

OPEN SESSION

AGENDA ITEM

704 DECEMBER 2017

DATE: November 27, 2017

TO: Members, Board of Trustees

FROM: Donna Hershkowitz, Chief of Mission Advancement and Accountability

SUBJECT: Update and Preparatory Discussion for January 2018 Planning Session

EXECUTIVE SUMMARY

In January 2017, the Board of Trustees adopted a five-year Strategic Plan governing the operation of the State Bar. The Strategic Plan set forth ambitious goals and objectives intended to ensure laser focus on the Bar's public protection functions. In July 2017, the Board of Trustees adopted a new Mission Statement for the Bar, further focusing the efforts of the Bar on its licensing, regulation and discipline functions, as well as expressly stating the Bar's role in the advancement of the ethical and competent practice of law and support of efforts for access to justice and diversity in the legal system. In January 2018, the Board will revisit the Strategic Plan, adjust objectives, as appropriate, and develop ideas and action plans for greater efforts to implement the Strategic Plan goals.

BACKGROUND

In January 2017, the Board of Trustees adopted a five-year strategic plan, setting forth the following five strategic goals:

1. Successfully transition to the "new State Bar" – an agency focused on public protection, regulating the legal profession, and promoting access to justice.
2. Ensure a timely, fair, and appropriately resourced admissions, discipline, and regulatory system for the more than 250,000 lawyers licensed in California.
3. Improve the fiscal and operational management of the State Bar, emphasizing integrity, transparency, accountability, and excellence.
4. Support access to justice for all California residents and improvements to the state's justice system.
5. Proactively inform and educate all stakeholders, but particularly the public, about the State Bar's responsibilities, initiatives, and resources.

The Board also adopted objectives describing the mechanisms the Bar would undertake to achieve those strategic goals over the course of the five-year plan. Those goals and objectives define the role of the State Bar and dictate the activities of the Board and State Bar staff.

In July 2017, the Board of Trustees adopted a new mission statement, recommended by the Governance in the Public Interest Taskforce, to further guide the work of the agency. The new mission statement provides: The State Bar of California's mission is to protect the public and includes the primary functions of licensing, regulation and discipline of attorneys; the advancement of the ethical and competent practice of law; and support of efforts for greater access to, and inclusion in, the legal system.

In January 2018, the Board will be revisiting the Strategic Plan. This will include exploring the activities that have been undertaken in support of the plan, determining if any previously identified objectives have been completed or otherwise become obsolete, deciding whether additional objectives should be added, and guiding State Bar activities for 2018 and beyond.

DISCUSSION

The State Bar's progress toward achieving the goals and objectives set forth in the 2017-2022 Strategic Plan is memorialized in the Bar's Operational Plan. An operational plan identifies key activities undertaken in support of the strategic plan goals and objectives. The Operational Plan will be an important subject of the January 2018 Planning Session. A draft of that Operational Plan, pending completion, is included as Attachment A. Among other things, it notes that 72 items were brought to the Board in 2017 that support various State Bar goals and objectives – 36 in support of goal 1; 12 in support of goal 2; 20 in support of goal 3; 3 in support of goal 4; and 1 in support of goal 5. It should be noted that staff was less consistent in the first half of 2017 in identifying the goals and objectives supported by a particular agenda item. For example, the work done by the Bar with regard to the need to fingerprint all active licensees was brought to the Board twice in 2017, but the goals and objectives supported by that effort were identified in only one of the agenda items. Similarly, the work of the Rules Revision Commission does not appear to have been identified on any of the 2017 agenda items as in support of any State Bar goals and objectives. Staff will ensure agenda items are properly notated in 2018.

At the January 2018 planning session, the Board will be presented with an Operational Plan that outlines all 2017 key activities completed, as well as 2018 key activities currently planned.

The Board's 2018 Planning Session is also intended as a forum for to brainstorm future objectives and activities in which the Bar should engage to further the Bar's mission and Strategic Plan goals. Attachment B is a draft agenda for the January 2018 Planning Session, developed in conjunction with the Chair and Vice-Chair of the Board's Finance and Planning Committee. The draft agenda envisions 4 panel presentations on key subjects integral to the Bar's mission and strategic plan and the health of the State Bar and the profession as a whole, broadly encompassing the following topics: (a) State Bar staff morale and career satisfaction; (b) implicit bias; (c) preventing harm to clients; and (d) access to justice. In order to finalize the planning session, trustees will be asked to volunteer to assist with each of the panels, including identification of panelists, planning of the panels, and participation on the panels.

FISCAL/PERSONNEL IMPACT

None

RULE AMENDMENTS

N/A

BOARD BOOK IMPACT

N/A

STRATEGIC PLAN GOALS & OBJECTIVES 2017-2022

Goals: All

Objectives: All

RECOMMENDATION

N/A

ATTACHMENTS LIST

- A.** 2017 Operational Plan
- B.** Draft Agenda for January 2018 Planning Session

State Bar of California

OPERATIONAL PLAN

Implementation of 2017-2022 Strategic Plan

Mission Statement:

The State Bar of California's mission is to protect the public and includes the primary functions of licensing, regulation and discipline of attorneys; the advancement of the ethical and competent practice of law; and support of efforts for greater access to, and inclusion in, the legal system.

Goal 1: Successfully transition to the “new State Bar” – an agency focused on public protection, regulating the legal profession, and promoting access to justice.	
Objectives	Activities in Furtherance of Goals and Objectives
	36 agenda items identified as addressing Goal 1 were presented to the BOT in 2017
a. Manage and support the transition of the State Bar Sections to a new standalone entity.	<ul style="list-style-type: none"> ○ Worked closely with Sections to accomplish transition ○ Incorporated the California Lawyers Association ○ MOU negotiated re: terms of separation including transfer of assets, intellectual property, and reserves, collection of CLA membership dues (adoption of MOU anticipated in December) ○ Transferred reserve funds to CLA to fund start-up costs ○ Negotiated services agreement and agreement to lease space (final agreement anticipated in December)
b. Determine whether additional State Bar functional areas will transition to the Sections entity, other organizations, or to new standalone entities.	<ul style="list-style-type: none"> ○ Negotiated the transition of insurance and affinity programs to the California Bar Foundation ○ Terminated State Bar's MOU with CEB
c. 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.	<ul style="list-style-type: none"> ○ Submitted the Governance in the Public Interest Taskforce 2017 report to the Legislature ○ Developed anti-trust policy; implemented policy upon direction of the California Supreme Court; trained trustees on anti-trust policy ○ Adopted Trustees Skill Matrix

Goal 1: Successfully transition to the “new State Bar” – an agency focused on public protection, regulating the legal profession, and promoting access to justice.	
	<ul style="list-style-type: none"> ○ Realigned the executive management of the Bar ○ Adopted Dashboards to provide progress reports on key activities identified by the BOT ○ Revised Board Book to reflect changes in governance structure and responsibilities
d. Finalize an updated Mission Statement for the State Bar reflecting programmatic areas remaining after the transition analysis in order to improve the Bar’s focus on its public protection and regulatory functions.	<ul style="list-style-type: none"> ○ Adopted new Mission Statement
e. Determine the appropriate role of, and Board responsibility for, State Bar Standing Committees, Special Committees, Boards, and Commissions in the new State Bar.	<ul style="list-style-type: none"> ○ Revised the Board committees’ charters and structure to ensure alignment with State Bar operations ○ Combined Board committees to better align roles and responsibilities ○ Reduced the number of sub-entities ○ Set timeline for completion of Appendix I review re: sub-entities
Goal 2: Ensure a timely, fair, and appropriately resourced admissions, discipline, and regulatory system for the more than 250,000 lawyers licensed in California.	
Attorney Discipline System	
Objectives	Activities in Furtherance of Goals and Objective
	8 agenda items identified as addressing the attorney discipline system objectives of Goal 2 were presented to the BOT in 2017
a. Develop and deploy a new case management system for OCTC, SBC, Probation, and Admissions for greater transparency and accountability.	<ul style="list-style-type: none"> ○ Significant ongoing activities including learning the Odyssey project, configuration of Odyssey fields and steps to current and future business processes, data conversion for OCTC, SBC, and Probation. ○ RFP for Admissions Information Management System concluded. Vendor selection pending
b. Implement Workforce Planning and evaluate the impact of reforms.	<ul style="list-style-type: none"> ○ Workforce planning recommendations implemented. For example, in OCTC: <ul style="list-style-type: none"> ○ Create new generalized team structure, , including administrative staff, headed by supervising attorney ○ Eliminate levels of review

Goal 2: Ensure a timely, fair, and appropriately resourced admissions, discipline, and regulatory system for the more than 250,000 lawyers licensed in California.	
	<ul style="list-style-type: none"> ○ Evaluation scheduled for completion and report back to the Board January 2019.
c. Develop and implement transparent and accurate reporting and tracking of the health and efficacy of the discipline system, to include: (a) completion of a workload study for OCTC and SBC; (b) identification of staffing and resource needs based on the results of that study; and (c) development of new metrics for measuring the effectiveness of the discipline system including any needed revisions to the statutory backlog metric.	<ul style="list-style-type: none"> ○ Time study / weighted caseload analysis performed to determine appropriate caseload levels for staff in OCTC, SBC, and Probation ○ Workload study: High level results to be presented to leadership of involved offices ○ Workload study: Finalizing data cleaning and compilation, creation of draft case weights. ○ Workload study: Scheduling focus groups to review draft case weights and process allocation maps. ○ Discipline metrics: simplified and provided more useful metrics to RAD and BOT. Ongoing work with OCTC, SBC, Probation, and CSF to finalize metrics and develop new metrics. Scheduled for completion March 2018 ○ Discipline system metrics: exploring with internal and external audiences the way discipline system metrics are reported in the Annual Discipline Report and whether there are opportunities to present additional information / focus on public protection activities. ○ Monitoring case processing and timelines for cases in State Bar Court through use of Court Performance Standards (CourTools) utilized by the National Center for State Courts ○ Evaluating and beginning implementation of the requirement that all active attorneys be fingerprinted
d. Develop and implement new attorney MCLE requirements and evaluate their impact and effectiveness.	<ul style="list-style-type: none"> ○ Revised MCLE rules to require completion of 10 hours of MCLE in the first year after admission. ○ Conducted focus groups to determine appropriate content of 10-hour new attorney training program ○ Contracted with e-learning vendor to consult with the Bar and develop the course material ○ Conducted an orientation, subject matter expert on-boarding sessions, project planning, and design workshops

Goal 2: Ensure a timely, fair, and appropriately resourced admissions, discipline, and regulatory system for the more than 250,000 lawyers licensed in California.	
	<ul style="list-style-type: none"> Proposed amendments to law school regulations rules to require 6 units of competency training
e. Develop and implement an effective mechanism for ensuring compliance with MCLE requirements.	<ul style="list-style-type: none"> Implemented changes to the MCLE compliance audit process
f. Support adequate funding of the Client Security Fund.	<ul style="list-style-type: none"> Efforts to eliminate judgment backlog and ensure that judgments needing renewal are renewed timely Efforts to better track payments to the Bar and evaluate efficacy of collection agencies to collect debt owed to the Bar. Beginning planning of analysis due to the Legislature March 2018, of the Bar's oversight of the CSF, the ongoing needs of the fund to satisfy claims in a timely manner, to identify efforts that can be taken to increase the collection from attorneys, and whether other discretionary expenditures can be redirected to better fund the CSF.
Admissions	
Objectives	Activities in Furtherance of Goals and Objectives
	4 agenda items identified as addressing the admissions related objectives of Goal 2 were presented to the BOT in 2017
g. Implement the two-day Bar Exam and evaluate results of the new exam on pass rates and costs.	<ul style="list-style-type: none"> 2-day exam conducted July 2017. Results released November 17, 2017, reflecting an increased pass rate of 6 percentage points over July 2016. Cost savings and pass rate information scheduled for evaluation in December 2017.
h. Conduct Bar Exam validity and pass line studies to determine whether or not additional changes to exam content, format, administration, or grading are needed, and implement needed changes.	<ul style="list-style-type: none"> Conducted and issued report on recent performance changes on the CBX Conducted and issued report on pass line (cut score), providing 3 options to the Supreme Court for setting the pass line Conducted and issued report on content validity, confirming the current scope of subjects and skills tested on CBX align with the KSAs expected of entry level attorneys Conducting study on law school bar exam performance Set as next steps a California-specific job analysis and a revised

Goal 2: Ensure a timely, fair, and appropriately resourced admissions, discipline, and regulatory system for the more than 250,000 lawyers licensed in California.	
	content validation study.
i. Review special admissions rules to determine whether changes are needed, and implement needed changes.	<ul style="list-style-type: none"> Working group composed of Programs Committee members and staff assigned to develop amendments to MJF and other special admissions rules in 2018
Unauthorized Practice of Law	
Objectives	Activities in Furtherance of Goals and Objectives
	0 agenda items identified as addressing the UPL objectives of Goal 2 were presented to the BOT in 2017
j. Monitor improvements in the response to complaints regarding the unauthorized practice of law through tracking and reporting on complaints received, investigation timelines, civil filings, and law enforcement referrals.	<ul style="list-style-type: none"> Initiated monitoring of NA/UPL caseload of attorneys and investigators Initiated monitoring of weekly and annual NA/UPL dispositions Ensured access to statistics regarding the number of cease and desist letters sent Initiated monitoring of NA/UPL cases in intake, investigation, and civil filing stages, including capturing if matter relates to immigration practices. Initiated tracking of benchmark timeframes for intake, investigation, and civil filing cases. Initiated early and enhanced referrals of cases to law enforcement and tracking of law enforcement referrals. Developed NA/UPL report to track and report information on unauthorized practice of law cases. Report to be run and distributed monthly Working to refine NA/UPL measures, in particular the tracking of law enforcement referrals

Goal 2: Ensure a timely, fair, and appropriately resourced admissions, discipline, and regulatory system for the more than 250,000 lawyers licensed in California.	
k. Partner with law enforcement agencies to create a coordinated regional response to the unauthorized practice of law.	<ul style="list-style-type: none"> ○ Attend various meetings with law enforcement agencies including: <ul style="list-style-type: none"> ○ Immigration summits in San Diego County ○ Vietnamese Lawyers' Association in Orange county ○ Working with SD County DA to develop ongoing outreach to vulnerable victims ○ Working with US Attorney for the Eastern District to coordinate on NA/UPL issues
Goal 3: Improve the fiscal and operational management of the State Bar, emphasizing integrity, transparency, accountability, and excellence.	
Objectives	Activities in Furtherance of Goals and Objectives
	20 agenda items identified as addressing Goal 3 were presented to the BOT in 2017
a. Implement an updated Classification and Compensation structure reflecting the results of classification and compensation analyses completed in February 2017.	<ul style="list-style-type: none"> ○ Implemented classification and compensation recommendations re: supervising attorney; confidential employees and executive employees. ○ Engaged in grievance and fact finding in response to proposal to implement public service representative classification and compensation recommendations. ○ Ongoing labor negotiations re: implementation of additional classification and compensation recommendations
b. Improve productivity through performance accountability, training, and professional development.	<ul style="list-style-type: none"> ○ Hired dedicated training resource in HR ○ Streamlined and improved employee orientation and onboarding, including New Hire intranet page and resources ○ Developed and delivered supervisor/manager training; deployed Supervisor/Manager intranet page and resources ○ Conducted training survey to determine training needs for staff ○ Deployed online e-learning platform to provide online content available to employees 24/7 to supplement instructor-led offerings

Goal 3: Improve the fiscal and operational management of the State Bar, emphasizing integrity, transparency, accountability, and excellence.	
c. Improve staff morale and career satisfaction through recognition of performance, career path development and transparent and collaborative communication.	<ul style="list-style-type: none"> ○ Developing formal training and development program ○ Developing training for career path development (to be delivered in 2018) ○ All OCTC staff surveyed to indicate interest in rotational assignment opportunities
d. Reallocate funds to support the discipline system based on expenditure review, revenue enhancement measures, implementation of the Bar's reserve policy, and other reengineering efforts.	<ul style="list-style-type: none"> ○ Adoption of final 2017 budget; adoption of preliminary 2018 budget reflecting increased expenditures for OCTC ○ Adopted proposal to increase MCLE and Legal Specialization Provider Accreditation fees
e. Develop outcome and performance accountability metrics for assessing organizational and service effectiveness throughout the Bar.	<ul style="list-style-type: none"> ○ Implemented Access and Fairness Survey assessing service provided by OCTC, focusing on procedural fairness. ○ Developed/focused on key outcome metrics for the CSF program
f. Implement the 2017-2020 technology plan.	<ul style="list-style-type: none"> ○ Completed cybersecurity audit ○ Completed web re-design project ○ Development of electronic signature capacity ○ Deployed agency billing for 2017 fees ○ Board authorized procurement of the Oracle Fusion solution to update the Enterprise Resource and Planning System ○ Transitioning technology related systems needed for a smooth transition of the Sections to the California Lawyers Association
g. In conjunction with annual budgets, ensure maintenance and use of the Bar's Los Angeles and San Francisco buildings to maximize benefit to the Bar and the people of California.	<ul style="list-style-type: none"> ○ Ongoing implementation of 180 Howard Street Capital Improvement Program, includes plans for upgrades to elevators, HVAC, electrical and plumbing systems, fire/life safety systems. ○ Lease pending for 11th floor in San Francisco building ○ Leased space for LAP offsite to remove concerns associated with LAP offices located in the State Bar building ○ Developed plans to reconfigure LAP space in LA to support additional attorney resources for OCTC ○ Board approved funding for reconfiguration of LAP space and HR space in SF to support OCTC expansion

Goal 3: Improve the fiscal and operational management of the State Bar, emphasizing integrity, transparency, accountability, and excellence.	
h. Pursue a two-year fee bill to ensure a balance between accountability and meaningful implementation of important reforms.	<ul style="list-style-type: none"> Initially sought a 2-year fee bill covering fees due in 2018 and 2019. Required to revise to a single year fee bill.
Goal 4: Support access to justice for all California residents and improvements to the state's justice system.	
Objectives	Activities in Furtherance of Goals and Objectives
	3 agenda items identified as addressing Goal 4 were presented to the BOT in 2017
a. Support increased funding and enhanced outcome measures for Legal Services.	<ul style="list-style-type: none"> Ongoing exploration with LAAC and others to identify state agencies receiving federal funding that can be granted to legal services providers. Working with banks to increase the yield on IOLTA accounts Working with legal services providers to collect data to document the economic benefits of funding to legal services providers. Provide district-specific information for legislators
b. Study and implement improved programmatic approaches to increasing access to justice.	<ul style="list-style-type: none"> Convened legal services providers to discuss and advance ways to facilitate program use of pro bono resources. Working to develop an online referral platform for pro bono attorney. Exploring ways to educate and support law students in pro bono activities and to orient and train new pro bono attorneys. Partner with legal services organizations serving constituents impacted by Northern California wildfires; provide online resources and pamphlets; provide hotline; recruiting pro bono attorneys to staff the hotline; educate individuals on what to expect of a lawyer and how to ensure are working with a licensed lawyer; educate attorneys on their responsibilities; issued a fraud alert in 3 languages for victims of the wildfires Perform legal research as a precursor to implementation of a "built in, not bolted on" approach to diversity and inclusion issues with the goal of better integrated diversity and inclusion throughout the work of the Bar.

Goal 5: Proactively inform and educate all stakeholders, but particularly the public, about the State Bar's responsibilities, initiatives, and resources.	
Objectives	Activities in Furtherance of Goals and Objectives
	1 agenda item identified as addressing Goal 5 was presented to the BOT in 2017
a. Develop and implement a Communication Strategy Plan for timely and effective external and internal communication about public protection goals, objectives, and accomplishments.	<ul style="list-style-type: none"> ○ Development of internal communications plan (anticipated completion December 2017) ○ 3 Legislative Newsletters distributed in 2017; plans for improvements in 2018, including regular attention to grants to legal services organizations and access to justice activities in legislative districts and general news of interest to all legislators ○ Implemented broader dissemination of attorney discipline information to the press and the public (resulted in more widespread and more coverage of attorney discipline) ○ Regular meetings with OCTC and Communications to strengthen external communications about attorney discipline
b. Develop metrics for assessing efficacy of communication and stakeholder engagement efforts and use those metrics to inform modifications to strategy.	<ul style="list-style-type: none"> ○ Communications dashboard developed to report on number of press releases and other pro-active outreach to reporters; news stories about the State Bar; number of legislative newsletters sent; website metrics, and social media reach and engagement metrics.
c. Redesign the State Bar website to improve access, legibility, and utility for all stakeholders.	<ul style="list-style-type: none"> ○ State Bar website, phase I completed. Ongoing review occurring. Planned future updates include Board and Committee meetings pages.
d. Partner with legal service providers and others to educate vulnerable populations regarding the problem of unauthorized practice of law and ways that individual issues can be addressed.	<ul style="list-style-type: none"> ○ Partnered with legal services organizations to get information out to victims of Northern California wildfires re: unauthorized practice of law. ○ Attend UPL meetings, workshops in communities ○ Attend immigration services workshops ○ Participating in outreach activities with legal services providers and law enforcement ○ Working to develop detention center education programs

Goal 5: Proactively inform and educate all stakeholders, but particularly the public, about the State Bar's responsibilities, initiatives, and resources.	
e. Maintain and enhance relationships with other regulatory and enforcement agencies that share a mission of public protection.	<ul style="list-style-type: none"> Working with regulatory and law enforcement agencies to educate the public about the legal system and attorney discipline See activities related to NA/UPL
f. Improve transparency by increasing the availability of meeting materials and expanding upon existing mechanisms for regular communication with the Supreme Court, Legislature, Governor's Office, and the public.	<ul style="list-style-type: none"> Instituted Board created requirement to post Board materials 5 days in advance of Board meetings Track compliance with requirement for posting meeting materials on dashboard reports Include Board of Trustee, Board Committee, and sub-entity meetings on the public calendar available on the website Created the position of Chief of Mission Advancement and Accountability with oversight responsibilities for governmental affairs, including communications with the Legislature and Governor's office, as well as serving as liaison to the Supreme Court in support of the efforts of the Executive Director.

2018 Strategic Planning Session
January 26 – January 27, 2018

8:30 – 10:00: Update on State Bar Activities in Furtherance of 2017-2022 Strategic Plan Goals and Objectives and Identification of Areas Where New/Additional Objectives Needed

10:15 – 11:15 Panel I: Improving Employee Morale and Career Satisfaction

- Assessing and addressing the current environment
- Creating career pathways for growth and success
- Mechanisms used by other agencies to address employee morale and career satisfaction

11:15 - 12:00 Review Strategic Plan and Identify Panel I Related Goals and Develop Objectives

12:00 – 12:30 Lunch

12:30 – 1:30 Panel II: Implicit Bias in the Discipline System

- What is it?
- Is it happening in the State Bar's Discipline System and how would we identify it?
- How to prevent and remedy it?

1:30 -2:15 Review Strategic Plan and Identify Panel II Related Goals and Develop Objectives

2:15-2:30 Break

2:30-4:30 Panel III: The Future of Access to Justice: Defining the Problem and Identifying Solutions

- Can we quantify the "Justice Gap" in California – limitations and lessons learned from data available for the Bar Exam Studies
- What can be done to improve access?
 - Loan forgiveness / incentivizing rural practice
 - Regulation of online, international or multijurisdictional practices
- Remotely provided legal services
 - How can the State Bar support such efforts
- Use of technology to enhance and leverage resources

4:30 – 5:15 Review Strategic Plan and Identify Panel III Related Goals and Develop Objectives

Saturday, January 26

9:00 - 10:00 Panel IV: Preventing Harm to Clients

- Client Trust Account auditing
- Proactive management-based regulation, including identification and outreach to solos and small firm practitioners / providing resources to prevent issues from arising
- MCLE: Content
 - Should there be increased State Bar oversight
 - Are the MCLE requirements meeting the goals

10:00 – 10:45 Review Strategic Plan and Identify Panel IV Related Goals and Develop Objectives

10:45 – 11:45 Trustees Discussion: Summary of Action Items and Identification of 2018 Board of Trustees and State Bar Activities in Furtherance of the Strategic Plan Goals and Objectives