

OPEN SESSION AGENDA ITEM

**134 MAY 2018
PROGRAMS III.E.**

DATE: May 11, 2018

TO: **Members, Programs Committee**
Members, Board of Trustees

FROM: Joanna Mendoza

SUBJECT: State Bar Awards Retirement

EXECUTIVE SUMMARY

In March 2017, the Board of Trustees' former Stakeholders, Access to Justice and Appointments Committee (Committee's) took action to suspend all non-Sections State Bar awards for 2017. The Committee referred the issue of State Bar awards for 2018 and beyond to the 2017 Governance in the Public Interest Taskforce. The 2017 Taskforce report did not ultimately address the topic of awards. Instead, the Programs Committee Chair and Vice Chair, along with staff, have taken up the issue over the last several months, including the historic practice of issuing attorney service and participatory certificates. As a result of these efforts it is now recommended that State Bar awards and certificates for attorneys be permanently retired. Given the formal transition of the Sections to a standalone non-profit entity, a transition which included a number of awards, there are only seven formal State Bar awards impacted by this recommendation.

BACKGROUND

In September, 2016, the Stakeholders, Access to Justice and Appointments Committee was asked to develop recommendations regarding State Bar awards. In March 2017, that Committee directed staff to suspend all of the non-Sections related awards for the remainder of 2017 and referred these awards to be considered by the 2017 Governance in the Public Interest Taskforce. This directive is attached to this agenda item below. The impetus for the Committee's action was two-fold. First, the reduced 2017 licensing fee assessment resulted in a need for budget reductions. Second, the 2016 Governance in the Public Interest Taskforce report highlighted the associational nature of awards and the competition for prestige and titles that they may engender.

This agenda item is responsive to the Committee's March 2017 directive with specific recommendations to sunset State Bar awards for 2018 and beyond. It is hoped that other entities will continue many of these awards going forward, without the staff and general fund support from the State Bar.

DISCUSSION

While the issuance of awards of has been a longstanding practice at the State Bar, the work of both the 2016 and 2017 Governance in the Public Interest Taskforces highlighted the disconnect between the concept of awards and the State Bar as a regulatory agency. In addition to the concept of awards being more consistent with an associational versus a regulatory organization, awards administration consumes State Bar financial and staff resources. With these considerations in mind, awards were suspended in 2017, and are now recommended for permanent retirement. A description of each of the awards proposed for retirement is provided below. The staff time and costs associated with these awards is estimated to be approximately 300 hours and \$50,000 each year.

Bernard E. Witkin Medal: To a member of the legal community who has helped shape the legal landscape through an extraordinary body of work.

Diversity Awards: To recognize outstanding efforts made by a bar association, law firm, organization or attorney to promote diversity in the legal profession, in their organization or among peers. This award is historically funded by donations and the Elimination of Bias deduction.

Educational Pipeline: To recognize outstanding efforts of law-related educational programs that train and support students who are interested in the judicial system and careers in the law. This award is historically funded by donations and the Elimination of Bias deduction.

Aranda Award: To a judge who has demonstrated a long-term commitment to improving access to the courts, and who has significantly improved access for low and moderate income Californians.

Loren Miller Legal Services Award: A lifetime achievement award given annually to a lawyer admitted to practice in California who has demonstrated long-term commitment to legal services and who has personally done significant work in extending legal services to the poor.

President's Pro Bono Service Awards: To recognize California attorneys, law firms, and associations of lawyers who have provided or enabled the direct provision of legal services to poor persons or organizations whose primary purpose is to provide legal services to the poor, free of charge, without expectation of compensation from the client.

Harry B. Sondheim Professional Responsibility Award: To recognize a member's outstanding long-term contribution to the advancement of attorney professional responsibility standards in California.

Jack Berman Award of Achievement: For distinguished service to the Profession and the Public to recognize the achievements in public service of a young lawyer or a new lawyer. The California Lawyers Association plans to resume this distinguished service award this year.

Although these awards are recommended for retirement, importantly, the State Bar will continue to demonstrate its commitment to sustaining the critically important work upon which these particular awards were based through incorporation of related goals and objectives in its strategic planning process.

FISCAL/PERSONNEL IMPACT

The recommendation to sunset the same awards suspended for 2017 will result in General Fund savings estimated at \$50,000, and approximately 300 hours of staff time spent on the administration of the nomination, evaluation and awarding processes.

RULE AMENDMENTS

None.

BOARD BOOK AMENDMENTS

None.

STRATEGIC PLAN GOALS & OBJECTIVES

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: b. 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

It is recommended that the Programs Committee and/or the Board of Trustees approve the following resolution:

RESOLVED, that all participatory attorney service certificates, and the following awards cease to be administered or funded by the State Bar: Bernard E. Witkin Award, Diversity Awards, Educational Pipeline Recognitions, Loren Miller Legal Services Award, Aranda Award, Harry B. Sondheim Professional Responsibility Award, and the President's Pro Bono Award; and it is

FURTHER RESOLVED, that staff be directed to identify other organizations that might be interested in assuming responsibility for administration of retired awards and certificates.

ATTACHMENT(S) LIST

- A. Stakeholders, Access to Justice, and Appointments Committee III.E. MARCH 2017: State Bar Awards

AGENDA ITEM

IIIE. MARCH 2017

DATE: March 9, 2017

TO: Members, Stakeholders, Access to Justice, and Appointments Committee

FROM: Leah Wilson, Chief Operating Officer

SUBJECT: 2017 State Bar Awards

EXECUTIVE SUMMARY

In September, 2016, the Stakeholders, Access to Justice and Appointments Committee was asked to develop recommendations regarding State Bar awards. This agenda item is responsive to that directive; specific recommendations are provided regarding 2017 State Bar awards, with the broader question of the role of awards in a regulatory, versus associational, organization recommended for consideration by the 2017 Governance in the Public Interest Taskforce.

BACKGROUND

At its September 12, 2016, meeting, the Board adopted a policy prohibiting any State Bar spending on alcohol, regardless of funding source, effective January 1, 2017. The Board also adopted the following resolution directing the development of additional policy regarding entertainment, awards, and meal and lodging expenses outside of standard per diem rates:

“...That the Board of Trustees refers the development of additional policy addressing meals, awards purchases, entertainment, lodging, and sponsorship to the Stakeholders, Access to Justice, and Appointments Committee, for report back to the Board at its January, 2017, meeting”

Significant progress has been made particularly with respect to catering and lodging expenses. Though not presented to the Board for action, staff reported on new policies that have been implemented imposing enhanced restrictions on expenses in these areas at the Board's January meeting.

The present agenda item addresses the issue of awards. Specific recommendations are made with respect to the 2017 awards cycle, with broader questions regarding the ongoing role of awards in a regulatory, versus associational, body more appropriately addressed by the 2017 Governance in the Public Interest Taskforce (GIPITF). GIPITF recommendations would then be brought forward to the Board of Trustees for consideration.

DISCUSSION

As outlined in Attachment A, the State Bar, directly and through its various committees and sub-entities, administers 25 discrete awards programs per year. Of these, 17 are managed by the State Bar Sections (Sections). Given the separate funding source for these awards and the impending transition of the Sections to a stand-alone entity, staff does not recommend any changes to their planned 2017 awards programs at this time.

One award, the Harry B. Sondheim Professional Responsibility Award, is given out every three years; the next year this award would be issued is 2019.

The remaining seven awards programs, briefly outlined below, would typically occur in 2017. While some of these programs have historically been supported by dedicated sources (Elimination of Bias funding and donations specifically), most have been funded by the General Fund. This year's General Fund impact would be particularly significant given the 2017 authorized fee assessment which did not provide a mechanism for the collection of Elimination of Bias revenue and explicitly did not include funding for access to justice activities.

The Witkin Medal: To a member of the legal community who has helped shape the legal landscape through an extraordinary body of work. This award is funded by the General Fund.

Diversity Awards: To recognize outstanding efforts made by a bar association, law firm, organization or attorney to promote diversity in the legal profession, in their organization or among peers. This award has historically been funded by donations and the Elimination of Bias deduction. For 2017, the award would be funded by donations and the General Fund.

Educational Pipeline: To recognize outstanding efforts of law-related educational programs that train and support students who are interested in the judicial system and careers in the law. This award has historically been funded by donations and the Elimination of Bias deduction. For 2017, the award would be funded by donations and the General Fund.

Aranda Award: To a judge who has demonstrated a long-term commitment to improving access to the courts, and who has significantly improved access for low and moderate income Californians. This award is funded by the General Fund.

Loren Miller Legal Services Award: A lifetime achievement award given annually to a lawyer admitted to practice in California who has demonstrated long-term commitment to legal services and who has personally done significant work in extending legal services to the poor. This award is funded by the General Fund.

President's Pro Bono Service Awards: To recognize California attorneys, law firms, and associations of lawyers who have provided or enabled the direct provision of legal services to poor persons or organizations whose primary purpose is to provide legal services to the poor, free of charge, without expectation of compensation from the client. This award is funded by the General Fund.

Jack Berman Award: For distinguished service to the Profession and the Public to recognize the achievements in public service of a young lawyer or a new lawyer. This award is funded by the General Fund.

ATTACHMENT A - MARCH 2017 AGENDA ITEM IIIE.

Although the formal recognition of commitment to pro bono, access to justice, and diversity work is important, the Bar faces unique circumstances in 2017. The General Fund is under pressure due to a reduced licensing fee assessment. A significant organizational restructure is underway not only as related to the transition of the Sections, but also as contemplated by the 2017 GIPITF. Further, while awards are meaningful, the Bar has demonstrated its commitment to sustaining the critically important work upon which these particular awards are based through its budgeting process; while not funded by the approved 2017 licensing fee, the Board authorized sufficient General Fund support for legal services and diversity work to sustain these activities in 2017.

With these considerations in mind, staff recommends the suspension of the Witkin, Diversity, Educational Pipeline, Loren Miller, and President's Pro Bono awards in 2017. With respect to the Aranda Award, the Bar is a co-participant in this program along with the California Judges Association (CJA) and the Judicial Council. Staff has reached out to CJA to discuss their assumption of the Bar's portion of responsibility for the award in 2017. Assuming CJA is amenable, staff recommends suspension of this award (vis a vis the Bar's participation) in 2017 as well. Lastly, with respect to the Jack Berman Award, this program has been sponsored by the California Young Lawyers Association (CYLA). It is anticipated that CYLA will transition to the new Sections entity once established. As a result, staff recommends that the Jack Berman Award go forward in 2017, so long as the Sections fully fund all related costs.

FISCAL/PERSONNEL IMPACT

The recommendation to suspend outlined awards will result in General Fund savings estimated at \$50,000.

With respect to the Jack Berman award, staff's recommendation is that related costs be borne by the Sections; the Sections should be authorized to establish the corresponding budget accordingly.

RULE AMENDMENTS

None

BOARD BOOK IMPACT

None

BOARD GOALS & OBJECTIVES

Goal I, Objective II: 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.

STAFF RECOMMENDATION

The Stakeholders, Access to Justice, and Appointments Committee approves the following resolution:

ATTACHMENT A - MARCH 2017 AGENDA ITEM IIIE.

RESOLVED, that the Stakeholders, Access to Justice, and Appointments Committee direct staff to suspend the following awards in 2017: Witkin, Diversity, Educational Pipeline, Loren Miller, and President's Pro Bono.

RESOLVED, that the Stakeholders, Access to Justice, and Appointments Committee direct staff to suspend the Bar's participation in the 2017 Aranda Award predicated on the assumption of the Bar's responsibility for that program by either CJA or the Judicial Council;

RESOLVED, that the Stakeholders, Access to Justice, and Appointments Committee direct staff to move forward with the 2017 Jack Berman Award so long as the Sections fund all related costs; and

FURTHER RESOLVED, that the Stakeholders, Access to Justice, and Appointments Committee refer the issue of non-Sections awards for 2018 and beyond to the 2017 GIPITF.

ATTACHMENT(S) LIST

A. List of State Bar Awards

Awards Summary

Area	Section/Dept	Staff Liaison	Award Name	Year Est	Purpose/Eligibility	Sub-Categories	Nomination / Evaluation	Frequency	Presented by	Presented When	2016 Expenses	Last Award
Executive Director	Executive Director	Francisco Gomez	Bernard E. Witkin Medal	1993	To a member of the legal community who has helped shape the legal landscape through an extraordinary body of work.	none	Witkin Award Committee	Annually	President	AM Swearing-in Ceremony	\$3,000	2016
						Individual						2016
						Law Firm						2016
	Executive Director	Pat Lee	Diversity Awards	2001	To recognize outstanding efforts made by a bar association, law firm, organization or attorney to promote diversity in the legal profession, in their organization or among their peers.	Bar Association	Council on Access & Fairness/BOT	Annually	President & Chief	AM Saturday night		2016
						Organization					\$34,000	2014
	Executive Director	Pat Lee	Educational Pipeline	2008	To recognize outstanding efforts of law-related educational programs that train and support students who are interested in the judicial system and careers in the law.	none	Council on Access and Fairness/BOT		President & Chief	AM Education Pipeline Award reception		2016
Legal Services	Legal Services	Louisa Ayrapetyan	Aranda Award	1999	To a judge who has demonstrated a long-term commitment to improving access to our courts, and who has significantly improved access for low-and moderate-income Californians.	none	Access Commission Committee	Annually	Chief	Judicial Council ceremony	Staff Time Only	2016
					Co sponsor: Judicial Council, CA Judges Assoc, w/CA Comm on Access to Justice							
	Legal Services	Sharon Ngim	Loren Miller Legal Services Award	1977	A lifetime achievement award and is given annually to a lawyer admitted to practice in California who has demonstrated long-term commitment to legal services and who has personally done significant work in extending legal services to the poor.	none	Standing Committee on the Delivery of Legal Services (SCDLS)/BOT	Annually	President & Chief	AM Friday night		2016
						Indiv, Recently Admitted						2016
						Indiv, Ltd Active Practice						2016
						Indiv, Corporate Practice						2016
						Indiv, Govt Practice						2016
						Indiv, Law School Faculty						
						Indiv, Law Student					\$11,000	2011
						Indiv, Solo Practitioner						2011
	Legal Services	Sharon Ngim	President's Pro Bono Service Awards	1983	To recognize California attorneys, law firms and associations of California lawyers who have provided or enabled the direct provision of legal services to poor persons or organizations whose primary purpose is to provide legal services to the poor, free of charge, without expectation of compensation from the client (11/09+California law schools accredited by the ABA/SBC & law students currently enrolled). A combined total of up to nine awards given annually.	Indiv, Law Firm	Standing Committee on the Delivery of Legal Services (SCDLS)/BOT	Up to 9 awards annually	President & Chief	AM Friday night		2016
						Law Firm Team/Branch						2016
						Coro/Govt Legal Dept						
						Distinguished Pro Bono Svc						2016
						Law School						2013

Prof Standards	Professional Competence	Randy Difuntorum	Harry B. Sondheim Professional Responsibility Award	2010	To recognize a member’s outstanding long-term contribution to the advancement of attorney professional responsibility standards in California.	none	COMM: current RAD chair/co-chair, COPRAC chair, CTC, OPC Dir. Approved by NAC.	Every 3 years	President	Ethics Symposium	\$880	2016
	Antitrust Law	Mitch Wood	Antitrust Lawyer of the Year	1991	Each year, the Antitrust, UCL and Privacy Section honors an Antitrust Lawyer of the Year at a dinner that follows the Golden State Institute.	none	The executive committee of The Antitrust, UCL & Privacy Section	Annually	Section Chair	At dinner that follows the Golden State Institute	\$60,000 (100% sponsor supported)	2016
Section Education & Meeting Svcs	Business Law	John Buelter	Lifetime Achievement Award	1997	For member who over an extended period has made significant contributions to the Section or to business law generally in the State of California and who has achieved high status in the legal community.	none	BLS Annual Breakfast Committee	Annually	Excom Chair	AM Breakfast	\$3,300	2016
	Environmental Law	Kristina Robledo	Environmental Law Lifetime Achievement Award	2014	Achieved excellence, demonstrated commitment, improved the lives of others in the practice of environmental law.	none	Environmental Law Executive Committee	Annually	Chair/Co Lifetime Achievement Comm	Environmental Law Conference at Yosemite/Saturday night Dinner	\$1,000	2016
	Family Law	Mitch Wood	Judicial Officer of the Year	1985	The written criteria for this award require outstanding service to the practice of Family Law as exemplified by career achievements or a singular act or performance. Implicitly, those voting on this award look for characteristics such as fairness, patience, superior work ethic and common sense.	none	Family Law Section Exec Comm	Annually	Section Chair	AM Friday Reception	\$500 - \$5,500	2016
			Lifetime Achievement Award						Section Chair	AM Friday Reception		
			Excellence in Family Law						Section Chair	AM Friday Reception		
			Court Staff Award						Section Chair/local rep	Various dates throughout the year at various courthouse locations		
			Barrister of the Year Award						Section Chair	AM Friday Reception		
	Intellectual Property Law	Christina Doell	IP Vanguard Award	2009	For significant contributions to/impact on IP law ; noteworthy success for the lawyer’s company on IP matters; demonstrated leadership in the IP bar/legal profession/community.	In-House Counsel	3rd party submission incl support materials/letters for nomination	Annually	Exec Comm Chair	Annual IP Institute - typically in November	\$800	2015
					For significant contributions to/impact on IP law ; noteworthy success for the lawyer’s clients on IP matters; outstanding client service; demonstrated leadership in the IP bar/legal profession/community.	Private Practice						
					For significant contributions to/impact on IP law through teaching, published writings and/or research; demonstrated leadership in the IP bar/legal profession/community.	Academic/Public Policy						
	International Law	Stephanie Carman	Warren M. Christopher International Lawyer of the Year	2012	Presented to an outstanding judge/judicial officer who has presided over IP law cases & made significant contributions to/impact on, intellectual property law through cases over which the individual has presided through written case decisions; demonstrated leadership in the IP bar/legal profession/community.	Judicial	Nominations by colleagues Evaluation by Exec Comm	Annually	ILS Chair	AM Awards reception	\$804	2016
					For significant contributions to the field of International Law.	none						
	Litigation	Mitch Wood	Trial Lawyer Hall of Fame	1994	Given to professionals who have excelled as trial lawyers and whose careers exemplify the highest of values and professional attainment.	none	Litigation Section Exec Comm	Annually	The Section Chair	Date/Venue TBD	\$5,000	2016

Section Education	Public Law Law	Stephanie Carman	Ronald M. George Public Lawyer of the Year	1998	For individuals exemplify the outstanding work that public lawyers perform every day.	none	Nominations by colleagues Evaluation by Exec Comm	Annually	Chief	AM Awards reception	\$3,396	2016
	Real Property Law	Stephanie Carman	Real Property Person of the Year/Morning Star Awards	2013	In recognition of young lawyer’s demonstrated early promise in RP practice. Noteworthy involvement in a project/service to the public/judiciary/profession; outstanding lawyering skills; public speaking or general publication of written legal issues; success w/high profile/complex transactions/litigation; unique approaches to resolving transactional or litigation obstacles.	none	Nominations by colleagues Evaluation by Exec Comm	Annually	RP Law Section Chair	Real Property Section Retreat	\$2,208	2016
	Solo & Small Firm Law	John Buelter	Solo and Small Firm Section Attorney of the Year Award	2007	To honor a solo or small firm attorney, who has shown exemplary leadership and dedication to the legal profession, contributed to the betterment of the practice of law, and has devoted significant service to the public/legal community.	none	Solo's Atty of the Year Committee	Annually	Excom Chair	Solo Summit	\$804	2016
	Workers Compensation Law	Tricia Horan	Steve Jimenez Memorial Special Recognition Awards	2005	Knowledge of the law, community service, professionalism, and significant lifetime contributions to the practice of workers’ compensation.	Lifetime Achievement	Nomination by Individuals Evaluation by Executive Committee	Annually	Executive Committee	AM	\$1,800	2016
					Knowledge of the law, professional courtesy, community service, professionalism, recent contributions to the practice of workers’ compensation, service to client, and advocacy skills.	Applicant's Attorney						
					Knowledge of the law, temperament, courtesy, timeliness of decisions, judicial integrity, clarity of decisions, community service, professionalism, contribution to the practice of workers’ compensation, and availability to the parties.	Defense Attorney						
	CYLA	Kristina Robledo	Jack Berman Award of Achievement	1992	For the Young Lawyer award, please limit your nomination to a lawyer who has been in practice for five years of less, or who is 35 years of age or younger. For Distinguished Service to the Profession and the Public to recognize the achievements in public service of a young lawyer (age 36-years-old or under) or new lawyer (within his/her first five years of practice).	Young Attorney Award	CYLA Board/BOT	Annually	President & Chief	AM Friday night	\$1,000	2016
	Taxation	Lynn Taylor	Joanne M. Garvey Award	1994	The recipient, who is a senior member of the California tax bar selected by the Executive Committee of the Taxation Section, may be engage in private practice, teaching or government service.		Taxation Section Exec Comm	Annually		AM California Tax Bar and California Tax Policy Conference	\$2,200	2016
	Criminal Law	Lynn Taylor	Student Writing Competition: Marshall Manne Schulman Competition for Student Papers in Criminal Law/Criminal Procedure		Nationwide competition for student papers in Criminal Law and/or Criminal Procedure with a focus on California law.	Grand Prize, Honorable Mention Prizes	Criminal Law Section Exec Comm	Annually		By mail	\$3,000	2016