

OPEN SESSION AGENDA ITEM

REGULATION & DISCIPLINE COMMITTEE III.E.

DATE: September 13, 2018

TO: Members, Regulation and Discipline Committee

FROM: Dag MacLeod, Chief of Mission Advancement & Accountability Division

SUBJECT: Regulation & Discipline Committee Work Plan Review

EXECUTIVE SUMMARY

This agenda item presents the Regulation and Discipline Committee 2017-18 Work Plan and reviews the accomplishments of the previous year.

BACKGROUND

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 the completion of this work.

Work Plans for the 2017-18 Board year were developed in the fall of 2017 and approved by the Board Executive Committee in January, 2018. At that time, however, no process was established for review of the work plans. Nor was consideration given to ensuring the alignment of the work plans with the Board's larger strategic planning efforts.

DISCUSSION

This item is intended as a discussion item for the Committee on Regulation and Discipline (RAD or Committee) and to alert the members of RAD to a proposal before the Board Executive Committee to modify the process of developing Committee Work Plans.

Attached is the Work Plan developed by RAD in 2017 and approved by the Board Executive Committee. Staff to RAD will present the plan and discuss which items were accomplished and which remain to be accomplished. Members of RAD are encouraged to provide input regarding how the work plan can be improved in the future and better used to guide the work of the Committee and advance the Strategic Plan of the Bar.

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: (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.

ATTACHMENT(S) LIST

- A. Regulation & Discipline Committee Work Plan

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 / March 2018	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 / April 2018	Yes / May 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"> 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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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 / 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

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