

# **OPEN SESSION**

## **AGENDA ITEM**

### **III.A. JANUARY 2018**

**DATE:** January 19, 2018

**TO:** Members, Board Executive Committee

**FROM:** Sarah L. Cohen, Attorney IV  
Office of Board Support, JNE Commission and Appointments

**SUBJECT:** Board Committee Work Plans

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#### **EXECUTIVE SUMMARY**

On May 15, 2017, the 2017 Governance in the Public Interest Task Force (Task Force) filed its third triennial report. The 2017 Task Force Report contains recommendations for changes in the operational and governance structure of the State Bar. The 2017 Task Force Report recommends changes in Board committee structure and functioning. This agenda item places before the Board Executive Committee for approval work plans adopted by the Regulation and Discipline (RAD) Committee, the Programs Committee, the Finance and Planning Committee and the Audit Committee.

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#### **BACKGROUND**

At its August 2017 meeting, the Board of Trustees adopted, upon recommendation of the Board Executive Committee, a new Board committee structure and new Board committee charters, as proposed by the 2017 Task Force. The Board also approved a comprehensive set of proposed amendments to Tab 2.6 of the Board Book, encompassing the new Board committee structure and charters, including changes to the Audit Committee charter developed outside the 2017 Task Force process.

At its January 2018 meeting, the Board of Trustees will be asked to approve further amendments to Board Book Tab 2.6 to: (1) amend the charters of the RAD Committee, the Programs Committee, the Finance and Planning Committee and the Audit Committee to require the development of a work plan; and (2) amend the Board Executive Committee charter to require approval of the work plans.

#### **DISCUSSION**

The 2017 Task Force observed:

The 2017 Task Force was unanimous in agreeing that the State Bar needs a Committee process that functions more vigorously. The board should not be asked to micro-manage, but rather

should be presented with the broader policy issues and choices for consideration and decision-making while maintaining its oversight role on major issues, particularly concerning the discipline system, the admissions function and State Bar finances.

To strengthen the Board committee process, each Board committee, with staff assistance, has developed a work plan summarizing the annual, recurring and time-limited items to be undertaken, the strategic goal(s) and objective(s) furthered by each item and an estimated timeline for presentation of each item to the Board committee and/or to the Board of Trustees. These work plans provide guidance and accountability for Board committees and State Bar staff.

The history and status of the work plans is as follows:

- **RAD Committee:** The work plan was initially adopted at the November 2017 in person RAD Committee meeting. The work plan was subsequently revised and readopted at a meeting conducted by conference call on January 19, 2018. Attachment A is the RAD Committee work plan.
- **Programs Committee:** The work plan was adopted at the November 2017 in person Programs Committee meeting. Attachment B is the Programs Committee work plan.
- **Finance and Planning Committee:** The work plan was adopted at the November 2017 in person Finance and Planning Committee meeting. Subsequently, the Chair and Co-Chair revised the timeline for presentation of items. Attachment C is the Finance and Planning Committee work plan.
- **Audit Committee:** The work plan was adopted at the November 2017 in person Audit Committee meeting. The Audit Committee will meet during the January 2018 Board of Trustees three-day meeting to, among other things, readopt its work plan. Attachment D is the *proposed* Audit Committee work plan. The Board Executive Committee will be apprised should the work plan adopted by the Audit Committee vary from the proposed work plan.

#### **FISCAL/PERSONNEL IMPACT**

None

#### **RULE AMENDMENTS**

None

#### **BOARD BOOK IMPACT**

None

#### **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: 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 focus on its public protection and regulatory functions.

Objective: e. Determine the appropriate role of, and Board responsibility for, State Bar Standing Committees, Special Committees, Boards, and Commissions in the new State Bar.

## **RECOMMENDATION**

It is recommended that that the Board Executive Committee approve the following resolution:

**RESOLVED**, that the Board Executive Committee approve the work plans adopted by the Regulation and Discipline Committee, the Programs Committee, the Finance and Planning Committee and the Audit Committee; and authorize staff to maintain the work plans and make technical edits and corrections to them as needed.

## **ATTACHMENT(S) LIST**

- A.** RAD Committee Work Plan
- B.** Programs Committee Work Plan
- C.** Finance and Planning Committee Work Plan
- D.** Audit Committee Work Plan [proposed]

State Bar of California  
Committee on Regulation & Discipline

2017-18 Work Plan  
Attachment B

Annual / Recurring Items	To Committee? By When?	To Board? / By When?	Link to Strategic Plan
<ul style="list-style-type: none"> <li>Discipline Day <ul style="list-style-type: none"> <li>Orientation of new Board members to the functions of the discipline system</li> </ul> </li> </ul>	Yes / January 2018	Yes / January 2018	NA / Administrative
<ul style="list-style-type: none"> <li>Discipline Hearings <ul style="list-style-type: none"> <li>Business &amp; 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.”</li> </ul> </li> </ul>	Yes / March 2018	No	NA / Compliance
<ul style="list-style-type: none"> <li>Review of the Annual Discipline Report <ul style="list-style-type: none"> <li>Business &amp; 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.”</li> </ul> </li> </ul>	Yes / April 2018	Yes / May 2018	NA / Compliance
<ul style="list-style-type: none"> <li>Performance review of the Chief Trial Counsel</li> </ul>	Yes / March 2018	Yes / March 2018	NA / Compliance
<ul style="list-style-type: none"> <li>Reports by advisory committees that report to RAD <ul style="list-style-type: none"> <li>March meeting - Professional Competence / MFA</li> <li>March meeting - Probation / LAP</li> <li>May meeting – SBC</li> <li>July meeting - CSF / OCTC</li> </ul> </li> </ul>	March 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 B

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

State Bar of California  
Committee on Regulation & Discipline

2017-18 Work Plan  
Attachment B

Time-Limited Items	To Committee? By When?	To Board? / By When?	Link to Strategic Plan
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"> <li>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.</li> </ul>	Yes / Update in March/ Final Report in August 2018	Yes / September 2018	Goal 1 Objective E
<ul style="list-style-type: none"> <li>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.</li> </ul>	Yes / Update in March/ Final Report in August 2018	Yes / September 2018	Goal 1 Objective E
<ul style="list-style-type: none"> <li>State Bar Court – Discipline Sanctions Project               <ul style="list-style-type: none"> <li>B&amp;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</li> </ul> </li> </ul>	Yes / August 2018	TBD	Goal 3 Objective D
<ul style="list-style-type: none"> <li>Case Management System Implementation for OCTC, State Bar Court and Office of Probation               <ul style="list-style-type: none"> <li>Every meeting through end of implementation – Summer / Fall of 2018</li> </ul> </li> </ul>	Yes / August 2018	Yes / September 2018	Goal 2 Objective A
<ul style="list-style-type: none"> <li>B&amp;P 6140.56 requires the Bar to submit a report on its analysis of the Client</li> </ul>	Yes /	Yes /	NA / Compliance

State Bar of California  
Committee on Regulation & Discipline

2017-18 Work Plan  
Attachment B

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	
<ul style="list-style-type: none"> <li>Implementation of re-fingerprinting all licensed attorneys               <ul style="list-style-type: none"> <li>Ongoing reporting of State Bar operations, policies, and procedures, and workload related to implementation.</li> </ul> </li> </ul>	On-going	On-going	NA / Compliance
<ul style="list-style-type: none"> <li>B&amp;P 6054 requires the Bar to report on the Status of Fingerprinting to the Supreme Court and Legislature by March 15, 2018.</li> </ul>	Yes / January 2018	Yes / February 2018	NA / Compliance
<ul style="list-style-type: none"> <li>Evaluation of training programs for OCTC attorneys: prepare for discussion with the Board.</li> </ul>	Yes / March 2018 (For initial discussion)	TBD	
<ul style="list-style-type: none"> <li>Evaluation of allegations charged and ultimate disposition of OCTC cases to determine:               <ul style="list-style-type: none"> <li>The relationship between allegations and the final disposition of cases;</li> <li>The cost of achieving particular outcomes through litigation relative to cost of achieving similar outcomes through settlement.</li> </ul> </li> </ul>	Yes / March 2018 (For initial discussion)	TBD	

# State Bar of California Programs Committee

## 2017-18 Work Plan

Annual / Recurring Items	To Committee? / By When?	To Board? / By When?	Link to Strategic Plan
<ul style="list-style-type: none"> <li>Annual Recommendation to the Supreme Court for Expungement of Suspensions for Nonpayment of Fees</li> </ul>	Yes November 2017	Yes November 2017	Compliance
<ul style="list-style-type: none"> <li>Annual Recommendation for Expungement of Administrative Inactive Statuses for MCLE Non-compliance</li> </ul>	Yes November 2017	Yes November 2017	Compliance
<ul style="list-style-type: none"> <li>Admissions and Discipline System Training</li> </ul>	Yes January 2018	Yes January 2018	Compliance
<ul style="list-style-type: none"> <li>Committee on Professional Liability Insurance (COPLI) Annual Accomplishments</li> </ul>	Yes March 2018	No	Goal 1 Objective D
<ul style="list-style-type: none"> <li>California Commission on Access to Justice Annual Report</li> </ul>	Yes May 2018	No	Goal 4 Objective B
<ul style="list-style-type: none"> <li>Annual Recommendation to Supreme Court for Suspension of Members Delinquent in Payment of State Bar Fees, Penalties and Costs</li> </ul>	Yes May 2018	Yes May 2018	Compliance
<ul style="list-style-type: none"> <li>Annual Recommendation re Members in MCLE Non-compliance</li> </ul>	Yes May 2018	Yes May 2018	Goal 2 Objective E
<ul style="list-style-type: none"> <li>Report and Filing with the California Supreme Court of the Board of Legal Specialization Annual Report</li> </ul>	Yes May 2018	Yes May 2018	Goal 1 Objective E
<ul style="list-style-type: none"> <li>Legal Services Trust Fund – Set Amounts for Distribution, Jan to Dec 2017 IOLTA Grants, including Voluntary and State Bar Contributions</li> </ul>	Yes July 2018	Yes July 2018	Goal 4 Objective A
<ul style="list-style-type: none"> <li>Council on Access and Fairness Annual Report</li> </ul>	Yes July 2018	No	Goal 4 Objective B
<ul style="list-style-type: none"> <li>Council on Access and Fairness Strategic Plan</li> </ul>	Yes July 2018	Yes July 2018	Goal 4 Objective B
<ul style="list-style-type: none"> <li>Commission on Judicial Nominees Evaluation, 2015 Activities and Statistical Report</li> </ul>	Yes July 2018	Yes July 2018	Goal 1 Objective E
<ul style="list-style-type: none"> <li>Awards (pending) Loren Miller, Pro Bono, Diversity &amp; Pipeline, Witkin</li> </ul>	Yes July 2018	No	Administration
<ul style="list-style-type: none"> <li>Annual Recommendation re Attorneys in Non-compliance with MCLE Audit</li> </ul>	Yes September 2018	Yes September 2018	Compliance



# State Bar of California Programs Committee

## 2017-18 Work Plan

Time-Limited Items	To Committee? / By When?	To Board? / By When?	Link to Strategic Plan
<ul style="list-style-type: none"> <li>Collaborate with the Committee of Bar Examiners on Studying Various Components of the Bar Exam: In March of 2017 the Board of Trustees authorized staff to proceed with studies on Sources of Variation of Passing Rates, Collecting and Linking Law School Performance, Evaluating Content Validity, and Evaluating the Passing Standard. The committee will need to review these studies and provide guidance and oversight to confirm the continued effectiveness of the examination while ensuring the protection of the public.</li> </ul>	Yes Mid 2018	Yes Mid 2018	Goal 2 Objective H
<ul style="list-style-type: none"> <li>Oversee the Separation of the Sections from the State Bar of California: The Council of State Bar Sections is working with the legislature and other key stakeholders on separation from the State Bar. This process will contain many complex issues and the committee will need to provide direction to staff in order to minimize disruption to the Bar and review potential separation agreements between the two organizations.</li> </ul>	Yes December 2017	Yes January 2018	Goal 1 Objective A
<ul style="list-style-type: none"> <li>Admissions Management System updates: Every meeting following contract award through end of implementation</li> </ul>	Yes Mid 2019	No	Goal 2 Objective A
<ul style="list-style-type: none"> <li>Pro Bono Participation: The Committee will assess existing State Bar efforts and explore new strategies to increase pro bono engagement</li> </ul>	Yes Mid 2018	No	Goal 4 Objective B
<ul style="list-style-type: none"> <li>Evaluation of Existing and Providing Guidance on the Creation of Minimum Continuing Legal Education (MCLE): The committee will need to work with the Office of Admissions, the Office of Sections, the Lawyer Assistance Program and the California Young Lawyers Association to develop 10 hours of specific "New Attorney Training".</li> </ul>	Yes February 2018	Yes March 2018	Goal 2 Objective D
<ul style="list-style-type: none"> <li>Equal Access Fund: The Committee will assist staff in strategizing about how to maintain and enhance funding sources.</li> </ul>	Yes Mid 2018	No	Goal 4 Objective A
<ul style="list-style-type: none"> <li>Dues Statement Contributions: The Committee will consider other options</li> </ul>	Yes	No	Goal 4

# State Bar of California Programs Committee

## 2017-18 Work Plan

Time-Limited Items	To Committee? / By When?	To Board? / By When?	Link to Strategic Plan
for enhancing funding for legal aid services, aid the communication effort of the Campaign for Justice, and review the implications of electronic billing of Bar dues for these funding streams.	Mid 2018		Objective A
<ul style="list-style-type: none"> <li>Joint Meeting with the Programs Committee and the California Commission on Access to Justice Executive Committee to discuss the CCAJ's Work Plan and to develop ways the Board of Trustees and CCAJ can work as partners to advance access to justice and further the mission of the State Bar.</li> </ul>	Yes November 2017	No	Goal 4 Objective B
<ul style="list-style-type: none"> <li>Governance in the Public Interest Task Force Restructuring Evaluations: Sub-entities review:               <ul style="list-style-type: none"> <li>California Commission on Access to Justice (CCAJ)</li> <li>Legal Services Trust Fund Commission (LSTFC)</li> <li>Council on Access and Fairness (COAF)</li> <li>Committee of Bar Examiners (CBE)</li> <li>Law School Council</li> <li>California Board of Legal Specialization (CBLS)</li> <li>Committee on Professional Liability Insurance (COPLI)</li> </ul> </li> </ul>	Yes August 2018	Yes September 2018	Goal 1 Objective E
<ul style="list-style-type: none"> <li>Lawyer Referral Services: The Committee will assist staff in a comprehensive review of the rules, with input from a wide range of stakeholders including existing lawyer referral services as well as other players including the companies that are using technology to reach large numbers of consumers. The goal is to protect consumers while facilitating access to legal services.</li> </ul>	Yes July 2018	Yes September 2018	Goal 4 Objective B
<ul style="list-style-type: none"> <li>Council on Access &amp; Fairness: Review and support the work of the Council to achieve the Bar's diversity goals.</li> </ul>	Yes July 2018	No	Goal 4 Objective B
<ul style="list-style-type: none"> <li>Council on Access &amp; Fairness Mentoring Program review and oversight</li> </ul>	Yes March 2018	Yes March 2018	Goal 1 Objective C
<ul style="list-style-type: none"> <li>Council on Access &amp; Fairness Bar Passage Program review and oversight</li> </ul>	Yes	Yes	Goal 1

State Bar of California  
Programs Committee

2017-18 Work Plan

Time-Limited Items	To Committee? / By When?	To Board? / By When?	Link to Strategic Plan
	January 2018	January 2018	Objective C
<ul style="list-style-type: none"> <li>Evaluate Alternatives to the Existing Annual Meeting</li> </ul>	Yes July 2018	No	Goal 1 Objective C
<ul style="list-style-type: none"> <li>Reevaluate Free and Low-Cost MCLE</li> </ul>	Yes August 2018	Yes September 2018	Goal 2 Objective E
<ul style="list-style-type: none"> <li>Consideration of new topics for MCLE requirement</li> </ul>	Yes August 2018	Yes September 2018	Goal 2 Objective E
<ul style="list-style-type: none"> <li>Evaluation of Special Admission Rules (Multijurisdictional Practice, Pro Hac Vice, Registered In-House Counsel, Out of State Attorney Arbitration Counsel, Foreign Legal Consultants, and Practical Training of Law Students Program) and consider if amendments should be made and proposed to the whole committee per the Strategic Plan.</li> </ul>	Yes August 2018	Yes September 2018	Goal 2 Objective I

State Bar of California  
Finance & Planning Committee

2017-18 Work Plan

Annual/Recurring Items	To Committee? / By When?	To Board? / By When?	Link to Strategic Plan
• Schedule of Fees, Penalties, Charges & Deadlines	November 2/3, 2017	November 2/3, 2017	5(f)
• Present preliminary budget (November annually)	November 2/3, 2017	Annually	5(f)
• Review final budget (January annually)	-	January 26, 2018	5(f)
• Review investment policy and reserves policy	March 8/9, 2018	As needed	5(f)
• Ongoing improvement of communicating to BOT/Stakeholders of key financial metrics	March 8/9, 2018	As needed	1,3, 5
• Plan & facilitate annual strategic plan session	March 8/9, 2018	Annually	
• Develop annual planning & budget development cycle	March 8/9, 2018	Annually	
• Review Q4 financials	March 8/9, 2018	March 8/9, 2018	5(f)
• Review Q1 financials.	May 17/18, 2018	May 17/18, 2018	5(f)
• Review Q2 financials	September 13/14, 2018	September 13/14, 2018	5(f)
• Review Board and committee functioning, including monitoring the financial implications of policy initiatives of other committees	Ongoing	Ongoing	1,3
• Review expenses/income to assess financial performance	Ongoing	Ongoing	3

State Bar of California  
AUDIT COMMITTEE

## 2017-18 Work Plan

Annual/Recurring Items	To Committee? / By When?	To Board? / By When?	Link to Strategic Plan
<ul style="list-style-type: none"> <li>Cybersecurity Assessment (Every 2 years):               <ul style="list-style-type: none"> <li>Approve scope and fees</li> <li>Monitor progress</li> <li>Evaluate findings and recommendations</li> <li>Monitor implementation of corrective actions</li> <li>Review status of cybersecurity with staff (in years with no assessment)</li> </ul> </li> </ul>	Previously done Ongoing Jan 2018 Ongoing 2019	NA As Needed March 2018 As Needed As Needed	Goal 3.f.
<ul style="list-style-type: none"> <li>Review quarterly Travel Expense Reports</li> </ul>	11/17; 01/18; 05/18; 07/18, 11/18	As Needed	Core Business Operations
<ul style="list-style-type: none"> <li>ORIA Performance Audits (Ongoing):               <ul style="list-style-type: none"> <li>Review scope of audits</li> <li>Monitor progress</li> <li>Evaluate findings and recommendations</li> <li>Monitor implementation of corrective actions</li> </ul> </li> </ul>	Planning Stage	Planning Stage	Goal 3.e.
<ul style="list-style-type: none"> <li>State Auditor's Audit (Every 2 years):               <ul style="list-style-type: none"> <li>Monitor progress</li> <li>Evaluate findings and recommendations</li> <li>Monitor implementation of corrective actions</li> </ul> </li> </ul>	Expected 2019	Unknown	Core Business Operations
<ul style="list-style-type: none"> <li>Annual Financial Statement Audit (Every Year):               <ul style="list-style-type: none"> <li>Approve scope, meet with auditor, assess independence</li> <li>Monitor progress</li> <li>Review audited financial statements</li> <li>Evaluate findings and recommendations</li> <li>Monitor implementation of corrective actions</li> </ul> </li> </ul>	December 2017 Ongoing March 2018 Ongoing Ongoing	NA As Needed May 2018 Needed Needed	Core Business Operations

State Bar of California  
AUDIT COMMITTEE

## 2017-18 Work Plan

<ul style="list-style-type: none"> <li>Internal Control Audit (Every 5 years):             <ul style="list-style-type: none"> <li>Approve scope and fees</li> <li>Monitor progress</li> <li>Evaluate findings and recommendations</li> <li>Monitor implementation of corrective actions</li> <li>Assess management oversight of controls (Every 2 years)</li> </ul> </li> </ul>	Previously done Ongoing Jan 2018 Ongoing Ongoing	NA Needed March 2018 Needed Needed	Core Business Operations
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Time-Limited Items	To Committee? / By When?	To Board? / By When?	Link to Strategic Plan
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