

# **OPEN SESSION AGENDA ITEM**

**701 JUNE 2018**

**DATE:** June 15, 2018

**TO:** Members, Board of Trustees

**FROM:** Brandon Stallings and Todd Stevens, Appointments Liaisons, Board Executive Committee

**SUBJECT:** American Bar Association (ABA) House of Delegates, Annual Appointment of Members

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## **EXECUTIVE SUMMARY**

The State Bar appoints 11 delegates to the American Bar Association (ABA) House of Delegates. The terms of six of these positions are set to expire in 2018. After recruiting candidates to fill these positions, the Bar received applications from nine candidates, including four from currently serving delegates.

This agenda item recommends appointing five candidates recommended by the head of the current ABA delegation in consultation with the California Lawyers Association and reserving the sixth position for the Chief of Programs of the State Bar.

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## **BACKGROUND**

The control and administration of the ABA is vested in the House of Delegates (HOD). Established in 1936, the HOD meets twice each year, at the ABA Annual and Midyear Meetings. Action taken by the HOD on specific issues becomes official ABA policy. At the Midyear Meeting, the Nominating Committee nominates officers and members of the ABA Board of Governors. During the Annual Meeting, the full house votes on these nominees and on any nominations made by petition.

The Bar's delegates are part of the California delegation which is led by the elected State Delegate, Ms. Laura Farber. The California delegation currently totals 26 with 11 of the seats appointed by the State Bar and the others appointed by local Bar associations, ABA sections and divisions, and officers and members of the ABA Board of Governors. Six of the seats that the Bar is responsible for appointing will become vacant in 2018.

## DISCUSSION

The separation of the sections from the State Bar on January 1, 2018 began the process of tightening the focus of the Bar on its core mission, but it did not complete it. The Governance in the Public Interest Task Force directed the Bar to continue this work by evaluating various subentities whose members are appointed by the Board of Trustees. This evaluation will result in recommendations to ensure the alignment of the work of these subentities with the strategic goals of the Bar.

The ABA delegates appointed by the Board were considered apart from those that are currently being studied as part of the Appendix I evaluation directed by the Governance in the Public Interest Task Force. But the issues raised in Appendix I are similar to those animating this report on the appointment of ABA delegates, for example:

- Is the work of the delegates aligned with the strategic goals of the Bar?
- Is the structure of the ABA delegation and the process of appointments effective for achieving those goals?<sup>1</sup>

Consistent with the recent separation of the sections from the State Bar and the efforts to align the work of State Bar committees with the strategic goals of the Bar, staff is recommending that the 11 positions allocated to the State Bar be divided between the Bar and the California Lawyers Association, CLA. Specifically, staff is recommending that:

- Responsibility for appointing five of the 11 delegates be transferred to the CLA and responsibility for appointing the remaining six remain with the Bar;<sup>2</sup>
- The Bar begin appointing staff as delegates to align the work of the Bar with that of ABA and involve the Bar in the national conversation about those issues that are central to the Bar's mission – discipline, licensing, professional competence, diversity and inclusion, and access to justice.

At this time, ABA rules prevent the Bar from formally transferring its positions to the CLA and in the coming year Bar staff will work with the ABA to effectuate this change. As an interim measure, Bar staff worked with Ms. Farber and encouraged her to consult with the CLA to select candidates.

Ms. Farber received and reviewed a total of nine applications for the six positions that will become vacant in 2018: four from current delegates who have served less than the maximum of six years (or three, two-year terms) and five from new candidates. The nine applicants are.

<b>Name</b>	<b>City/State Bar District</b>	<b>Application Type</b>
1. Anthony Barash		Reappointment
2. Sandra McCandless		Reappointment
3. Maureen Onyeagbako		Reappointment
4. Roger Royse		Reappointment
5. John McDonnell		New
6. Kareem Shereef		New
7. Aret Anne Adams		New
8. Sarah Cassady		New
9. Ernestine Forrest		New

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<sup>1</sup> Appendix I of the Governance in the Public Interest Task Force noted the expectation that the "new independent Sections entity 'assume' some of the State Bar's role in making appointments to the ABA House of Delegates."

<sup>2</sup> ABA will require that the Bar retain the authority for appointment of the majority of these delegates.

This report recommends that the Bar adopt the joint recommendation of Ms. Farber developed in consultation with the CLA *with one important exception*. Instead of appointing the sixth vacant position per the recommendation of Ms. Farber and the CLA, staff recommends appointing the Chief of Programs – Ms. Donna Hershkowitz – to the sixth position. The selection of the Chief of Programs as the first of the State Bar staff delegates will maximize the value of this position to the Bar by placing the executive whose area of responsibility touches on the most areas of shared interest with the ABA – professional competence, admissions, access to justice, and diversity – in the delegation.

Appointing Ms. Hershkowitz to this position would move the final selection of Ms. Farber and the CLA into an “alternate” role along with the other applicants who were not selected by Ms. Farber and the CLA as delegates. The resulting recommendation, then, would be:

- The following delegates would be re-appointed:
  - Sandra McCandless
  - Maureen Onyeagbako
  - Roger Royse
  - Anthony Barash
- The following applicant would be appointed as a new delegate:
  - John McDonnell
- The Bar’s Chief of Programs would be appointed as a new delegate.
  - Donna Hershkowitz
- The remaining applicants would be appointed as “Alternate Delegates”:
  - Kareem Shereef Aref
  - Ernestine Forrest
  - Sarah Cassady
  - Anne Adams

## **FISCAL/PERSONNEL IMPACT**

The appointment of Bar staff as delegates will add costs to the Bar for the reimbursement of travel. When all six of the State Bar delegates are named, the cost will run between \$20,000 and \$25,000 per year with the cost allocated to both General Fund and restricted funds based on the proportion of the delegates assigned to different areas of Bar operations.

## **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: a. Determine whether additional State Bar functional areas will transition to the Sections entity, other organizations, or to new standalone entities and develop an action plan for those transitions.

## **RECOMMENDATION**

**It is recommended that the Board of Trustees approve the following resolution:**

**RESOLVED**, that the board appoint or reappoint, as the case may be, the following delegates to the American Bar Association (ABA) House of Delegates contingent upon appointees being of good standing with the ABA: Sandra McCandless, Maureen Onyeagbako, Roger Royse, Anthony Barash, John McDonnell, Donna Hershkowitz.

**FURTHER RESOLVED**, the board appoint the following “Alternate” delegates to the American Bar Association (ABA) House of Delegates: Kareem Shereef Aref, Ernestine Forrest, Sarah Cassady, Anne Adams