

AGENDA ITEM

164 MARCH 2017

DATE: March 10, 2017

TO: Members, Stakeholders, Access to Justice, and Appointments Committee
Members, Board of Trustees

FROM: Leah Wilson, Chief Operating Officer

SUBJECT: Report and Proposed Action on Restructure of State Bar Standing
Committees and other Sub-entities

EXECUTIVE SUMMARY

At the Board of Trustees meeting on September 12, 2016, staff presented a report designed to advance Governance in the Public Interest Taskforce recommendations. That report addressed the potential restructuring of State Bar committees and other sub-entities, and identified various issues relating to the current structure of those committees and sub-entities. The Board directed staff to study the issues, and report on the results of that study at the Board's November 2016 meeting. At the Board meeting on November 18, 2016, staff presented its report and the Board directed staff to pursue potential changes to the current committee structure. This agenda item contains a status report on these changes and staff recommendations for further Board action.

DISCUSSION

The Board's directions to staff at the November 18, 2016, Board meeting are outlined below, along with corresponding status reports and staff recommendations.

1. Standing Committees on a) Administration of Justice; b) Alternative Dispute Resolution; c) Appellate Courts; and d) Federal Courts

Staff was directed to continue pursuing the transition of the core functions of these Standing Committees into the Litigation Section. That transition has been completed. These Standing Committees were established by Board action, and therefore need to be eliminated by Board action. Staff recommends that the Board eliminate these Standing Committees. Staff will then revise the Board Book to eliminate the policies establishing these Committees, along with references to the Committees in other Board policies.

2. Standing Committee on the Delivery of Legal Services (SCDLS) and the California Commission on Access to Justice (Access Commission)

Staff was directed to:

1. Continue pursuing a proposed integration of SCDLS into the Access Commission subject to the opportunity of the Access Commission to vet and approve the proposed integration prior to the Board taking official action, with the goal of finalizing a proposal by January 1, 2017; and
2. If the proposed integration is effectuated, present the Board with a formal proposal to increase the number of appointees to the Access Commission from 10 to 12, dedicating the two additional seats for staff from nonprofit legal services and pro bono organizations.

The Access Commission met in December 2016, and supports incorporation of the work and participation of SCDLS members in the Access Commission. The Governance in the Public Interest Task Force (GIPITF) has also taken on an in-depth and comprehensive review of the role of various sub-entities (e.g., committees and volunteers) and their relationship to the State Bar. Given that pending review, staff does not recommend adding additional members to the Access Commission at this time, however this recommendation can be revisited at the conclusion of the 2017 GIPITF.

No further appointments will be made to SCDLS, notwithstanding the current open appointments season. Staff recommends that SCDLS be eliminated this year, with pending projects completed or folded into the Access Commission.

SCDLS was established by Board action, and would need to be eliminated by Board action. Staff recommends that the Board take action to eliminate SCDLS by the end of 2017. This date will allow completion and/or the orderly transition of pending projects. Staff will revise the Board Book to eliminate the policy establishing SCDLS, along with references to SCDLS in other Board policies.

3. The Committee on Group Insurance Programs (COGIP) and the Committee on Professional Liability Insurance (COPLI)

Staff was directed to work with the Stakeholders, Access to Justice, and Appointments Committee to study the potential combination of COGIP and COPLI into a single insurance committee, and report back to the Board no later than March 2017 with a proposal.

Staff has studied the potential combination of COGIP and COPLI; events after the November 2016 Board meeting have however resulted in a revised staff recommendation. In November 2016, discussions concerning the departure of the Sections from the State Bar were still in their early stages. These discussions have advanced significantly, and reflect a plan to transition the administration of the COGIP suite of programs, along with the Bar's affinity programs, to the successor entity of the Sections, as soon as practicable and consistent with any existing contractual or legal requirements. The revenues generated by these programs would then be used to assist in funding programs approved by the successor entity.

State Bar staff envisions a multi-step transition of the COGIP insurance programs to the Sections successor entity. First, oversight of the insurance programs would be shifted from

COGIP to State Bar staff, with the assistance of one or more expert consultants that would be retained by the Bar.¹ These consultants would assist not only with the transition of the programs to the Sections successor entity, but also with the transition of the life insurance program to a new carrier². This highly technical and important transaction would benefit from a small number of paid expert consultants who can be strategically employed to address various actuarial and legal issues. While staff recognizes that individual COGIP members have expertise that staff does not possess, staff does not believe that the committee structure itself is beneficial to timely and effective navigation of the impending transitions of the life insurance carrier and the administration of the COGIP suite of programs (to the Sections successor entity). Shifting to staff oversight with the assistance of individual expert consultants will allow for the necessary agility and knowledge base to provide substantive input on legislative and other structural proposals as soon as is needed.

As a result of this proposed approach, staff is presenting a modified recommendation to *eliminate* COGIP, rather than to merge COGIP and COPLI. COGIP would remain intact through its next meeting, in May 2017, but would be eliminated thereafter.

COGIP was established by Board action, and would need to be eliminated by Board action. Staff recommends that the Board take action to eliminate COGIP, effective May 31, 2017. Staff will revise the Board Book to eliminate the policy establishing COGIP, along with references to COGIP in other Board policies.

Under this proposal, COPLI would remain as the only State Bar insurance committee. COPLI will continue to oversee the Professional Liability Insurance product, Mediator's and Arbitrator's Liability Insurance, and Business Office Package Insurance, all of which are sponsored by the State Bar and offered exclusively to California attorneys. A New Admittee Professional Liability product is also offered and managed as a subset of the larger Professional Liability program. This overall Professional Liability program has the congruent goals of providing attorneys with insurance coverage and clients with recourse for malpractice, consistent with the State Bar's public protection mission.

4. Legal Specialization Advisory Commissions

Staff was directed to work with the Stakeholders, Access to Justice, and Appointments Committee to effectuate a modification of the appointments process for the Advisory Commissions, so the California Board of Legal Specialization (CBLS), rather than the Board of Trustees, makes appointments to the Advisory Commissions.³

Staff recommends that the Board take action to effectuate this modification of the appointments process. The modified process will follow the existing appointments process. Selection of new members will involve a three-step process. First, staff will review the applications for eligibility and good standing. Second, the Advisory Commissions will review the applications, and make appointment recommendations. Finally, the CBLS will make the actual appointments of members and officers to the Advisory Commissions. The CBLS will operate in accordance with

¹ The expert consultants would be compensated out of revenue generated from the existing COGIP insurance programs.

² Although not formally noticed, the State Bar has been informally advised that the carrier, American General, is pulling out of the associational market.

³ The Advisory Commissions do not take action on their own, but simply advise the CBLS, which in turn acts under the charge and oversight of the Board of Trustees.

all policies currently governing Board appointments to the Advisory Commissions. Staff will revise the Board Book, consistent with the Board's action on this recommendation.

5. California Young Lawyers Association (CYLA)

Staff was directed to:

1. Work with the California Young Lawyers Association (CYLA) to re-purpose CYLA's areas of focus to include 1) partnering with Lawyers Assistance Program staff and the Oversight Committee to develop and implement an outreach and education initiative for law students and new lawyers; and 2) assisting in the identification of appropriate topics for the new 10-hour MCLE requirement that will go into effect by February 1, 2018 and in the development and testing of this web-based curriculum; and
2. Work with CYLA to prepare an annual workplan for the Admissions and Education Committee to review and approve, beginning in November 2017, to ensure that, upon the conclusion of CYLA's 2017 activities, the Board continues to exercise appropriate oversight over the CYLA's initiatives.

The first item has been accomplished. The second will be developed, and an annual workplan will be prepared for the Admissions and Education Committee to review and approve, beginning in November 2017. No further Board action is required.

FISCAL/PERSONNEL IMPACT

Cost savings resulting from the elimination of the Standing Committees are reflected in the Board adopted 2017 budget. Additional cost savings will be realized from the elimination of COGIP; these savings are estimated to total \$3,000 in 2017.

RULE AMENDMENTS

None.

BOARD BOOK IMPACT

The Board Book will need to be amended as outlined herein.

BOARD GOALS & OBJECTIVES

1c. Implement and pursue governance, composition, and operations reforms needed to ensure that the Board's structure and processes optimally align with the State Bar's public protection mission.

BOARD COMMITTEE RECOMMENDATIONS

The Stakeholders, Access to Justice, and Appointments Committee recommends that the Board of Trustees approve the following resolution:

RESOLVED, that the Board of Trustees, following the recommendation of the Stakeholders, Access to Justice, and Appointments Committee, hereby:

1. Eliminates the Standing Committees on a) Administration of Justice; b) Alternative Dispute Resolution; c) Appellate Courts; and d) Federal Courts.
2. Eliminates the Standing Committee on the Delivery of Legal Services, effective December 31, 2017.
3. Authorizes staff to hire one or more expert consultants to assist with a) the oversight and administration of the insurance programs currently overseen by the Committee on Group Insurance Programs; and b) the transition of the oversight and administration of the insurance programs to the successor entity of the State Bar Sections.
4. Eliminates the Committee on Group Insurance Programs, effective May 31, 2017.
5. Modifies the appointments process so the California Board of Legal Specialization, rather than the Board of Trustees, makes the appointments to the Legal Specialization Advisory Commissions.

ATTACHMENT(S) LIST

None