GOALS & OBJECTIVES

Approval of this request is consistent with the mission of the State Bar, as set forth in Section 6001.1 of the Business and Professions Code, which places protection of the public as the highest priority of the Bar and the Board of Trustees. This request also furthers Goal and Objective number 1 of the 2012-2017 Five-Year Plan to "[e]nsure a timely, fair, and appropriately resourced discipline and regulatory system."

BOARD COMMITTEE RECOMMENDATIONS

The Regulation and Discipline Committee recommends that the Board of Trustees approve the following resolution:

RESOLVED, that the Board of Trustees adopts the revised Voluntary Resignation Form as set forth in Attachment B, effective upon adoption.

ATTACHMENT(S) LIST

- A.** Current Voluntary Resignation Form
- B.** Revised Voluntary Resignation Form

APPENDIX I

MCLE Provider Meetings Comments

8/23 + 8/30/16 + post meeting emails

Comment Type	?	Comment / Question	From	Source
alternate		I would like to suggest that the State Bar consider a different approach. There are smart phone apps for conferences that work quite well to track attendees and impart information. That is what you really need. If there was a useful app that attorneys could download to get info on MCLE programs, RSVP via the app, check in and pay with the smart phone, and access speaker bios and handouts, all of your work would be done for you. MAPs like our firm would have real and digital data on our attendees. The State Bar would have access to all of that data. People would appreciate the time-saving and paper-saving technology. Take a look at the app used by the California Bankers Association to get an idea of what is possible. Find it at the App Store by searching CBA Events.	John Friedemann-Friedemann Goldberg	email
alternate		Should look for an application that attorneys can use to upload QR codes from the class, or provide a password that is provided only at the end of the course.		ACn
alternate		Member cards with a swipe like a credit card and providers have the ability to swipe.		LWn
alternate		There are programs that can help. EventBrite. Free if you aren't charging a fee. If you send a link to an EventBrite portal you can ask as many questions as you would like.		LWn
alternate		What we need is an apple/android app that uplinks to your system.		LWn
alternate		Why not go really technological and figure out way to do it that is 21st century.		LWn
bar #		We have difficulty getting attorneys to write down their bar number and when they do write it down, we frequently have difficulty reading it. This would put us and the bar in the position of having an attorney receive a certificate of attendance for a program, but, based on the current proposal, the feed wouldn't transmit the attendance for that attorney to the bar. This is likely to lead to administrative headaches on both sides as attorneys call to find out why a program isn't listed in the bar's reporting system.	Caroline Kane-Wilmerdale	email
bar #		As some other states doing online attendance tracking offer, please add the ability to look up an attorney's ID number. While we always have the attendees name and address, sometimes attendees do not include their ID number at sign-in or it is sometimes illegible. It would be a tremendous burden to obtain correct ID numbers before entering into the online system.	Edd Schillay-Network of Trial Law Firms Inc.	email
bar #		As part of the system, data verification should be implemented. The system should check that bar numbers are valid (of course a wrong bar number would report to someone else unless you do a bar number to last name check), course numbers are valid, that the completion date falls within the course approval range, and if it has already been reported.	Michael-Attorney Credits	email
bar #		There were concerns that attorneys don't provide bar numbers or provide improper numbers and it often took over 30 days to determine this. Providers can add a simple disclaimer that if an attorney fails to provide a proper bar number and credits are reported after 30 days that they pay the late fee if they want the credit. Or you can have an internal system where the attorney can call to resolve this issue.	Michael-Attorney Credits	email
bar #	Q	Attorney Middle Name included? Misidentifications?		LWn
bar #	Q	Bar Numbers that didn't translate through--resubmit individual corrected records or re-upload?		LWn
bar #		Multiple bar numbers		LWn
bar #		People write their Bar numbers wrong or illegibly.		LWn
calendar		Don't know what their events are a month out.	AIMP-Assoc of Indep Music Publishers	LWn
calendar		Make the calendar listing optional.	Edd Schillay-Network of Trial Law Firms Inc.	email
calendar	Q	Need to include bullet points, agendas, summaries, bios? Constantly adding speakers. We won't necessarily be able to keep it current.	Faith Pincus-Pincus Professional Education	LWn
calendar	Q	Never have entire catalogue ready (will need ability to keep updating) and some kind of disclaimer "This isn't the complete catalogue". Will we be given opportunity to change titles? They start advertising 4-5 months before a program.	Faith Pincus-Pincus Professional Education	LWn

APPENDIX I

calendar	One-hour lunch presentation in room at a restaurant--Likes the idea of being able to put it up on a calendar.	Jury Consulting Firm	LWn
calendar	Don't have a yearly catalogue. Spontaneous programs. Many issues that come up at the last minute (civil and criminal)		LWn
calendar	Educational sessions or seminars are with partners. Space is limited. Would want to make optional to put on the public calendar whether or not to publish our specific activity.		LWn
calendar	Most of the classes we teach - in house and not open to the public.		LWn
data upload	Loves the idea of uploading everything. Likes having the depository anywhere. Should effect renewal applications. Won't have to provide proof of what's been done.	Andi Barnett-private law firm LA	LWn
data upload	Prefer uniform system nationwide. Look at how other states do it.	Association Management CO	LWn
data upload	Supervises and licenses professional fiduciaries. MCLE is one of the types they can get for the 15 units per year that they have to get fiduciaries. Look through their requirements.	CA Dept. of Consumer Affairs	LWn
data upload	Q For the real-time feed option, is the bar planning to work with the major CLE software tracking companies to build such a feed? Most large firms use one of a few types of CLE software programs (e.g., viDesktop, Micron). We use viDesktop. The information the bar seeks is largely housed in those systems (to the extent firms use one).	Caroline Kane-Wilmerdale	email
data upload	For the system to work, you would need both a manual and file upload system. Manual for small providers who would go into a web based system and manually upload bar numbers and dates. Upload, where large providers could upload a single file. If you require all courses be registered, a very simple upload file is needed as very little data is needed to upload: provider number, course number, member bar number, and date. It is important that all courses could be reported with a single file, allowing multiple courses, multiple attorneys, and multiple completion dates with a single upload. There are states that require MAP's to use their automated system, but if a MAP wants to report manually, I am not sure it matters, as long as they report. All reporting would be required within 30 days of completion. A late fee of \$25 for any reporting done after 30 days would be implemented.	Michael-Attorney Credits	email
data upload	The first step to easy reporting is requiring providers to register their courses. If a provider pre-registers their course you already have all of the data on the course using just one number, a unique course number that would be generated. All providers should be required to upload the course at least one day before it occurs. Any provider who doesn't would pay a late reporting fee of \$25.	Michael-Attorney Credits	email
data upload	Not to forget credit for teaching, you need a manual way to report teaching credit and a column in the bulk file upload to handle teaching credits.	Michael-Attorney Credits	email
data upload	OR: With your current State Bar of California website – you may be able to enhance your site to include “online submission” without incurring a great deal of cost.	Pat Schol-Tyler Technologies	email
data upload	Please make it simple. Make it easy.	Rick law firm paralegal & IT mgr	LWn
data upload	I just wanted to suggest you work with Micron CE Manager and viDesktop viCLE. We currently use CE manager but are switching to viCLE. It would be great if course attendance could be automatically uploaded.	Sara Thorne-Seyfarth Shaw LLP	email
data upload	Q Will there be a deadline for uploading attendance after course is held?		ACn
data upload	Q MAPS don't get individual course numbers--how to identify?		ACn
data upload	Q Can a registry be made available with attorney Bar numbers that can use used to back fill data for attendance reporting?		ACn
data upload	Q Can you add new course info that you already reported ?		LWn
data upload	Q How will things bounce (i.e. bad Bar #, emails, etc.)?		LWn
data upload	Q What data fields would be required in order to submit your calendar?		LWn
data upload	Q Why do we need course numbers? How will MAPS enter the information?		LWn
data upload	A huge amount of data per seminar (location, # of units, etc.). Washington has a portal with each program. Click a button, go to seminar and go into a file.		LWn
data upload	Make sure template for submission of attendance data is quite clear.		LWn
data upload	Making it as simple as possible to upload is really what is needed.		LWn
data upload	Many government agencies that have firewall issues. We have special protocols with the court and law enforcement. Have to ensure that we have privacy and firewall security.		LWn
data upload	Need a mechanism for making corrections.		LWn

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data upload	We print out spreadsheets, and have sign-ins. We try to decipher who actually signed in next to their name in our database. We would love to link to your database, where we wouldn't have to enter it twice.		LWn
fee	Don't know how to add \$.50 or \$1.00 to their attendance fees. Couldn't add it to website the way it currently works.	AIMP-Assoc of Indep Music Publishers	LWn
Q	With regards to fees, the proposal of charging providers \$1 per California-barred attendee per program is a proposal that would be onerous for large law firms. Has the bar considered offering a flat rate for providers that offer a certain number of training programs a year?	Caroline Kane-Wilmerdale	email
fee	Offer a reduced fee for courses offered without charge to attendees.	Edd Schillay-Network of Trial Law Firms Inc.	email
fee	We do keep paper and electronic records of every program attendee going back for over 10 years. It would be fairly easy to enter attorney attendee records into a website, as we do with Alabama, Texas, Illinois, Louisiana, Ohio, Pennsylvania, Tennessee, Texas, Washington, and perhaps more. A fee as you proposed of \$1 per attorney would also be reasonable, with other states charging hefty application fees (even for courses without charge) or attendance fees. For example, Georgia charges \$5 per attorney per credit.	Edd Schillay-Network of Trial Law Firms Inc.	email
fee	Many private law firms and government entities that do not charge that are primarily for in-house MCLE. Changes seem geared for those who charge.	LA City Attorney's Office	LWn
Q	The real question is does the bar just want to pay for the system and maintenance or does the bar want a new revenue stream that never ends under the guise of initially just paying for it? Would the fee be removed after it was paid for by providers? Since attorneys would be required to report self-study courses that are not reported by providers, would they pay a per credit fee too? If not, would providers have to pay a fee to report self-study credits?	Michael-Attorney Credits	email
fee	Application fees would be the easiest to implement. The current SAP fee is \$75. Perhaps raising this to \$100 - \$150 per course would be possible. While on the higher side of state fees, it is well within the norm throughout the country especially considering how many California attorneys there are and how easy it is to become a MAP. MAP fees, at \$200 for the first two years and \$300 for three years thereafter are too low. You should raise the requirement from a minimum of four courses to at least five courses and raise both the initial and renewal fee to \$500. These modest increases could easily provide a renewable stream of increased revenue and will have little effect to the bottom line of providers.	Michael-Attorney Credits	email
fee	Implementing a per credit reporting fee would probably meet more resistance and is harder to implement for many providers. Unless providers raised their prices, or added this fee to their attendees, it would have a larger impact on profits. Obviously (not to many providers at the meeting), it would be easy to implement a system where not for profits who don't charge for credits could report without a fee. True not for profits providing free CLE would be easy to document. However, to be fair, any for profit entity regardless of if they charge a fee or not (in house CLE or providing free courses as marketing) would have to pay the reporting fee. This does require a more complex system, will have more resistance, but could provide a substantial revenue stream to the bar.	Michael-Attorney Credits	email
fee	We also deal with many other States regarding CLE accreditation – some of them charge an application fee – either for a blanket CLE Accreditation; or per class; others do not. With us being accredited for California – the application fee was \$75.00. You might consider increasing the amount of your application fee to cover the cost of the “online submission” program – therefore making it feasible cost wise but not placing an additional burden on the providers; whereby, they must then continuously cut a check for the attorneys attending the program.	Pat Schol-Tyler Technologies	email
fee	We are a provider for their attorneys in their law firm. Have some attorneys in Illinois. Immediately upon attending a course they have to submit all that they've done. Each atty has to pay a couple of dollars and they have a running account that they've set up.	works for a law firm	LWn
Q	Are you going to look at either raising the flat annual fee vs. no annual fee plus per-class fee to upload?		ACn
Q	Exception for government attorneys?		LWn
Q	Paying to be on a calendar?		LWn

fee	In Washington we have 30 days to upload and we get penalized afterwards. We have problems with speakers. Upload excel spreadsheet with 4 columns or we do it one-by-one. \$1,500 - \$2,000 per year flat fee.		LWn
fee	Cost is a major factor.		LWn
fee	Fee per person will have the opposite effect of what you want by reducing education offerings by some.		LWn
fee	LLM Credit (enrolled in the LLM program): For attys who are seeking advanced education, the cost is going to be passed on at some point back to the students who are transitioning into careers.		LWn
fee	MCLE provider fees have not gone up in some time. Ensure that the fees are paying for the program (part of the Admissions Fund). Must evaluate.		LWn
fee	Pick a model where the lawyers pay .		LWn
fee	When costs get shifted back we may be doing more damage to the system long-term. Instead of paying I would look for self-study.		LWn
general	Q Would new process substitute for the in-person audits? Would make it easier/quicker to do an internal check with data. More providers where there is a legitimate questions about what is being put on.	Shelly Pruitt-private law firm	LWn
general	Q Have attorneys who take out-of-state courses—how to account ?		LWn
general	Q Elimination of bias credit (Civil rights nonprofit where they do policy work). Staff and attorneys - topics they want to present on - may not be legal in nature but are they allowed under expanded definition?		LWn
general	Q On-demand course that could be available 24/7. How would you record this for completion date?		LWn
general	Q On-demand courses - would this be part of it? Some kind of a match?		LWn
general	Q Paralegal requirements? Have to show their employer every 2 years that they completed the MCLE requirement.		LWn
general	Q Won't know course completion dates for online/interactive MCLE. Will they have to send us signed under MCLE?		LWn
general	One of the hallmarks of CA is the current lack of bureaucracy, every state requires more and more overlays.		ACn
general	If costs are shifted, young attorneys may opt to take more self-study classes that may be lower quality than the free live course offerings.		ACn
general	We will spend more resources tracking down errors in reporting than the existing system of responsibility of burden on attorneys self-reporting.		ACn
general	Benefit of direct reports - will have real time what classes we've offered, verify that they comply with MCLE requirements and verify that they have complied with the class.		LWn
general	Does it negatively or positively impact the workforce? Will this system free up staff and colleagues at State Bar?		LWn
general	Don't create a system where attorneys self-report their participatory credits. Without random auditing it is too easy to abuse the system. None of the states with self-reporting do audits (accept the ones that also require members mail in their certificates) and I believe there is a decent amount of cheating in the states that don't. It is too easy to get a course number and upload it without actually taking the course. With no random audits these states have no idea if there is widespread abuse of the reporting system.	Michael-Attorney Credits	email
general	Handout requirements vague (Need a handout for 1 hours. If no handout, .75?)		LWn
general	State bar is one of the simplest. Keep it simple.		LWn
handwritten	Burdensome. Handwritten names difficult to manage.	Judicial Council	LWn
handwritten	Sign in sheet paperwork goes in a binder. Period.	MAP-in-house associate training	LWn
handwritten	Class data kept in excel spreadsheet but individual attorney attendance data all by hand.	Private law firm	LWn
handwritten	For in-person live trainings, live webinar trainings (both participatory), and on-demand online trainings (self-study, but we ask them to self-verify attendance). We do not type in handwritten names, would support uploading a PDF of the scanned sheet only.	Salena Copeland-Legal Aid Assoc of CA	email

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handwritten	Our problem in inputting attendance data into a system is related to our day and one-half conference. While they sign in each day, that's no way we will know if they attended a particular breakout session. That is up to the attendee compliance. I do not keep a spreadsheet as to which ones attend family law, civil, ethics, competence or bias sections. I do keep the original signed attendance sheet, but we rely on the honesty of the attendees as to which course they attended throughout the day. Further, our lunch MCLE's are finalized the month before while our annual Spring conference is advertised 9 months in advance. Offering information on our spring conference globally would be nice.	Unknown-Placer Bar.org	email
handwritten	Print out the sign in sheets and doesn't do anything other than keeping records in binders in her office as a non-profit does.		LWn
handwritten	Would be opposed to requirement. We do not go back and enter attendee info in any spreadsheet. We provide non-profit legal services for free to legal aid attorneys . Can't cost anything.		LWn
internal note*	Q Dina's staff and George's staff meet regularly. Have contacts in larger states/ MCLE regulators because larger ones are putting on programs nationwide. Legal specialists have to take 36 hours of specialist-related training over 3 years plus regular MCLE. There are 11 legal specialization areas. Ongoing recordkeeping requirements - specialist education compliance at same time as MCLE (keep records for 4 years). CYLA - live audit program. Legal Specialist - a subject matter expert in the area will come to the program. Are we doing these audits?	LW	LWn
internal note	Q MCLE Provider Handbook - who is drafting this?	LW	LWn
internal note	Q providers@ email address - what kind of inquiries do we get?	LW	LWn
internal note	Q Who certifies Legal Specialist Providers? Who does legal specialist audits? Legal specialist audit vs. CYLA audits?	LW	LWn
internal note	Top 10 or top 20 list of MCLE providers that are problematic. They get input from other members. Large corporate providers, law firms, bar associations or law schools. How are either lists generated? Not clear how providers are selected for audit.	LW	LWn
other states	Q What are other State Bars doing to track compliance?		LWn
other states	Alabama has a manual only system of entering bar numbers one at a time on a course by course basis. It is fairly easy to manually enter bar numbers and there is a lookup function and some error checking, however, it is a bit time consuming. It doesn't record completion date and with no bulk upload option it would never work in California. However, as a manual system it isn't too bad.	Michael-Attorney Credits	email
other states	Delaware has both manual and batch functions, but the site is so hard to use because end users were never factored into design and function, it shouldn't be considered.	Michael-Attorney Credits	email
other states	Hawaii is \$5. If you are an approved provider its \$10.		LWn
other states	Illinois – State Bar of Illinois – also has online reporting of attendance – as well as providers can upload their application/documentation online and Illinois will then either approve or deny the MCLE Application. Illinois charges \$50.00 application fee – per course date – with an add'l \$.75 per attorney attending that course. This is a little cumbersome for the provider in that we are constant having to provide check requests.	Pat Schol-Tyler Technologies	email
other states	Illinois requires that all courses be registered at least one day before the course begins. Providers are only required to report how many people completed each course monthly, so this doesn't help with making sure attorneys complete their CLE. It is solely a revenue stream for the state. A fairly simple spreadsheet is used, but we find it tends to throw a number of errors and requires that we manually go into their system to fix courses with errors. Month to month the errors seem to be random. Rumor has it, the system is going to change to require that we report by individual attorney.	Michael-Attorney Credits	email
other states	Illinois website--require you to enter the courses by the day that it takes place. Renewal fees are very expensive.	Paul Hastings	LWn
other states	Nebraska has both a manual and spreadsheet upload feature. The manual system is not easy to use and the upload feature is course by course. This system should not be considered.	Michael-Attorney Credits	email

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other states	New Hampshire had a system very similar to what California is proposing up until two years ago when they changed their system entirely to one where attorneys self-determine whether programs are CLE worthy and self-report. A drastic change. We've heard through the grape-vine that the change was to be more efficient. The bar was inundated with questions/issues from providers and just found the system untenable. For a state as small as New Hampshire to make that shift is something we'd encourage the California bar to consider.	Caroline Kane-Wilmerdale	email
other states	Ohio has a fairly simple spreadsheet upload system. It has some auto-calculated cells which should be removed. They have a server issue if you try and upload too many courses at once which could easily be solved. There is a feedback email that tells you about success and failure, but you have to read it very carefully to figure out what it says and then go back and resubmit if there was a problem. Not too bad, but with a few changes could work nicely.	Michael-Attorney Credits	email
other states	Pennsylvania has an easy upload file system but it requires two specially formatted files. Since using spreadsheets is much easier and can easily be created by anyone, using a system like PA should be ruled out only because of the file format complexity.	Michael-Attorney Credits	email
other states	Pennsylvania has one system that has a base system that is used by 6 others.		LWn
other states	Rhode Island , don't get me started with Rhode Island. Do not under any circumstances copy RI.	Michael-Attorney Credits	email
other states	Tennessee – State Bar of Tennessee – also has online reporting of attendance – as well as providers can upload their application/documentation online and Tennessee will then either approve or deny the MCLE Application. Tennessee does not charge anything regarding the application – nor the reporting of attendance online. I assume this is just an added area within their State Bar website – so no need for additional compensation by either the provider or the attorney.	Pat Schol-Tyler Technologies	email
other states	Tennessee has a batch upload function using a spreadsheet. The spreadsheet could be simplified along with the website. There is a feedback email, but it comes a couple days later.	Michael-Attorney Credits	email
other states	Texas – State Bar of Texas has online reporting of attendance and it is very simple to use: Their website allows the providers to login/select the course they need to report attendance for/put in the attorney bar number – it then is programmed to show the names for the bar numbers entered – we as a provider confirm that is the correct name – save the info within the web site and those attorneys are then accredited their 1 hour CLE Credit. The providers have access to the reporting site; also the attorneys have access to the reporting site – so either the provider or the attorney can report their credit to the State Bar electronically. There is no charge to the provider. In my opinion – Texas is one of the easiest and most user friendly in order to submit our application for CLE Accreditation online – as well as report attendance online.	Pat Schol-Tyler Technologies	email
other states	Texas cost to put in the manual members ID is \$.35. CA Dept. of Insurance charges more to apply for a course.		LWn
other states	West Virginia requires a course by course upload file so this system won't work either. It does have a nice error check that tells you which line of your spreadsheet has an error and forces you to fix it and try again.	Michael-Attorney Credits	email
other states	X Other states: There are numerous states where all we do is send the state a spreadsheet. Either they manually upload the names or they have an automated system only available to bar employees. You don't want to do this. There are also states where we have to mail in paper reports, don't do this either. The main problem is that many of these systems were not designed using any thought about the user or UI. Most appear to have been created by programmers who were given a spec sheet without any regard for layout, function or usability.	Michael-Attorney Credits	email
payment	Include the ability to pay the fees online, including paying by American Express (most providers use American Express as their business card.)	Edd Schillay-Network of Trial Law Firms Inc.	email
payment	Q How often would we be billing for uploads? Annually, quarterly?		ACn
payment	Q How would invoicing work for charging - \$.50/\$1.00 per attendee?		LWn
responsibility	Agree with others that the burden of reporting and compliance should fall on the attorney, much like the system that exists in Arizona, Colorado, Florida, Illinois, Minnesota, New York, New Jersey and others. We have the responsibility to keep our records, but the individual attorney, as it's his/her license that needs to be maintained, should be responsible for keeping and reporting their MCLE records.	Edd Schillay-Network of Trial Law Firms Inc.	email

responsibility	Shifting of responsibility. Up to now attorneys were responsible for own reporting. They still have to do self-study probably. Some go to other states for seminars.	Government entity in LA	LWn
responsibility	Doesn't want to be responsible for information getting reported correctly.	Insurance Company	LWn
responsibility	Q Are we including verification of audio/video classes? Not going to be able to do Self-Study reporting		LWn
responsibility	Q How will we certify the hours attended and that course was a certain timeframe? Members have to take responsibility.		LWn
responsibility	Q Need guideline from the Bar - do we give them a certificate if they sat on their laptops the entire time?		LWn
responsibility	Affirm that they are claiming the credit. Attesting that they did attend the full program.		LWn
responsibility	Keep responsibility - need to be responsible for it.		LWn
responsibility	Sign-in list sent as PDF and to the Bar? When you are doing the audit - doesn't put pressure on the provider. Responsibility shift from the individual representing to the Bar that they are completing all of their MCLEs.		LWn
responsibility	Why is that the providers' responsibility? Don't have a way to add \$.50/\$1.00.		LWn
timeline	Q What is the timeframe for implementation?	LA City Attorney's Office	LWn
timeline	Q When do you anticipate going live?		LWn
timeline	Q Will you have deadlines for reporting?		LWn
X	What To Do: 1) A simple system to manually enter bar numbers on a course by course basis with error checking and immediate feedback. Several states actually populate the member name when you enter a bar number before you can submit. Remember UI design is important. 2) A bulk upload feature that allows multiple courses to be submitted with one upload that includes the bar number, course id, and course completion date. It should have immediate feedback and error checking so any errors can be handled before the file can be uploaded. 3) Require providers to submit new courses a minimum of one day before the course or pay a penalty. 4) Require providers to report completions within 30 days or pay a penalty. IL is nice because you actually have to report before the end of the next month. So for example any courses completed in July have to be reported before the end of August. 5) Really consider UI and ease of use when developing the system. Work with a UI specialist and don't let the programmers do the graphics or layout. 6) Allow/require members to login and check their credits. 7) Most importantly, work with a few select providers to provide feedback along the way. 8) Pie in the sky - California has the lowest requirement of CLE for states that require CLE besides Hawaii. When you consider that self-study is being abused, changing the requirement to 25 participatory credits would have the effect you are looking for. With providers required to report all of an attorney's credits it would be easy to determine those who didn't complete their requirement. Attorneys wouldn't have to self-report making the system easier, and audits would be a thing of the past.	Michael-Attorney Credits	email

** Internal notes not fom providers attending*

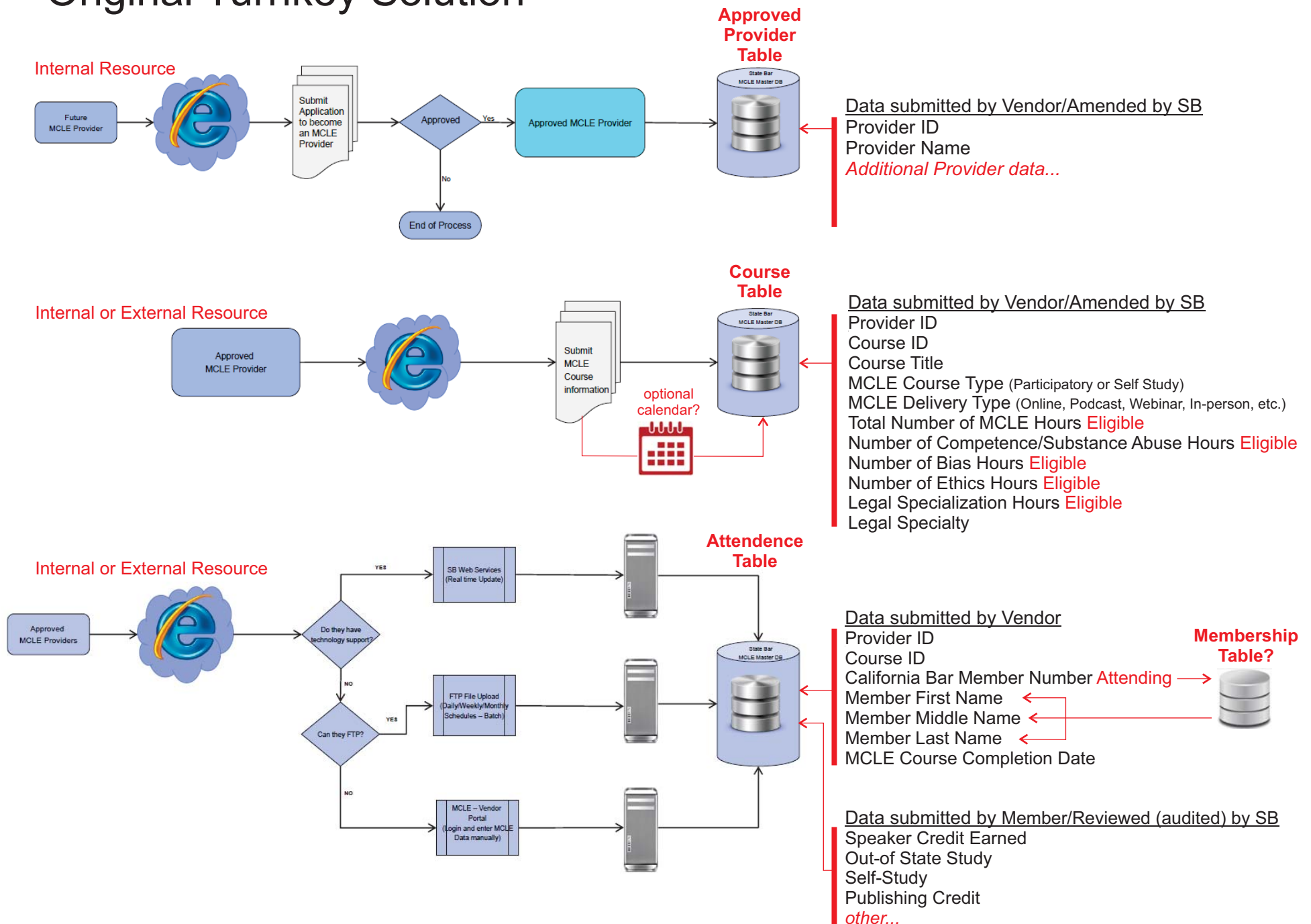
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State	CLE Entity	CLE Area	Survey email Target Address	CLE Phone	Unified / Voluntary Bar	Licensed Attorneys
Alabama	Alabama State Bar		cle@alabar.org	(334)269-1515	unified	17,599
Alaska	Alaska Bar Association		ingrid@alaskabar.org	(907)272-7469	unified	4,254
Arizona	State Bar Of Arizona		carolyn.DeLooper@staff.azbar.org	(602)340-7237	unified	23,485
Arkansas	Arkansas Supreme Court	Office of Professional Programs	dana.rowlett@arkansas.gov	(501)374-1855	voluntary	8,734
California	The State Bar Of California	Office of Certification	dina.diloreto@calbar.ca.gov	(415)538-2121	unified	254,455
Colorado	Colorado Supreme Court	Board of Continuing Legal & Judicial Education	cleinfo@csc.state.co.us	(303)928-7771	voluntary	38,523
Connecticut	<i>no mandatory CLE</i>				voluntary	38,500
Delaware	Commission on Continuing Legal Education of the Supreme Court of Delaware		margot.millar@state.de.us	(302)651-3941	voluntary	4,206
Florida	The Florida Bar		jmalloy@floridabar.org	(850)561-3180	unified	98,595
Georgia	State Bar Of Georgia	MCLE Program	cle@gabar.org	(404)527-8710	unified	46,229
Hawaii	Hawaii State Board of Continuing Legal Education		No Email	(808)537-1868	unified	7,765
Idaho	Idaho State Bar & Idaho Law Foundation, Inc.		astrause@isb.state.id.us	(208)334-4500	unified	6,031
Illinois	MCLE Board of the Supreme Court of Illinois		mcle@mcleboard.org	(312)924-2420	voluntary	96,250
Indiana	Indiana Supreme Court	Indiana Commission for CLE	No Email	(317)232-1943	voluntary	18,124
Iowa	Iowa Office of Professional Regulation	Commission on CLE	paul.wieckii@iowacourts.gov	(515)725-8029	voluntary	16,524
Kansas	Kansas Continuing Legal Education Commission		shelley.sutton@kscle.org	(785)357-6510	voluntary	14,119
Kentucky	Kentucky Bar Association		mcutter@kybar.org	(502)564-3795	unified	17,922
Louisiana	LA Supreme Court Committee on MCLE		kittyh@lascmcle.org	(800)518-1518	unified	22,000
Maine	Maine Board of Overseers of the Bar		sadams@mebaroverseers.org	(207)623-1121	voluntary	5,239
Maryland	<i>no mandatory CLE</i>				voluntary	37,266
Massachusetts	<i>no mandatory CLE</i>				voluntary	70,072
Michigan	<i>no mandatory CLE</i>				unified	44,400
Minnesota	Minnesota State Board of CLE		ivanderbeek@mbcle.state.mn.edu	(651)297-7100	voluntary	28,700
Mississippi	Mississippi Commission on Continuing Legal Education		tgraves@courts.ms.gov	(601)576-4622	unified	11,135
Missouri	The Missouri Bar		cianku@mobar.org	(573)635-4128	unified	30,393
Montana	Montana Commission of CLE		kpowers@montanabar.org	(406)442-7660	unified	3,823
Nebraska	Nebraska MCLE Commission		nsc.mcle@nebraska.gov	(402)471-3137	unified	9,651
Nevada	Nevada Board of CLE		laura@nvcleboard.org	(775)329-4443	unified	11,668
New Hampshire	New Hampshire Bar Association		nhmcle@nhbar.org	(603)715-3222	unified	6,700
New Jersey	New Jersey Board of Attorney Certification CLE		sctcle.mailbox@judiciary.state.nj.us	(609)984-3077	voluntary	95,807
New Mexico	New Mexico MCLE		mcle@nmmcle.org	(505)821-1980	unified	8,800
New York	New York State Unified Court System		cle@courts.state.ny.us	(877)NYS-4CLE	voluntary	297,570
North Carolina	The North Carolina State Bar		dholland@ncbar.gov	(919)733-0123 X245	unified	35,202
North Dakota	North Dakota CLE Commission		jeannie@sband.org	(701)255-1404	unified	2,700

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Ohio	The Supreme Court of Ohio	Commission on Continuing Legal Education	susan.christoff@sc.ohio.gov	(614)387-9327	voluntary	63,918
Oklahoma	Oklahoma Bar Association		beverlyp@okbar.org	(405)416-7009	unified	17,607
Oregon	Oregon State Bar		dcline@osbar.org	(503)620-0222	unified	20,863
Pennsylvania	PA Continuing Legal Education Board	Pennsylvania Judicial Center	pacleb@pacle.org	(800)497-2253	voluntary	74,966
Rhode Island	Rhode Island Supreme Court MCLE Commission		mcleinfo@courts.ri.gov	(401)222-4942	unified	6,488
South Carolina	The Supreme Court of South Carolina	Commission on CLE and Specializat	commcle@bellsouth.net	(803)799-5578	unified	15,505
South Dakota	<i>no mandatory CLE</i>				unified	3,199
Tennessee	Tennessee Commission on Continuing Legal Education	TN Commission on Continuing Legal Education	info@cletn.com	(615)741-3096	voluntary	26,436
Texas	State Bar of Texas		nsmith@texasbar.com	(800)204-2222x1806	unified	112,270
Utah	Utah Supreme Court Board of Continuing Legal Education	Utah Law & Justice Center	skuhre@utahbar.org	(801)297-7035	unified	11,838
Vermont	Vermont Judiciary	Board of Bar Examiners, Character & Fitness (MCLE)	martha.hicks-robinson@state.vt.us	(802)828-3281	voluntary	3,450
Virginia	Virginia State Bar		mcle@vsb.org	(804)775-0577	unified	44,941
Washington	Washington State Bar Association		renatag@wsba.org	(206)733-5912	unified	35,975
Washington DC	<i>no mandatory CLE</i>				unified	100,000
West Virginia	The West Virginia State Bar		greshamh@wvbar.org	(304) 553-7238	unified	9,712
Wisconsin	Wisconsin Court System		bbe@wicourts.gov	(608)266-9760	unified	25,112
Wyoming	Wyoming State Bar		mellis@wyomingbar.org	(307)632-9061x10	unified	3,658

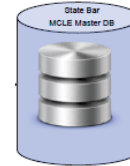
Original Turnkey Solution



Post MCLE-Provider Sessions Rescaling

Internal Resource

Approved
Provider
Table



Information submitted by Vendor (existing manual process)

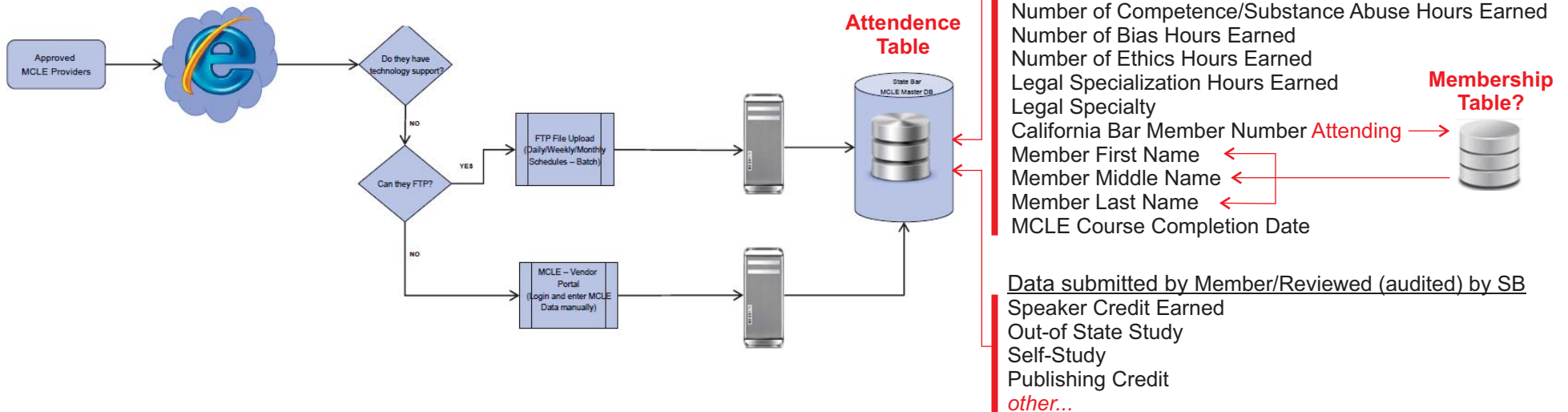
Data entered by SB

Provider ID

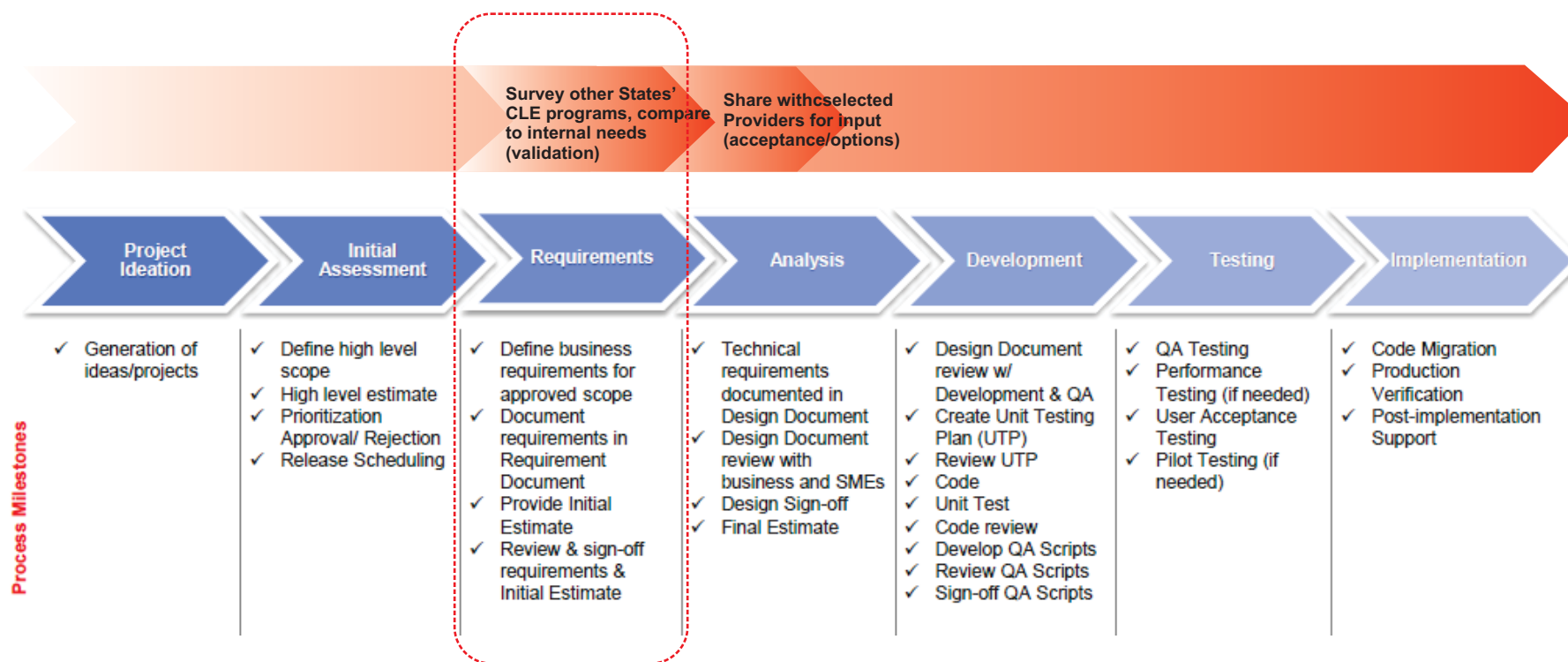
Provider Name

Additional Provider data...

Internal Resource



Parallel Development Paths





The State Bar of California

MCLE Provider Survey - States

INSTRUCTIONS: The State Bar of California is developing a system to automate its Continuing Legal Education reporting and auditing process. We are seeking your input based on your current practices in this program area. If there are others within your agency that are better equipped to complete this survey, please forward to their attention. We hope to be able to compile the responses together for each state that currently has a CLE requirement for their member attorneys. We thank you for your participation.

State Name: *

Does your organization regulate Continuing Legal Education (CLE) for attorneys in your state? *

☐ Yes

☐ No

What is the length of each compliance period, in years?

What is the number of unit hours required for each CLE compliance period?

Is there limit to the number of non-participatory hours allowed?

☐ Yes, there is a limit that is less than the total hours required

☐ No, there is no maximum limit

☐ Do not allow non-participatory self-study at all

What is the maximum number of hours that can be non-participatory?

Do you allow online study to satisfy educational requirements?

☐ Yes, online study allowed

☐ No, online study not allowed

Which type of online study do you use?

☐ Online with attendance check (participatory)

☐ Online without attendance check (non-participatory)

How do you bill providers for on-demand courses?

Are there specific categories of study that have minimum hour requirements for each reporting period?

☐ Yes, there are certain course topics that must be taken

☐ No, hours can be satisfied by any approved course topic

What are the required course topics?

- ☐ Legal Ethics
- ☐ Competence (Prevention, Detection & Treatment of Substance Abuse/Mental Illness)
- ☐ Recognition and Elimination of Bias in the Legal Profession/Society
- ☐ Professionalism
- ☐ Initial Admissions
- ☐ Marketing/Software Training
- ☐ Other

What topics are included in courses for professionalism?

Does your agency accredit CLE sponsors (providers) for your state?

- ☐ Yes, CLE providers must be accredited and registered by our agency.
- ☐ No, CLE providers need not be accredited in our state.
- ☐ Other

Do you require your providers to have each course approved individually?

- ☐ Yes, each course must be approved before it is offered (Single Activity Provider/SAP)
- ☐ No, if sponsor is approved as an accredited sponsor (Multiple Activity Provider/MAP)
- ☐ Other

Do you require your single-course providers to have each course approved individually?

- ☐ Yes, each course must be approved each time it is offered
- ☐ No, each course must be approved individually only the first time it is offered

How many Single Activity Providers (SAP) are currently approved and active in your program?

What is the total dollar fee to be approved to offer a single one-time course (SAP)?

What is the total dollar fee to be approved to offer a single course, multiple times (SAP)?

How many years does this single course fee cover?

What are the requirements to be accredited as a sponsor to offer multiple courses without individual approval in advance?

How many sponsors (Multiple Activity Providers/MAP) are currently accredited and active in your program?

What is the total dollar fee to be an accredited sponsor (MAP)?

How many years does this initial registration fee cover?

What is the fee to renew a sponsor/MAP accreditation?

How is the revenue received from this regulation used?

- ☐ Restricted
☐ Any purpose

How is attorney compliance tracked? *

- ☐ Attorney mails in transcript or course attendance as it is taken
☐ Attorney mails in transcript annually or once per compliance period
☐ Attorney attests to completion under penalty of perjury
☐ Attorney enters course online in regulator's system
☐ Course sponsor/provider sends in the course attendance, and the attorney verifies
☐ Other

Indicate methods employed for CLE Provider reporting:

- ☐ Full web services vendor portal
☐ FTP flat file upload
☐ Manual attendance entry
☐ Other

Does your current system employ any of the following (select all that apply):

- ☐ QR codes used for scanning attendance
☐ Numerical attendance codes for confirmation
☐ Cellular application to provide confirmation
☐ Other bio-metric identification system
☐ Other

Was the web services interface developed by:

- ☐ In-house by your agency
☐ External vendor development effort

Does your system currently receive a real time data feed from your MCLE providers?

- ☐ Yes, receive data real time
☐ No, receive data automatically, but periodically in batches
☐ No, do not receive real time data
☐ Other

Where there any significant problems during implementation of this web portal solution, or things you would have approached differently that you would like to share?

Where there any significant problems during implementation of this flat file upload solution, or things you would have approached differently that you would like to share?

Where there any significant problems during implementation of this manual entry solution, or things you would have approached differently that you would like to share?

Was system for CLE Provider reporting:

- ☐ Developed in-house by agency
☐ Licensed from another agency-development
☐ Custom developed by outside commercial entity
☐ Licensed and configured from existing commercial (COTS) package
☐ Other

Approximately how many months did this internal development effort take?

What was the total cost of this internal development?

From which other agency did you license this software?

What is the annual licensing cost for using this agency's software?

Who completed your custom development?

Approximately how many months did this custom development effort take?

What was the total cost of this custom development effort?

Who did you purchase your Commercial-Off-the-Shelf (COTS) package from?

Approximately how many months did this implementation effort take?

What was the first year's implementation cost to configure COTS system for use?

What is the current annual licensing cost for installed system?

Do you charge your providers for reporting CLE attendance?

- ☐ Yes
☐ No

How are the CLE Providers charged?

- ☐ Individual fee based on individual attorney attendance reported
☐ Single fee based on each flat-file upload list
☐ Single fee based on each course title
☐ Other fee

What is the fee charged per attendee, per event?

What is the fee charged for each file upload?

What is the fee charged per each course title?

What is the fee for item listed as other above?

What special system features are provided?

- ☐ Calendaring feature for scheduling and promotion
- ☐ Look-up feature to validate attorney member ID
- ☐ Look-up feature to populate class information
- ☐ Error-correction tools
- ☐ Other

What error-correction processes apply when uploading flat-file attendance information:

- ☐ Entire upload fails if file one bad record
- ☐ Partial upload successful with bad record excluded
- ☐ Other

How many months has current system/process been in production?

What system/process was used prior to current system?

Why did you make this change?

How does you agency handle course reporting offered by online providers approved only in other states?

Do you offer credits for any of the following:

- ☐ Online/Self-study coursework
- ☐ Pro-Bono activities
- ☐ Jury Duty service
- ☐ Teaching CLE
- ☐ Publishing legal article
- ☐ Attending law school
- ☐ Other

If yes to any alternate credits above, do you employ any methods to verify?

- ☐ Yes, verify all claimed
- ☐ Yes, verify some
- ☐ No, do not verify
- ☐ Other

Do you provide a feature to allow members to request a credit for additional, undefined categories?

- ☐ Yes
- ☐ No

Can you summarize this special credit request process?

Have you significantly changed your CLE compliance process within the past two years?? *

- ☐ Yes
☐ No

Do you feel changes to your reporting and auditing systems have improved the process of legal regulation in your state?

- ☐ Yes
☐ No
☐ Other

Are there any thoughts you care to share on the topic of the regulation of Continuing Legal Education for attorneys?

Does your agency regulate any of the following, or operate a certification process for (check all that apply): *

- ☐ Pro Hac Vice
☐ Foreign Legal Consultants
☐ Multi-Jurisdiction Practice
☐ Practical Training Law Students
☐ Law School Regulation
☐ Law Corporations
☐ Limited Liability Partners

If your state regulates any areas checked above, but outside your area of expertise, could you please offer any contact information we can use for additional research purposes?

Would you be willing to talk with us further regarding CLE, or contacted during our implementation process with a few follow-up questions? *

- ☐ Yes, you may contact me via telephone
☐ Yes, you may contact me via email
☐ No, thank you

You may contact me at the phone number below:

You may contact me at the email address below:

***If you would like to keep a copy of this survey, press "Ctrl P" before submitting the survey.

APPENDIX J

INSTRUCTIONS FOR COMPLETING COMPLAINT HISTORY

- 1) Ensure authorization from the member.
- 2) Go to AS400 "Member Master Index Display" for the member.
- 3) From the Investigations screen (if there is one), print the "Office of Investigation Discipline Report" by using F5 and entering twice.
- 4) Go to the Inquiries screen for the member.
- 5) Open the macro for "Complaint History" and enter the recipient's name/address. (Note there is a choice for an entity request v. individual request.)
- 6) Using the Investigation Discipline Report and the list of Inquiries, enter in the columns for "File Number," "Complainant," "Allegations," and "Disposition."
 - a. **Date Rec'd:** From the "Inquiries" screen, enter the "First Contact" date in the "Date Rec'd" column of the Complaint History. Note that when an Inquiry is forwarded for investigation, a new "Opened" date is shown on the investigation screen. You want to list the original receipt date in the complaint history.
 - b. **File Number:** The Investigation cases have "O" in the middle of the number, meaning "original jurisdiction," but Inquiries do not. For instance, the case may have started as Inq. # 09-21724 but when it was sent for investigation, it became 09-O-17811. If the complaint was received in December but it was forwarded for investigation in January, the investigation number will have a different year.
 - i. Other case numbers: There are other case numbers which use other letter designations in the case number instead of "O" and some of these originate at the Trial Counsel stage rather than in the Investigation stage. They will still show up on the Office of Investigations Discipline Report but can only be accessed through the Trial Counsel screen.
 - c. **Complainant:** Enter the name of the Complaining Witness (CW). Note that SBI means "State Bar Initiated."
 - d. **Disposition:** A drop-down menu for dispositions gives you five choices, but you may need to customize the disposition.
 - i. Intake straight closing - Closed due to insufficient facts - no contact with attorney.
 - ii. Intake worker or Investigation - Closed due to insufficient evidence after contact with attorney.
 - iii. Intake worker or Investigation - Closed with finding of a violation but not warranting prosecution. Warning letter issued.
 - iv. Fee arbitration referral - Closed with referral to fee arbitration
 - v. Intake "COM" closing - Closed with letter to member to re-establish communication.
 - vi. Intake "ROF" closing - Closed with letter to member to make client file available.
 - e. **Opened in Error:** If the disposition code is "ERR" or opened in error, then do not include this case on the complaint history.

- f. **Resulted in discipline:** If the case resulted in discipline, the disposition code will be "DSC" and the specific discipline imposed is listed in the Supplemental Records information.

7) **Reportable Actions:** We do not include Reportable Actions in a complaint history unless specifically requested.

Date Rec'd	File Number	Complainant	Allegations	Disposition
				Closed due to insufficient facts - no contact with attorney
				Closed due to insufficient evidence after contact with attorney
				Closed with finding of a violation but not warranting prosecution. Warning letter issued
				Closed with referral to fee arbitration
				Closed with letter to member to re-establish communication
				Closed with letter to member to make client file available



THE STATE BAR OF CALIFORNIA

MEMBER RECORDS & COMPLIANCE

180 HOWARD STREET, SAN FRANCISCO, CALIFORNIA 94105-1617

TELEPHONE: 888-800-3400

APPENDIX J
Att. C.

SAMPLE

CERTIFICATE OF STANDING

(With Complaint Check Attached)

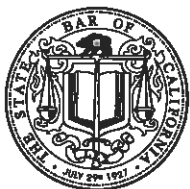
December 23, 2016

TO WHOM IT MAY CONCERN:

This is to certify that according to the records of the State Bar, MEMBER'S FULL NAME, #000000 was admitted to the practice of law in this state by the Supreme Court of California on November 30, 1993; and has been since that date, and is at date hereof, an ACTIVE member of the State Bar of California; and that no recommendation for discipline for professional or other misconduct has ever been made by the Board of Trustees or a Disciplinary Board to the Supreme Court of the State of California.

THE STATE BAR OF CALIFORNIA

Louise Turner
Custodian of Membership Records



THE STATE BAR OF CALIFORNIA

APPENDIX J

MEMBER RECORDS & COMPLIANCE

180 HOWARD STREET, SAN FRANCISCO, CALIFORNIA 94105-1617

TELEPHONE: 888-800-3400

SAMPLE

December 23, 2016

RE: Confidential Complaint History
Member: MEMBER'S FULL NAME, State Bar # 000000

Please find listed below the confidential complaint history of the above referenced member, released with their authorization as an attachment to a certificate of standing.

Date Rec'd	File Number	Complainant	Allegations	Disposition
05/05/03	Case #: 03-O-02376	(COMPLAINING WITNESS' NAME)	Failure to Perform, Delay, Abandon. Lack of/failure to Communicate. Commingling. Conversion or Misappropriation. Failure to Account, Deposit. Commission of Crime/Moral Turpitude.	Closed
01/06/94	Inquiry #: 94-10686	(COMPLAINING WITNESS' NAME)	Appearing/Performing w/o Auth. Misrepresentation to Court.	Closed
03/20/14	Inquiry #: 14-15261	(COMPLAINING WITNESS' NAME)	Lack of/Failure to Communicate.	Closed

Please note that where an Inquiry is closed due to insufficient facts or evidence, it is likely that the attorney was not made aware of the matter. When a complaint does not rise to a disciplinable offense, for factual and/or legal reasons, the complaint is closed without informing the attorney or requesting an explanation.

We are unable to provide copies of the actual complaint(s) as such communications to the State Bar of California are privileged pursuant to California Business and Professions Code, section 6094(a).

THE STATE BAR OF CALIFORNIA

Louise Turner
Custodian of Membership Records

APPENDIX K

AGENDA ITEM

705 DECEMBER 2016

DATE: December 7, 2016

TO: Members, Board of Trustees

FROM: Suzanne Grandt, Attorney, Office of the General Counsel
Dag MacLeod, Director, Office of Research and Institutional Accountability

SUBJECT: Closed Inquiries

EXECUTIVE SUMMARY

The Workforce Planning Report (Report) delivered to the State Bar in May, 2016, included recommendations related to the handling of Complaint Check Certificates of Standing.¹ Specifically, the Report recommended that Member Records and Compliance (MRC) discontinue the practice of sending requests for Complaint Checks to the Office of the Chief Trial Counsel (OCTC) and, instead, assume full responsibility for processing these documents.

Related to this recommendation, the Report also noted the confusion that has been created when a licensed attorney requests a Complaint Check and learns, for the first time, about allegations of misconduct that never proceeded beyond the Intake phase of case processing. Evaluations of these allegations of misconduct are defined by State Bar Rules as “inquiries.” The Report recommends the implementation of a policy to notify attorneys of inquiries that are closed in Intake and to purge these records from OCTC files. However, these recommendations raise a prior question: when does an allegation of misconduct have sufficient merit to warrant inclusion in a Complaint Check?

The Office of the General Counsel (OGC) has evaluated the question regarding attorney notification of closed inquiries, as well as what information should properly be included in Complaint Checks. The Committee on Regulation and Discipline brings this topic to the Board for discussion.

¹ Under current State Bar policy, all members of the State Bar may request a list of “confidential complaint information that may have been filed against [that person].” See State Bar Website at <http://www.calbar.ca.gov/Attorneys/MemberServices/CertificateofStanding.aspx#4>. This document is referred to as a “Complaint Check.” The State Bar’s website also refers to this document as a “grievance” or “discipline history” letter. Currently, the Complaint Check indicates when an initial report of misconduct was received, the file number, the name of the complainant, a brief statement of the allegation, and the disposition.

WORKFORCE PLANNING OBSERVATIONS AND RECOMMENDATIONS

In the Workforce Planning Report (Report) delivered to the Legislature in May, 2016, the National Center for State Courts (NCSC) noted a number of challenges related to the processing of Complaint Check Certificates of Standing. Previously, staff in Member Records and Compliance (MRC) received requests for these documents and initiated the response, processing the Certificate of Standing, which includes the following basic information: the member's full name, bar number, date of admission, name or status changes, administrative actions, reportable actions and *public* disciplinary history. MRC staff, however, lacked access to the data needed to produce the Complaint Check which includes confidential complaint information that may have been filed against a member of the bar. Instead, that data was previously accessible only to staff in the Office of the Chief Trial Counsel (OCTC). As a result, MRC staff would process the Certificate of Standing and then send the remaining portion – the Complaint Check – to OCTC staff in Los Angeles to be completed.

With the intent of streamlining this process, the NCSC recommended that MRC staff be given access to the systems that OCTC uses when it produces the Complaint Checks and be trained to read the data in the system so that Complaint Check Certificates of Standing could be processed entirely by MRC staff. While this recommendation has now been fully implemented, a related issue identified by NCSC remains outstanding.

Prior to about four years ago, Complaint Checks did not include information related to allegations of misconduct that had insufficient merit to proceed beyond the Intake phase in OCTC. While such filings are submitted on a "Complaint Form" and are colloquially referred to as "complaints," technically they are considered *inquiries*, not complaints. State Bar Rules define a Complaint as "a communication alleging misconduct by a State Bar member **sufficient to warrant an [I]nvestigation**² that may result in discipline of the member if the allegations are proved." Allegations of misconduct that are closed at intake are, by definition, insufficient to warrant an investigation.

For reasons that are not well documented, about four years ago, State Bar staff were directed to include *inquiries* in the information provided in Complaint Checks. This practice has proven problematic. Attorneys who request Complaint Checks may be entirely unaware that inquiries were submitted to OCTC, because the inquiry was closed prior to any investigation being undertaken by OCTC; in some instances they have stated under oath that they have not been the subject of any misconduct complaints based on their lack of knowledge of the more precise, technical definition of "complaint." Moreover, MRC's disclosure of this information may be in violation of State Bar Rules and Business and Professions Code sections mandating the confidentiality of non-public investigatory information.

In response to the first concern regarding attorney's lack of knowledge of inquiries, and the overall need for clearer guidelines in this area, the NCSC recommended that a policy be implemented to notify attorneys of inquiries closed at intake and that a rule be promulgated outlining timelines for purging such information from OCTC records.

² An Investigation is defined as "the process of obtaining, evaluating, and reviewing evidence and information." State Bar Rule 5.4(33).

DISCUSSION

Staff at the State Bar believe that the recommendation regarding notification to attorneys of inquiries that are closed in Intake is problematic. As an initial matter, this policy raises significant confidentiality concerns relating to communications between complainants and the State Bar. Business and Professions Code section 6094 states that “communications to the disciplinary agency relating to lawyer misconduct or disability or competence, or any communication related to an investigation or proceeding and testimony given in the proceeding are privileged.” Although State Bar rules permit OCTC, in its discretion, to notify attorneys they have received an allegation of misconduct against him or her, this is presumably in order to obtain information to determine whether to move forward with an investigation. Disclosure for any other reason by any other part of the State Bar serves no public protection purpose, and is arguably not permissible under State Bar Rules and Business and Professions Code section 6094. Moreover, this type of notification to the subject member may create a disincentive to individuals from filing grievances, since they may fear the risk of a potential libel, or other civil action against them.

In Chronicle Pub. Co. v. Superior Court (1960) 54 Cal.2d 548, the California Supreme Court stated “The State Bar will accept a complaint from any member of the public who feels, whether rightly or wrongly, that he has been aggrieved by the action of the attorney, or feels interested in complaining about an attorney, no matter how informally made the complaint may be.... These complaints are confidential unless they result in disciplinary action taken against the attorney. Many such complaints found to be unfounded are never brought to the attention of the attorney involved. ***This procedure acts as a safety valve for the public. It thereby is made to feel that the law profession is not a closed body which protects its members no matter how unfaithful to their trusts any might be, and which would punish a member of the public who makes an unfounded charge by disclosure of his name and his charge.*** . . .” Id., at 567-568 (emphasis added).

Even setting aside these confidentiality issues, in 2016, on average, almost 900 inquiries were closed in Intake each month. Notification to each respondent attorney would create a huge burden on OCTC staff with no clear benefit to public protection. Moreover, OCTC and/or MRC may become inundated with calls, e-mails or other forms of communication from members demanding to know additional information regarding the closed matters.

Instead, staff recommends that the State Bar modify its current practice and cease including inquiries closed in Intake in Complaint Checks. The Board is asked to discuss this recommendation, as well as the following:

- Although it does not appear that the Board was consulted when the decision was made to begin including inquiries closed in Intake in Complaint Checks, is it appropriate to ask the Board to decide whether to reverse or continue with the current practice?;
- Should the Bar evaluate its policies for record destruction and develop a policy for purging inquiries that are closed in Intake after a certain time period (ex. after 5-10 years)?
 - The State Bar Record Retention Schedule mandates permanent retention of “Discipline Case Files.” Under the heading of “Discipline Case Files” there are a number of specific items including “non-disciplinary action (Incl. Investigation).”

See State Bar of California Record Retention Schedule, Rev. 9/1/16. Not included in the list of items are inquiries. However, arguably the term “non-disciplinary action” could be interpreted to encompass records of grievances.

- 28 state bars have rules regarding the expungement or destruction of records relating to closed or dismissed complaints or grievances from anywhere from one to ten years.

FISCAL/PERSONNEL IMPACT

None.

RULE AMENDMENTS

None

BOARD BOOK IMPACT

None.

BOARD GOALS & OBJECTIVES

Finalization of the policy on including allegations of misconduct that are closed in Intake will clarify the work of Bar staff and contribute to the completion of implementing Workforce Planning recommendations.

APPENDIX L

REDACTED
SUPREME COURT EMAIL
NOTIFICATION

From: Notify@jud.ca.gov
Sent: Tuesday, December 20, 2016 8:58 AM
To:
Subject: Supreme Court of California Case Notification for: S237855

, the following transaction has occurred in:

KONG ON DISCIPLINE

Case: S237855, Supreme Court of California

Date (YYYY-MM-DD):

2016-12-20

Event Description:

Recommended discipline imposed: disbarred

For more information on this case, go to:

http://appellatecases.courtinfo.ca.gov/search/case/disposition.cfm?dist=0&doc_id=2161743&doc_no=S237855

For opinions, go to:

<http://www.courts.ca.gov/opinions-slip.htm>

Do not reply to this e-mail. Messages sent to this e-mail address will not be processed.

REDACTED
STATE BAR COURT REPORTS
PROVIDED TO CSF

Disposition of State Bar Court Cases

Confidential. For Use By the State Bar of California Only.

Tuesday, January 03, 2017

APPENDIX M

STATUS LETTER AND
REDACTED SPREADSHEET
OF APPLICATIONS ON WHICH STATUS
LETTER SENT



THE STATE BAR OF CALIFORNIA

CLIENT SECURITY FUND

845 SOUTH FIGUEROA STREET, LOS ANGELES, CALIFORNIA 90017-2515 TELEPHONE (213) 765-1140 | FAX (213) 765-1158

December 14, 2016

«Applicant_Print_Name»
 «CSF_Applicant_Address_Line_1»
 «CSF_Applicant_Address_Line_2»
 «CSF_Applicant_City» «CSF_Applicant_State» «CSF_Applicant_Zip_Code»

In : Application for Reimbursement from the Client Security Fund;
 CSF No.: «Case_Number»

Dear Applicant(s):

The Client Security Fund would like to inform you that your application with the Fund remains open and pending review.

If there is not yet final discipline against the attorney involved in your matter, or another resolution of the discipline complaint that you filed, then the Fund cannot yet take action on your application. The application will be monitored and once there is final action, the application will be placed in line for review by the Client Security Fund Commission.

For those applications on which there is already final discipline, or the attorney is deceased, the Fund handles applications in the order received. There is a limited amount to be used for reimbursements each year, and we anticipate that most of the Fund's budget next year will be used to resolve applications filed prior to 2014. We hope to be able to review some applications filed in 2014 toward the end of the year. The first two numbers of your CSF application number indicate the year in which your application was filed with the Client Security Fund.

We will contact you with a status update later in 2017. If the Fund needs information from you to proceed on your application, we will send a letter requesting information.

Please keep the Fund informed if your address and/or telephone number changes. If there is a change, please provide this office with a signed written request to update your contact information. We cannot take this information over the phone. It must be submitted in writing and all applicants must sign it.

If you wish to correspond with the Fund via email, you can contact the Fund at ClientSecurityFund@calbar.ca.gov and we will add your email to your contact information.

We appreciate your patience and cooperation as the Fund works through its inventory of applications in as fair and efficient a manner as possible.

CLIENT SECURITY FUND

REDACTED

REDACTED CSF Mass Status Letter Mailing Spreadsheet

Mass Status Letter Mailed December 14, 2016

(Sent to all Applicants except those who received status update in last 4 months)

No.	Case Number	Last Name	First Name	Applicant Print Name	CSF Applicant Address Line 1	CSF Applicant Address Line 2	CSF Applicant City	CSF Applicant State	CSF Applicant Zip Code
1								CA	95205
2								CA	95215
3								CA	95240
4								CA	95762
5								CA	91601
6								CA	94578
7								CA	95206
8								CA	90806
9								CA	90006
10								LA	70130
11								CA	94531
12								CA	95376
13								NV	89147
14								CA	90019
15								CA	94565
16								CA	94404
17								CA	92562
18								CA	90631
19								TX	77380
20								CA	90505
21								CA	90505
22								CA	95370
23								CA	95407
24								CA	95482
25								CA	92057
26								CA	90067
27								CA	91103
28								CA	93304
29								CA	92506
30								CA	91710
31								CA	92571

APPENDIX M

[illegible]

APPENDIX N

SAMPLE TRACKING REPORT

Client Security Fund Case Processing Report¹

Calendar Year 2016

APPENDIX N

CSF Open Cases 4,243
 CSF Cases Pending Discipline (CSF7a) 945
 Filing Date to Initial Review Date² (CSF7b) 14.3 days (mean)
 Filing Date to CSF Jurisdiction Date³ 1,325 days – CSF Awaiting Jurisdiction (mean)
 Time for CSF to Resolve Cases 285 days – CSF Investigation to Resolution (mean)

	Filing Date to Case Resolution ⁴ (Days)	Filing Date to Mailing/Service (Days)	CSF Awaiting Jurisdiction (Days)	CSF Jurisdiction Date to Mailing/Service (Days)	CSF Jurisdiction Date to Case Resolution (Days)	Number of Cases Resolved & Percentage of Total
Cases Resolved by Staff ⁵ (Closing Letter)	993	993 (CSF7c1)	715 ----->	278 (CSF7c1)	278	439 – 18.9% (CSF7c2)
Cases Resolved by Notice of Intention to Pay ⁶	1,348	1,259 (CSF7d1)	1,033 ----->	226 (CSF7d1)	315	417 – 17.9% (CSF7d2)
Cases Resolved by CSF Commission Decision ⁷ (Tentative & Final Decisions)	1,866	1,789 (CSF7e)	1,588 ----->	200 (CSF7e)	278	1,470 – 63.2%
All Cases Resolved by CSF in 2016	1,610 (CSF7f)	1,544 -----	1,325 -----	219 ----->	285 (CSF7f)	2,326 – 100%

¹ Implementation of Workforce Planning Consultant Recommendations re CSF Case Reports (ORIA Designation - CSF7). Report includes recommended details along with additional data to provide a more accurate overview of actual CSF case work times. Except as otherwise noted, data (derived from AS-400 database) shows average number of days for cases resolved (closed) by CSF in 2016.

² Filing Date to Initial Review Date measures the period from the date an application is received by CSF through initial legal review, which includes computer data entry, physical file set up, and initial legal staff review re type of loss asserted, attorney area of practice, attorney discipline status, rule of limitations, and other potential limitations and exclusions. Data is for applications filed in 2016.

³ CSF Jurisdiction Date is the earliest date that CSF may begin investigating an application, usually consisting of the effective date of the Supreme Court ordered discipline of the attorney in the applicant's matter, the effective date of the Supreme Court ordered disbarment, or the date the application is filed (if filed after discipline or disbarment) and occasionally consisting of another event, such as the date frozen attorney bank accounts are distributed by court order to aggrieved clients/applicants. The period between Filing Date and CSF Jurisdiction Date, designated above as CSF Awaiting Jurisdiction, is thus the average number of days CSF had to wait before it could begin working on the cases CSF resolved in 2016.

⁴ Case Resolution Date is the date an application is closed, either by Final Decision of the CSF Commission (pay or deny), payment via Notice of Intention to Pay, or termination by CSF staff.

⁵ Rule 3.441(B) of the Client Security Fund rules authorizes CSF's counsel to close an application without prejudice, if appropriate, such as if the attorney was not disciplined or CSF's investigation determined there is insufficient evidence of a reimbursable loss under the rules. Cases closed without prejudice may be reopened upon applicant request and will then be decided by the CSF Commission.

⁶ Rule 3.442 provides that CSF's Director may issue a Notice of Intention to Pay to the respondent in appropriate circumstances. If the respondent does not timely object, reimbursement may be made to the applicant in the amount stated in the Notice. Service of Notices of Intention to Pay and Commission Decisions (Fn 7, below) are made in accordance with Rule 3.445.

⁷ Rule 3.441(C) articulates the actions the CSF Commission may take, including holding evidentiary hearings and issuing Tentative Decisions. Rule 3.443 recites minimum due process requirements, including required written findings or reasons in decisions and the right of the parties to submit legal or factual objections. (See also *Saleeby v. State Bar* (1985) 39 Cal. 3d 547.) Final Decisions granting or denying reimbursement are issued by the Commission in accordance with Rule 3.444 and constitute the final action of the State Bar on applications for reimbursement.

APPENDIX O

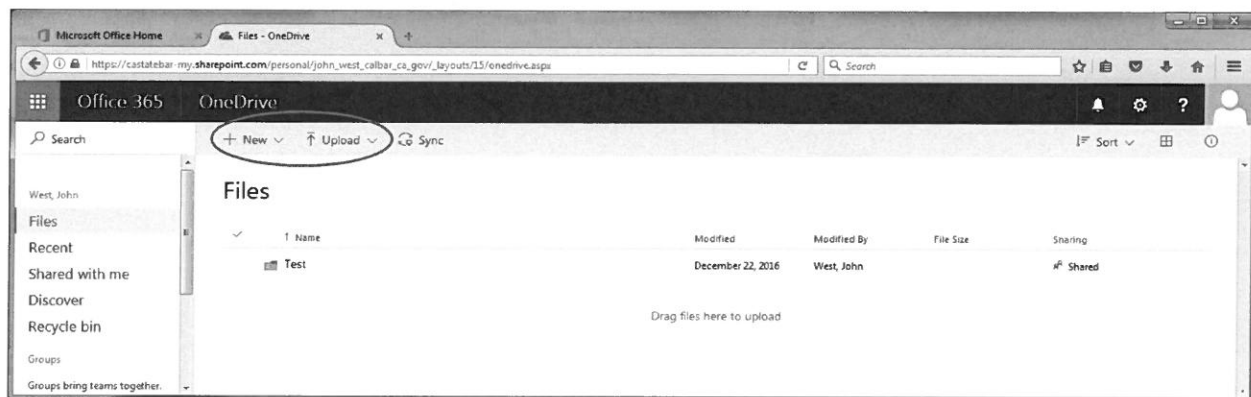
USER INSTRUCTIONS FOR ACCESSING CSF COMMISSION MATERIALS ON ONEDRIVE

Sharing Files with OneDrive

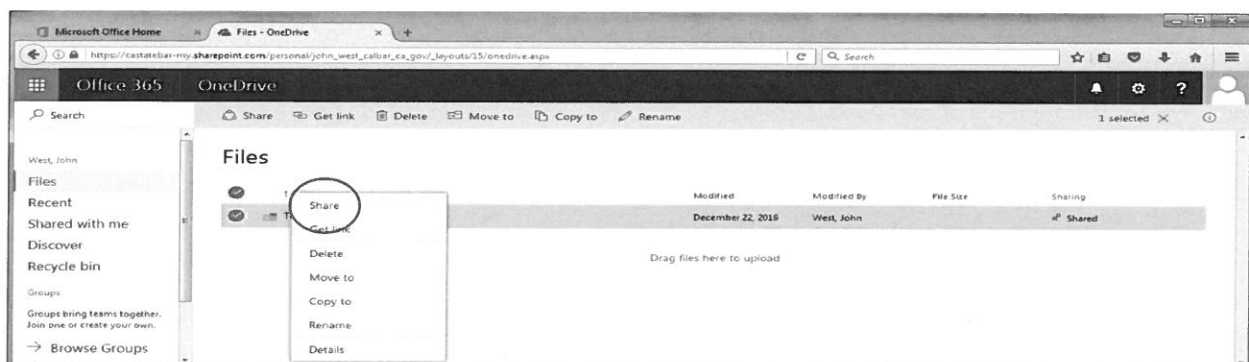
1. Login to the following website: <https://login.microsoftonline.com>. Your account name is your State Bar email address and your State Bar Windows password.
2. Click on the **OneDrive** icon. If you don't see the OneDrive icon please call John West at x2471 to make it available for your account.



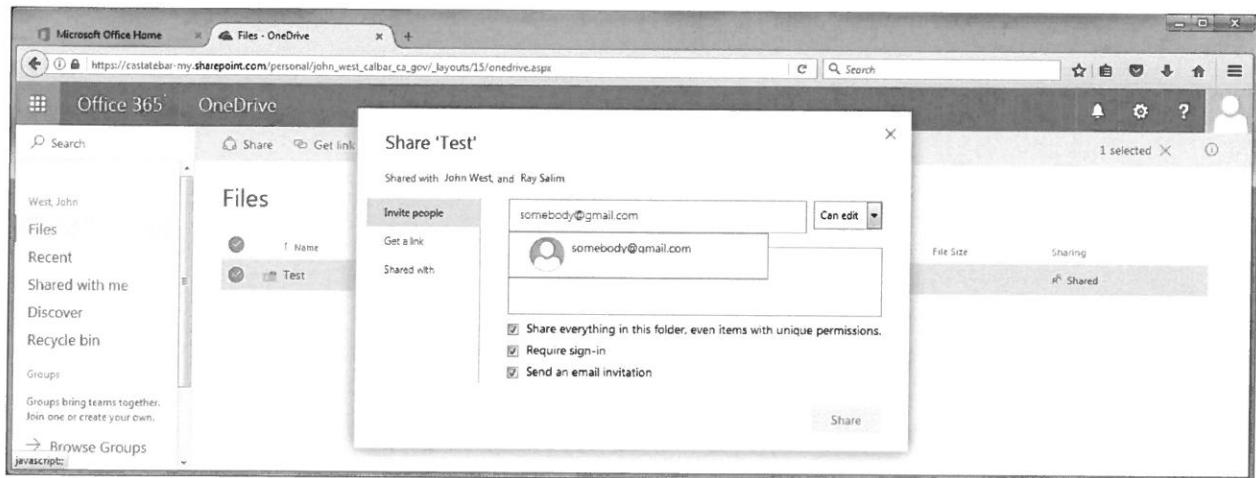
3. Click on **New** to create new folders or files. Click on **Upload** to upload a file from your PC drives into OneDrive or a OneDrive folder.



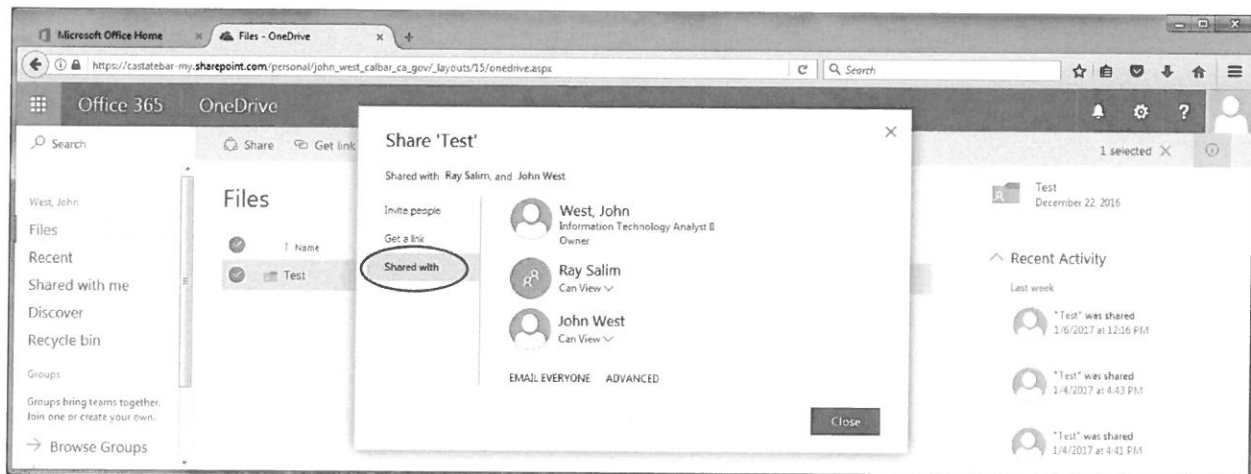
4. **Right** click on the folder or file you wish to share. If you share a folder you can set all the files in that folder to be shared. Then click on **Share**.



- Enter the email address of the person with whom you wish to share the folder or file. To the right of the email address you can choose **Can edit** or **Can view** (to make it read-only). Notice that you can **add a message**, **share everything in the folder**, **require a sign-in**, and **send an email invitation**. Most of the time you will keep all of these options. You may have files that are not sensitive in which case you can uncheck **Require sign-in**. This will simplify the recipient's experience. But for the most part you will want to require sign-in for security purposes. When you require a sign-in the recipient will need to have a Microsoft account that is the same as the email address you are sharing. If not, the recipient will be prompted to create one. If the recipient creates an account it **must** be the email address. Anything else will not work. Once you click on **Share** an invitation will be sent to the email address(es) that you have entered.

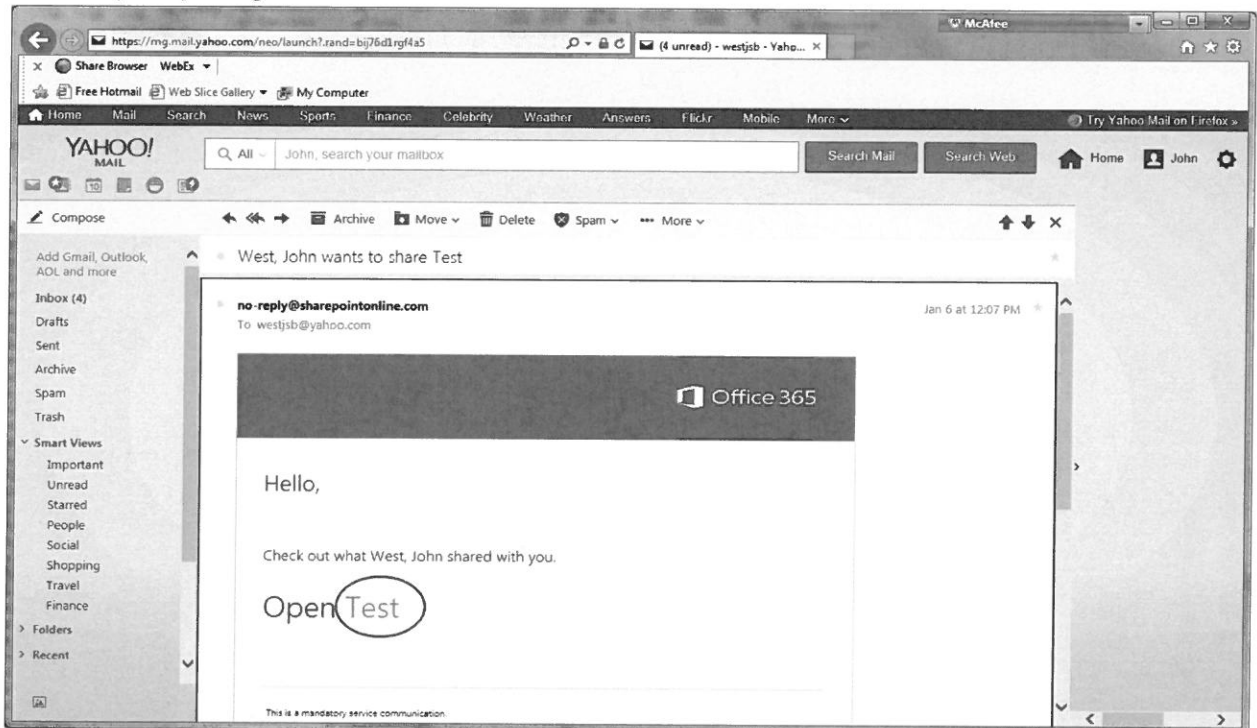


- To see if the recipients have successfully logged in to view your shared files you can **right click** on the folder or file and click **Share** again. Then click on **Shared with**. If you don't see the person listed, it means they have not yet successfully logged in.

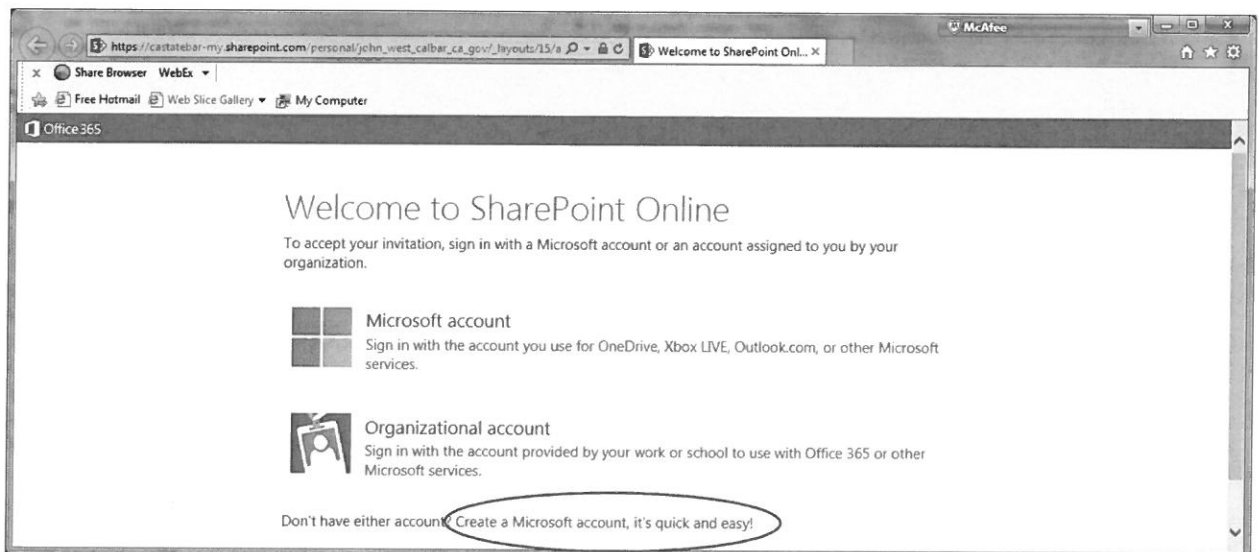


Sharing Files with OneDrive – The Recipients Experience

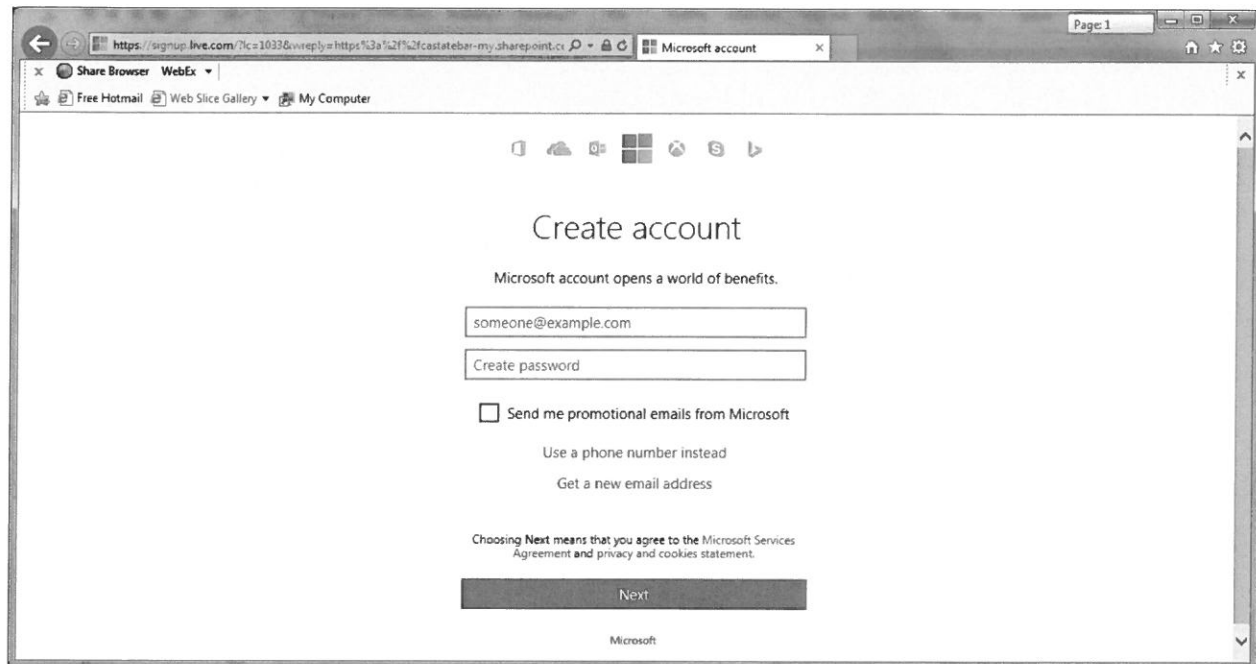
1. When you share a file or folder with an email address using OneDrive an invitation will be sent to the email address. The sender will be no-reply@sharepointonline.com. Below is the opened message. Notice the prompt below to open the shared folder **Test**. If you selected **Require sign-in** then the recipient will be prompted to sign in. If their email address is a Microsoft account then they can just sign in.



2. If it is **not** a Microsoft account then they will need to create one by clicking on **Create a Microsoft account**.

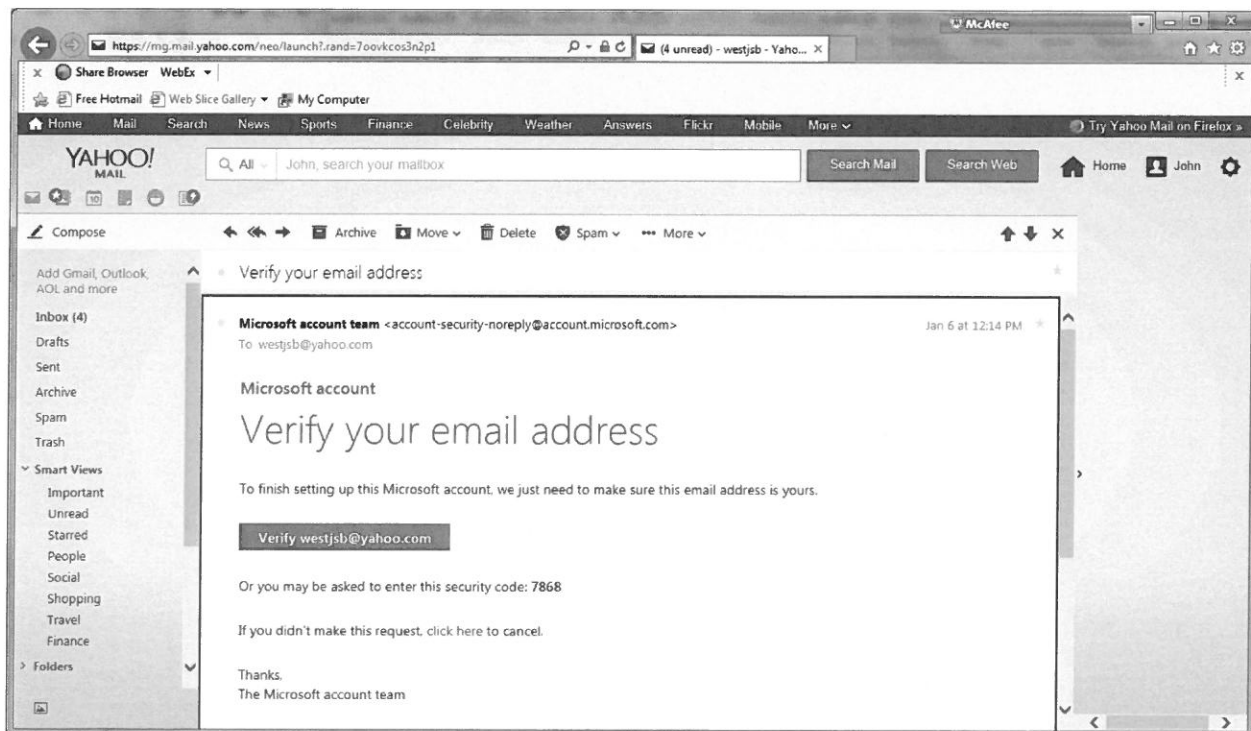


3. They will then be prompted to create an account. The account name **must** be the email address you are inviting to share. The password does not necessarily have to match the email address's password since this is a different account.



A screenshot of a web browser window showing the Microsoft account creation page. The address bar displays a URL from live.com. The page has a clean, white background with a header containing social media icons. The main heading is "Create account". Below it, a subheading reads "Microsoft account opens a world of benefits." There are two input fields: one for an email address (containing "someone@example.com") and one for a password (labeled "Create password"). Below the password field is a checkbox labeled "Send me promotional emails from Microsoft". Further down, there are links for "Use a phone number instead" and "Get a new email address". A line of text states: "Choosing Next means that you agree to the Microsoft Services Agreement and privacy and cookies statement." At the bottom is a large "Next" button. The Microsoft logo is at the very bottom.

4. Part of the account creation process is to send a verification email like the one below. Once the email address has been verified the account will be created and the user will be able to login with the new account and view the shared file or folder.



A screenshot of a Yahoo! Mail inbox in a web browser. The browser's address bar shows a URL from mg.mail.yahoo.com. The page features the Yahoo! Mail interface with a top navigation bar, a search bar, and a left sidebar with folders like "Inbox (4)", "Drafts", "Sent", "Archive", "Spam", and "Trash". The main content area displays an email titled "Verify your email address" from the "Microsoft account team" to "westjsb@yahoo.com", dated "Jan 6 at 12:14 PM". The email body contains the text: "Microsoft account", "Verify your email address", "To finish setting up this Microsoft account, we just need to make sure this email address is yours.", a button labeled "Verify westjsb@yahoo.com", "Or you may be asked to enter this security code: 7868", "If you didn't make this request, click here to cancel.", "Thanks.", and "The Microsoft account team".