

# **OPEN SESSION AGENDA ITEM**

## **SEPTEMBER 2018 EXECUTIVE COMMITTEE ITEM II.A.**

**DATE:** September 13, 2018

**TO:** **Members, Board Executive Committee**

**FROM:** Kimberly DaSilva, Attorney II, Mission Advancement and Accountability

**SUBJECT:** Proposal to Align Board Committee Work Plans with Calendar Year in Coordination with the State Bar's Strategic Planning Cycle – Request for Approval

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### **EXECUTIVE SUMMARY**

This agenda item proposes to align the development and review of Work Plans for the Board Committees – Regulation and Discipline, Programs, Finance and Planning, and Audit – with the calendar year, in coordination with the Board of Trustees' Strategic Planning cycle. Developing and reviewing Committee Work Plans on a cycle that is coordinated with Strategic Planning will facilitate the alignment of Committee Work Plans with the strategic goals and objectives of the Bar.

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### **BACKGROUND**

The 2017 Governance in the Public Interest Task Force unanimously agreed that the State Bar's committee process should function more vigorously, allowing the Board to focus on policy issues while maintaining its oversight role with regard to the discipline system, the admissions function and State Bar finances.

At its January 2018 meeting the Board approved amendments to the Board Book requiring the Regulation and Discipline, Programs, Finance and Planning, and Audit Committees to propose and follow work plans. At the same meeting, the Board Executive Committee approved work plans developed by those committees in the fall of 2017. A copy of the Committee Work Plans is attached to this item.

### **DISCUSSION**

Currently, the committees are required to submit their annual work plans based upon the Board's September-based cycle of appointments. Committee chairs are appointed during the September meeting by the new Board chair. In 2017, Committee staff worked with their respective committees in the fall to develop and adopt work plans. The timing of this process, however, prevented the coordination of the Committee Work Plans with the Board's Strategic Planning process.

To encourage more thoughtful and productive work plans and ensure their alignment with the strategic work of the Bar, new Committee chairs should be given the fall to familiarize themselves on their Committees' respective work plans and then, with the support of Bar staff, to develop a new work plan that is informed by the work of the previous year and that aligns with the Bar's Strategic Plan.

Bar staff will work to develop a new process for aligning the review and updating of the Strategic Plan with the review and updating of Board Committee work plans. The sequence of meetings should involve holding the Board's January strategic planning meeting first followed by the convening of Board Committee meetings.

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

None

#### **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: 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.

#### **RECOMMENDATION**

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

**RESOLVED**, that the Board Executive Committee approves aligning the Work Plans for the Regulations and Discipline, Programs, Finance and Planning and Audit Committees with the calendar year in coordination with the Bar's Strategic Planning Process.

#### **ATTACHMENT(S) LIST**

**A.** Committee Work Plans

State Bar of California  
Committee on Regulation & Discipline

Attachment A  
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>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

Attachment A  
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>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

Attachment A  
2017-18 Work Plan

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

Attachment A  
2017-18 Work Plan

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

Attachment A  
2017-18 Work Plan

Annual / Recurring Items	To Committee? / By When?	To Board? / By When?	Link to Strategic Plan
• Annual Recommendation to the Supreme Court for Expungement of Suspensions for Nonpayment of Fees	Yes November 2017	Yes November 2017	Compliance
• Annual Recommendation for Expungement of Administrative Inactive Statuses for MCLE Non-compliance	Yes November 2017	Yes November 2017	Compliance
• Admissions and Discipline System Training	Yes January 2018	Yes January 2018	Compliance
• Committee on Professional Liability Insurance (COPLI) Annual Accomplishments	Yes March 2018	No	Goal 1 Objective D
• California Commission on Access to Justice Annual Report	Yes May 2018	No	Goal 4 Objective B
• Annual Recommendation to Supreme Court for Suspension of Members Delinquent in Payment of State Bar Fees, Penalties and Costs	Yes May 2018	Yes May 2018	Compliance
• Annual Recommendation re Members in MCLE Non-compliance	Yes May 2018	Yes May 2018	Goal 2 Objective E
• Report and Filing with the California Supreme Court of the Board of Legal Specialization Annual Report	Yes May 2018	Yes May 2018	Goal 1 Objective E
• Legal Services Trust Fund – Set Amounts for Distribution, Jan to Dec 2017 IOLTA Grants, including Voluntary and State Bar Contributions	Yes July 2018	Yes July 2018	Goal 4 Objective A
• Council on Access and Fairness Annual Report	Yes July 2018	No	Goal 4 Objective B
• Council on Access and Fairness Strategic Plan	Yes July 2018	Yes July 2018	Goal 4 Objective B
• Commission on Judicial Nominees Evaluation, 2015 Activities and Statistical Report	Yes July 2018	Yes July 2018	Goal 1 Objective E
• Awards (pending) Loren Miller, Pro Bono, Diversity & Pipeline, Witkin	Yes July 2018	No	Administration
• Annual Recommendation re Attorneys in Non-compliance with MCLE Audit	Yes September 2018	Yes September 2018	Compliance

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

Attachment A  
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

Attachment A  
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

Attachment A  
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

Attachment A  
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

Attachment A  
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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