

AGENDA ITEM

III.K. JULY 2017

DATE: July 13, 2017

TO: Members, Admissions and Education Committee
Members, Board of Trustees

FROM: Justin Ewert, Principal Analyst, Office of Research and Institutional Accountability

SUBJECT: Governance in the Public Interest Task Force Recommendations: Appendix I, Sub-Entity Review and Related Committee Work Plan Changes

EXECUTIVE SUMMARY

The Governance in the Public Interest Task Force (Task Force) submitted its third report to the Legislature on May 15, 2017. The report included recommendations related to the role and structure of Board Committees and also to the review of sub-entities of the State Bar that fall within the competence of the Committee on Admissions and Education (A&E).

This report provides a summary of the recommendations contained within the Task Force report and a draft template for review by A&E. The template is intended to provide a framework of analysis for addressing recommendations related to the review of sub-entities contained in Appendix I of the Task Force Report. Committee members are being asked to review and approve this addition to the Work Plan.

BACKGROUND

The Task Force submitted its third report to the Legislature on May 15, 2017. The report included recommendations related to role and structure of Board Committees and also to the review of sub-entities of the State Bar that fall within the competence of A&E.

A number of the recommendations will require on-going dialogue between members of the Board and specific sub-entities. For example, the Task Force recommended that A&E:

- Better define the relationship of the Committee of Bar Examiners (CBE) and the Board;
- Develop a plan for meaningful engagement between the CBE and the Board.

The Task Force report also points to the need for “better conceptualization of the role of the [Law School] council ... formally bringing the council within the State Bar organizational structure as a CBE advisory committee.” The Task Force report concluded this discussion by referring the issue to A&E for further study.

Additional recommendations of the Task Force for A&E call for more specific evaluation of the functions and organization of sub-entities. The recommendations are summarized below followed by a draft analytic framework to guide the work of A&E. This same framework will be presented to the other Board Committees named in Appendix I with the goal of ensuring uniformity and analytic coherence in the continued review of State Bar sub-entities.

The sub-entities and functions reviewed in the Task Force report for which A&E has responsibility include:

- The Committee of Bar Examiners
- Law School Accreditation Functions
- California Board of Legal Specialization
- Legal Specialization Certification Programs

DISCUSSION

Appendix I of the Task Force report raised the following questions:

The Committee of Bar Examiners

After acknowledging the substantial workload for which the CBE is responsible and the multiple layers of statutes, case law, and rules that govern its work, the Task Force report noted that some of CBE's work and its range of functions may be "arguably more suited for staff or outside entities." The report continued:

"For example, a professional accreditation agency may handle better CBE's law school accreditation function; similarly, staff may be positioned better to review various administrative processes (e.g., examination refund requests). Reducing CBE's administrative workload would make time and resources available for broader policy issues."

Specific steps that the Task Force referred to A&E for regarding the CBE included:

- studying the feasibility and desirability of outsourcing the law school accreditation function;
- studying the feasibility and desirability of having State Bar staff perform certain functions currently performed by CBE

California Board of Legal Specialization

Within the Task Force "there were differing views whether the legal specialization certification program serves a public protection function, or primarily is a benefit to attorneys in the development of their law practices."

Without arriving at a definitive answer to this question, the Task Force report referred the following to A&E:

- Evaluating different models for legal specialization certification including:
 - outsourcing the function to a separate, independent entity outside of the State Bar;
 - retaining the regulatory functions of reviewing the legal specialization certification process by establishing a process for certification of the entities that certify legal specialists;

- bringing the legal specialization certification function in-house to be performed by State Bar staff with the support of consultants, thereby eliminating the need for the BCLS.

Analytic Framework for Evaluation of Task Force Recommendations Regarding Sub-Entities

To provide the Board and its committees with a relatively uniform and coherent framework for evaluating the sub-entities, Bar staff propose the following template for information gathering.

For each sub-entity referred to a Board committee for further evaluation, the following information should be gathered on the template provided below.

- A comprehensive inventory of the sub-entities functions, the work performed, and the division of labor between the oversight body and Bar staff;
- The workload required for the entirety of the work performed by the sub-entity and staff (calculated as Full-Time Equivalent (FTE) staff);
- An evaluation of whether the work could be performed by Bar staff or some other outside entity;
- A list of statutes and rules that dictate the composition of the sub-entity and the work that it performs.

Using this information, Bar staff will then conduct an analysis and report back to each Board committee on the following:

- whether the work is consistent with the public protection mission of the State Bar (in some cases this question has already been answered by the Task Force);
- the potential benefits of transferring some the sub-entity's functions to State Bar staff or to some other, external, contracted entity;
- the potential costs of transferring some of the sub-entity's functions to State Bar staff or to some other, external, contracted entity;
- whether a different division of labor between the oversight body and State Bar staff would improve the functioning of the sub-entity.

Name of Sub-Entity _____			
Functions of the Committee, Bar Staff, and Others If Applicable	Estimated FTE	Could This Work Be Done by Bar Staff or Others?	Statutes & Rules Governing Organization of Sub-Entity
Function1: Tasks: Frequency:			
Function2: Tasks: Frequency:			
Function3: Tasks: Frequency:			
Function4: Tasks: Frequency:			
Function5: Tasks: Frequency:			
Function6: Tasks: Frequency:			
Function7: Tasks: Frequency:			
Function8: Tasks: Frequency:			

FISCAL/PERSONNEL IMPACT

Minimal additional work for Bar Staff and Sub-Entities to compile information and conduct analysis.

RULE AMENDMENTS

Not applicable.

BOARD BOOK IMPACT

Tab 2.5, Board Committees and Task Forces, and 5.1, Standing and Special Committees

BOARD GOALS & OBJECTIVES

2017-2022 Strategic Plan, Goal 1: “Successfully transition to the “new State Bar”— an agency focused on public protection, regulating the legal profession, and promoting access to justice.”

Objective a: “Determine whether additional State Bar functional areas will transition to the Sections entity, other organizations, or to new standalone entities.”

BOARD COMMITTEE RECOMMENDATIONS

Staff recommends that the Admissions and Education Committee approve the following resolution:

RESOLVED, that the Admissions and Education Committee amend its Work Plan to include the Governance in the Public Interest Task Force recommendations contained in Appendix I as specified above.

ATTACHMENT(S) LIST

- A.** Governance in the Public Interest Task Force Report, Appendix I