

AGENDA ITEM

115 MARCH 2017

DATE: February 3, 2017

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

FROM: Gilda Muñoz, Director of Human Resources

SUBJECT: State Bar of California's Conflict of Interest Code for
Designated Employees, Proposed Revisions to List of
Designated Employees – Return from Public Comment

EXECUTIVE SUMMARY

At its December meeting, the Board Executive Committee authorized a 30 day public comment period on annual amendments to the State Bar's Conflict of Interest Code ("Code"). The Political Reform Act, Government Code § 81000 et seq. ("PRA"), requires the State Bar, as a public agency, to adopt a conflict of interest code for officers, employees and consultants, who, during the course of their work for the State Bar, make or participate in making, decisions that may have a material impact on the interests defined in the code ("Designated Employees"). The Code includes a list of Designated Employee positions (Appendix A of the Code) that are subject to the Code. The Code also includes a list of categories in which Designated Employees must disclose interests in compliance with the Code, referred to as "Disclosure Categories." (Appendix B of the Code).

Government Code § 87306 requires periodic revisions of the Code to assure that the lists of Designated Employees and Disclosure Categories are accurate and to conform the Code to changes that may have occurred in the PRA or regulations of the California Fair Political Practices Commission ("FPPC").

In conformity with these requirements, the State Bar annually reviews its Code and circulates any amendments for public comment in advance of its application for the upcoming year. In 2014, the Disclosure Categories were updated to reflect changes in the State Bar's operational functions since the Code was originally adopted. Last year, the list of Designated Employees was also expanded to require more reporting and disclosure than had historically been the case.

This year, the State Board revised the Code to conform to Regulation 18730 of the FPPC.

Regulation 18730 replaces the customized code that has been used by the State Bar historically. This is not a material change in the substance of the Code.

Additionally, this year the list of Designated Employees has been updated to reflect current circumstances.

The revised list of Designated Employees was released for a 30 day public comment period. As no comments were received, the Board Executive Committee recommends that the Board of Trustees adopt the revised Code.

BACKGROUND

The PRA, Government Code § 81000 et seq. requires state and local government agencies, such as the State Bar, to adopt and promulgate conflict of interest codes. The State Bar is also subject to the conflict of interest standards mandated by Business and Professions Code § 6035-6038. These sections conform to the definitions specified in Government Code § 87103.

Historically, the State Bar has reviewed its Code annually to update the Code and list of Designated Employees subject to the reporting requirements under the Disclosure Categories. The PRA requires agencies to identify areas where persons who act on the agency's behalf must disqualify themselves from making decisions because of a financial conflict of interest. These areas are listed as the State Bar's Disclosure Categories (Appendix B of the Code). The PRA also requires that agencies designate employees who must report particular financial interests because they make or participate in making decisions that are likely to have an impact on those financial interests. The State Bar identifies these employees and their reporting requirements on the list of Designated Employee positions (Appendix A of the Code). Thus, the Disclosure Categories, indicate the subject matter areas in which the Designated Employees are authorized to make decisions and may be influenced by financial interests, requiring disclosure under the Code.

DISCUSSION

This year, two changes were proposed to the Code. First, the State Bar adopted in place of its customized code the FPPC's Regulation 18730. Regulation 18730 is routinely updated by the FPPC, and its adoption ensures that the State Bar's Code is in compliance with recent changes adopted by the FPPC. The State Bar's Code will be updated with the current version of Regulation 18730 before it is distributed to employees in connection with 2017 filing deadlines. Second, staff has reviewed and updated the list of Designated Employees who are subject to reporting requirements under the Code. This updated list of Designated Employees (Appendix A of the Code) was released for a 30 day public comment period. No comments were received during the public comment period.

FISCAL / PERSONNEL IMPACT

None.

RULE AMENDMENTS

None.

BOARD BOOK IMPACT

None.

RECOMMENDATION

It is recommended that the Board Executive Committee recommend that the Board of Trustees adopt the updated list of Designated Employees, Appendix A to the State Bar's Conflict of Interest Code, as set forth above.

BOARD COMMITTEE RECOMMENDATIONS:

the Board Executive Committee recommends that the Board adopt the following resolution:

RESOLVED, that the Board of Trustees hereby adopts the updated list of Designated Employees, Appendix A to the State Bar of California's Conflict of Interest Code for Designated Employees in the form attached hereto.

Attachments:

Attachment 1 – State Bar Conflict of Interest Code

Attachment 2 – Appendix A of the Code, Designated Employee Positions

Attachment 3 – Appendix B of the Code, Disclosure Categories