

AGENDA ITEM

III.F. JULY 2017

DATE: July 13, 2017

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

FROM: Andrew Conover, 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 Workplan 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 Stakeholders, Access to Justice, and Appointments (SA&A).

This report provides a summary of the recommendations contained within the Task Force report and a draft template for review by the SAA members. 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 SAA.

The recommendation related to the role and structure of SA&A is found on page 21 of the report and proposes the elimination of SA&A and the transfer of responsibilities for all sub-entities and program areas formerly under the SA&A Committee to a new, non-disciplinary program committee. The Executive Committee's July 13 agenda includes an item to address this Task Force recommendation and related Board Book changes.

Additional recommendations of the Task Force for SA&A are found in Appendix I of the report and relate to the evaluation of sub-entities. The recommendations are summarized below followed by a draft analytic framework to guide the work of SA&A and its successor committee.

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 reviewed in the Task Force report for which SA&A has responsibility include the following¹:

- California Commission on Access to Justice (CCAJ)
- Legal Services Trust Fund Commission (LSTFC)
- Council on Access and Fairness (COAF)
- Committee on Professional Liability Insurance (COPLI)

DISCUSSION

Appendix I of the Task Force report noted that the majority of Task Force members concluded that these programs “are essential to public protection and must be supported by the State Bar, rather than ‘spun off’ into a separate independent entity.”

CCAJ, LSTFC and COAF

Having affirmed the importance of these programs, the Task Force report went on to ask the following questions about the organizational structure of these three sub-entities:

- Should LSTFC and COAF be merged into CCAJ?
- Alternatively, should LSTFC and COAF become subcommittees of CCAJ?

Additional questions about these three sub-entities related to the operational independence of CCAJ from the Board since its creation. The Task Force report noted that the relationship between the Board and CCAJ should be clarified and that the Board, working with all three sub-entities, should “develop an appropriate operating relationship to formalize the critical ongoing relationship of the State Bar with access to justice and diversity/inclusion programs.”

The Task Force concluded its discussion of these three sub-entities by recommending that the matter be referred to SA&A for further study.

COPLI

Unlike the three sub-entities discussed above, the Task Force report was ambivalent on the central question of whether the COPLI should be retained as a part of the State Bar. For the near term, the Task Force recommended that COPLI be retained in its current form without changes to the program’s supervision until an analysis is completed regarding its location within the Bar’s committee structure and its staffing. The analysis, referred to SA&A for further study involves answering the following questions:

- Should the program continue to be overseen by COPLI?
- Alternatively, should the program be overseen by a differently structured committee or State Bar staff?

Once this analysis is completed, the Task Force recommended directing RAD to determine whether COPLI’s work is aligned with the State Bar’s public protection mission.

¹ The Committee on Delivery of Legal Services (SCDLS) is not discussed here because Board directed restructuring, effective December 31, 2017, will incorporate the work of SCDLS into CCAJ.

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);
- 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 should 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 Committee on Stakeholders, Access to Justice, and Appointments approve the following resolution:

RESOLVED, that the Committee on Stakeholders, Access to Justice, and Appointments 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