

OPEN SESSION

AGENDA ITEM III.B.

JAN 2017

DATE: January 19, 2018

TO: Members, Regulation and Discipline Committee

FROM: Dag MacLeod, Director, Office of Research & Institutional Accountability

SUBJECT: 2017-18 Work Plan for the Committee on Regulation and Discipline

EXECUTIVE SUMMARY

State Bar staff recommends that the Committee on Regulation and Discipline adopt the Work Plan for 2017-18 as amended.

BACKGROUND

Annual Work Plans provide guidance and accountability for Board Committees and Bar staff. Substantive modifications to Work Plans require approval of the committee. The RAD Work Plan has been modified to 1) align reporting dates with RAD meetings, 2) distinguish between different reports that will be produced at the direction of the Governance in the Public Interest Task Force, and 3) include legislatively mandated reports that fall under the purview of RAD.

DISCUSSION

The Work Plan for the Committee on Regulation and Discipline (Committee) was developed by the Chair and Vice-Chair of the Committee with the support of State Bar staff. The amendments reflect on-going discussions between Bar staff and the RAD Chair and Vice-Chair.

FISCAL/PERSONNEL IMPACT

None

RULE AMENDMENTS

Not Applicable

BOARD BOOK IMPACT

Charters for Board Committees will be revised in the future to require the adoption of Work Plans and the submission of the Plans to the Executive Committee for review.

STRATEGIC PLAN GOALS & OBJECTIVES 2017-2022

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: 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.

RECOMMENDATION

Staff recommends that the Committee on Regulation and Discipline approve the following resolution:

RESOLVED, that the Committee on Regulation and Discipline adopts the Work Plan for 2017-18 as amended.

Attachment A: 2017-18 Work Plan – Redline

Attachment B: 2017-18 Work Plan - Clean

State Bar of California
Committee on Regulation & Discipline

2017-18 Work Plan
Attachment A

Annual / Recurring Items	To Committee? / By When?	To Board? / By When?	Link to Strategic Plan
<ul style="list-style-type: none"> Discipline Day <ul style="list-style-type: none"> Orientation of new Board members to the functions of the discipline system 	Yes / January 2018	Yes / January 2018	NA / Administrative
<ul style="list-style-type: none"> Discipline Hearings <ul style="list-style-type: none"> Business & Professions Code section 6095(a) says that the State Bar “shall annually hold at least two public hearings, one in southern California and one in northern California, to hear proposals on bar disciplinary procedures, attorney competency, and admissions procedures.” 	Yes / January <u>March</u> 2017 <u>18</u>	No	NA / Compliance
<ul style="list-style-type: none"> Review of the Annual Discipline Report <ul style="list-style-type: none"> Business & Professions Code section 6086.15 says that State Bar “shall issue an Annual Discipline Report by April 30 of each year describing the performance and condition of the State Bar discipline system, including all matters that affect public protection.” 	Yes / March <u>April</u> 2018	Yes / March <u>May</u> 2018	NA / Compliance
<ul style="list-style-type: none"> Performance review of the Chief Trial Counsel 	Yes / March 2018	Yes / March 2018	NA / Compliance
<ul style="list-style-type: none"> Reports by advisory committees that report to RAD <ul style="list-style-type: none"> January <u>March</u> meeting - Professional Competence / MFA March meeting - Probation / LAP May meeting – SBC July meeting - CSF / OCTC 	January <u>March</u> 2018 March 2018 May 2018 July 2018	No	Goal 2 Objective C

State Bar of California
Committee on Regulation & Discipline

2017-18 Work Plan
Attachment A

Time-Limited Items	To Committee? / By When?	To Board? / By When?	Link to Strategic Plan
<ul style="list-style-type: none"> Review of the prioritization of discipline cases <ul style="list-style-type: none"> Chief Trial Counsel will report at the November 2017 meeting 	Yes / November 2017	No	Goal 2
<ul style="list-style-type: none"> Chief Trial Counsel Report on UPL 	Yes / July 2018	No	Goal 2 Objectives J & K
<ul style="list-style-type: none"> Develop caseload standards for OCTC, the State Bar Court and Office of Probation 	Yes / January <u>March</u> 2018		Goal 2 Objective C
<ul style="list-style-type: none"> Annual Discipline Report – define scope and purpose What should be included in the ADR? 	Yes / January <u>March</u> 2018	No	Goal 5
<ul style="list-style-type: none"> Monthly Discipline System Statistical Reports for RAD – Finalize <ul style="list-style-type: none"> Revise and standardize reports from all components of the discipline system <ul style="list-style-type: none"> December 2017 Add Law Enforcement referrals and UPL cases December 2017- add 1) State Bar Court and 2) Probation data. Finalize glossary of terms. December 2017 – add 1) LAP and 2) outcome data (discipline imposed, recidivism, client satisfaction). February 2018 – Review all changes, consider status of 1) Mandatory Fee Arbitration and 2) Professional Competence data April 2018 - CSF: Solicit input and generate ideas related to quality / outcome measures such as timeliness of payments / communications with applicants / client satisfaction. 	Yes / Completion <u>of</u> <u>Framework</u> by April 2018	No	Goal 2 Objective C

State Bar of California
Committee on Regulation & Discipline

2017-18 Work Plan
Attachment A

Time-Limited Items	To Committee? / By When?	To Board? / By When?	Link to Strategic Plan
<ul style="list-style-type: none"> Per Governance in the Public Interest Task Force recommendations: Evaluation of Lawyer Assistance Program (LAP), CSF, Mandatory Fee Arbitration “to study the functions of the three sub-entities for which RAD is responsible—the CSF Commission, MFA Committee, and the LAP Oversight Committee —and bring recommendations back to RAD regarding the appropriate scope of work and division of labor between Bar staff and the sub-entitiesLAP Oversight Committee.” 	<p>Yes / <u>Update in</u> <u>March/</u> <u>Final Report in</u> August 2018</p>	<p>Yes / September 2018</p>	<p>Goal 1 Objective E</p>
<ul style="list-style-type: none"> <u>Per Governance in the Public Interest Task Force recommendations: Evaluation of Client Security Fund (CSF) to study the functions of CSF Commission bring recommendations back to RAD regarding the appropriate scope of work and division of labor between Bar staff and the CSF Commission.</u> 	<p><u>Yes /</u> <u>Update in</u> <u>March/</u> <u>Final Report in</u> <u>August 2018</u></p>	<p><u>Yes /</u> <u>September 2018</u></p>	<p><u>Goal 1</u> <u>Objective E</u></p>
<ul style="list-style-type: none"> <u>Per Governance in the Public Interest Task Force recommendations: Evaluation of Mandatory Fee Arbitration (MFA) to study the functions of the MFA Committee and bring recommendations back to RAD regarding the appropriate scope of work and division of labor between Bar staff and the MFA Committee.</u> 	<p><u>Yes /</u> <u>Update in</u> <u>March/</u> <u>Final Report in</u> <u>August 2018</u></p>	<p><u>Yes /</u> <u>September 2018</u></p>	<p><u>Goal 1</u> <u>Objective E</u></p>
<ul style="list-style-type: none"> State Bar Court – Discipline Sanctions Project <ul style="list-style-type: none"> ○ B&P - 6086.13 – Any order by the Supreme Court under certain conditions may include a monetary sanction between \$5,000 and \$50,000 in addition to costs imposed 	<p>Yes / August 2018</p>	<p>Not ClearTBD</p>	<p>Goal 3 Objective D</p>
<ul style="list-style-type: none"> Case Management System Implementation for OCTC, State Bar Court and 	<p>Yes /</p>	<p>Yes /</p>	<p>Goal 2</p>

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Office of Probation <ul style="list-style-type: none"> Every meeting through end of implementation – Summer / Fall of 2018 	August 2018	September 2018	Objective A
<ul style="list-style-type: none"> <u>B&P 6140.56 requires the Bar to submit a report on its analysis of the Client Security Fund to the Legislature by March 15, 2018. The report would include a thorough analysis of the Client Security Fund, including a review of the State Bar's oversight of the Client Security Fund, to ensure that the structure provides for the most effective and efficient operation of the fund, a determination of the ongoing needs of the fund to satisfy claims in a timely manner, a review of additional efforts that can be taken to increase the collection of payments from the responsible attorneys.</u> 	<u>Yes / February 2018</u>	<u>Yes / February 2018</u>	<u>NA / Compliance</u>
<ul style="list-style-type: none"> <u>Implementation of re-fingerprinting all licensed attorneys</u> <ul style="list-style-type: none"> <u>Ongoing reporting of State Bar operations, policies, and procedures, and workload related to implementation.</u> 	<u>On-going</u>	<u>On-going</u>	NA / Compliance
<ul style="list-style-type: none"> <u>B&P 6054 requires the Bar to report on the Status of Fingerprinting to the Supreme Court and Legislature by March 15, 2018.</u> 	<u>Yes / January 2018</u>	<u>Yes / February 2018</u>	<u>NA / Compliance</u>
<ul style="list-style-type: none"> Evaluation of training programs for OCTC attorneys: <u>prepare for discussion with the Board.</u> 	<u>Yes / March 2018 (For initial discussion)</u>	<u>TBD</u>	
<ul style="list-style-type: none"> <u>Evaluation of allegations charged and ultimate disposition of OCTC cases to determine:</u> <ul style="list-style-type: none"> <u>The relationship between allegations and the final disposition of cases;</u> 	<u>Yes / March 2018 (For initial discussion)</u>	<u>TBD</u>	

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<ul style="list-style-type: none"> ○ <u>The cost of achieving particular outcomes through litigation relative to cost of achieving similar outcomes through settlement.</u> Consideration of how statistics are reported, specifically in multi-charge cases 			
<ul style="list-style-type: none"> • Consideration of tracking final settlement positions in cases that go to trial and comparing them to outcomes 			

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<ul style="list-style-type: none"> Discipline Day <ul style="list-style-type: none"> Orientation of new Board members to the functions of the discipline system 	Yes / January 2018	Yes / January 2018	NA / Administrative
<ul style="list-style-type: none"> Discipline Hearings <ul style="list-style-type: none"> Business & Professions Code section 6095(a) says that the State Bar “shall annually hold at least two public hearings, one in southern California and one in northern California, to hear proposals on bar disciplinary procedures, attorney competency, and admissions procedures.” 	Yes / March 2018	No	NA / Compliance
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<ul style="list-style-type: none"> Performance review of the Chief Trial Counsel 	Yes / March 2018	Yes / March 2018	NA / Compliance
<ul style="list-style-type: none"> Reports by advisory committees that report to RAD <ul style="list-style-type: none"> March meeting - Professional Competence / MFA March meeting - Probation / LAP May meeting – SBC July meeting - CSF / OCTC 	March 2018 March 2018 May 2018 July 2018	No	Goal 2 Objective C

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<ul style="list-style-type: none"> Review of the prioritization of discipline cases <ul style="list-style-type: none"> Chief Trial Counsel will report at the November 2017 meeting 	Yes / November 2017	No	Goal 2
<ul style="list-style-type: none"> Chief Trial Counsel Report on UPL 	Yes / July 2018	No	Goal 2 Objectives J & K
<ul style="list-style-type: none"> Develop caseload standards for OCTC, the State Bar Court and Office of Probation 	Yes / March 2018		Goal 2 Objective C
<ul style="list-style-type: none"> Annual Discipline Report – define scope and purpose What should be included in the ADR? 	Yes / March 2018	No	Goal 5
<ul style="list-style-type: none"> Monthly Discipline System Statistical Reports for RAD – Finalize <ul style="list-style-type: none"> Revise and standardize reports from all components of the discipline system <ul style="list-style-type: none"> December 2017 Add Law Enforcement referrals and UPL cases December 2017- add 1) State Bar Court and 2) Probation data. Finalize glossary of terms. December 2017 – add 1) LAP and 2) outcome data (discipline imposed, recidivism, client satisfaction). February 2018 – Review all changes, consider status of 1) Mandatory Fee Arbitration and 2) Professional Competence data April 2018 - CSF: Solicit input and generate ideas related to quality / outcome measures such as timeliness of payments / communications with applicants / client satisfaction. 	Yes / Completion of Framework by April 2018	No	Goal 2 Objective C
<ul style="list-style-type: none"> Per Governance in the Public Interest Task Force recommendations: Evaluation of Lawyer Assistance Program (LAP) to study the functions of the 			

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LAP Oversight Committee and bring recommendations back to RAD regarding the appropriate scope of work and division of labor between Bar staff and the LAP Oversight Committee.	Yes / Update in March/ Final Report in August 2018	Yes / September 2018	Goal 1 Objective E
<ul style="list-style-type: none"> Per Governance in the Public Interest Task Force recommendations: Evaluation of Client Security Fund (CSF) to study the functions of CSF Commission bring recommendations back to RAD regarding the appropriate scope of work and division of labor between Bar staff and the CSF Commission. 	Yes / Update in March/ Final Report in August 2018	Yes / September 2018	Goal 1 Objective E
<ul style="list-style-type: none"> Per Governance in the Public Interest Task Force recommendations: Evaluation of Mandatory Fee Arbitration (MFA) to study the functions of the MFA Committee and bring recommendations back to RAD regarding the appropriate scope of work and division of labor between Bar staff and the MFA Committee. 	Yes / Update in March/ Final Report in August 2018	Yes / September 2018	Goal 1 Objective E
<ul style="list-style-type: none"> State Bar Court – Discipline Sanctions Project <ul style="list-style-type: none"> B&P - 6086.13 – Any order by the Supreme Court under certain conditions may include a monetary sanction between \$5,000 and \$50,000 in addition to costs imposed 	Yes / August 2018	TBD	Goal 3 Objective D
<ul style="list-style-type: none"> Case Management System Implementation for OCTC, State Bar Court and Office of Probation <ul style="list-style-type: none"> Every meeting through end of implementation – Summer / Fall of 2018 	Yes / August 2018	Yes / September 2018	Goal 2 Objective A
<ul style="list-style-type: none"> B&P 6140.56 requires the Bar to submit a report on its analysis of the Client 	Yes /	Yes /	NA / Compliance

Time-Limited Items	To Committee? By When?	To Board? / By When?	Link to Strategic Plan
Security Fund to the Legislature by March 15, 2018. The report would include a thorough analysis of the Client Security Fund, including a review of the State Bar's oversight of the Client Security Fund, to ensure that the structure provides for the most effective and efficient operation of the fund, a determination of the ongoing needs of the fund to satisfy claims in a timely manner, a review of additional efforts that can be taken to increase the collection of payments from the responsible attorneys.	February 2018	February 2018	
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