



The State Bar *of California*

OPEN SESSION

AGENDA ITEM

113 MARCH 2019

BOARD EXECUTIVE COMMITTEE III.B

DATE: March 14, 2019

TO: Members, Board Executive Committee
Members, Board of Trustees

FROM: Kimberly DaSilva, Attorney II, Mission Advancement & Accountability Division

SUBJECT: Approval and Ratification of Revised Board Book

EXECUTIVE SUMMARY

This agenda item presents the revised Board Book for approval by the Board Executive Committee and ratification by the Board of Trustees.

BACKGROUND

Origin of the Board Book and History of the Revision

This item represents the culmination of a comprehensive revision of the State Bar's Board of Trustees Policy Manual (commonly referred to as the "Board Book"). The existing Board Book was adopted in September 2004 as a compilation of statutes, Rules of the State Bar, and other policies and procedures adopted by Board resolutions that govern the operation of the Board and its oversight of the Bar.

Over time, the addition of resolutions without clear guidelines or organizational structure made the manual unwieldy. At approximately 275 pages, the existing Board Book is subdivided into various "tabs," "articles," and "sections." This organizational structure is dictated, in part, by requirements of electronic accessibility, rather than focusing on the needs of the intended audience: members of the Board of Trustees.

The proposed revision (Attachment A) began at the request of the Board in 2015, proceeding with discrete portions. In June of 2018 the State Bar contracted with Cindi Christenson, a retired public sector executive with experience writing board manuals, who helped turn it into a more accessible tool. Staff has updated the Board Executive Committee of the Board several times on that process.

The revised Board Book retains essential information regarding governing authority, Board composition, meeting procedures, subentity rules, fiscal oversight, legislation and rulemaking, staffing, communication, expense reimbursement, Board member training, and ethics and conflict of interest, but its presentation is significantly more summary, focusing on information directly relevant to Board members. Material from the existing Board Book that relates to the work of State Bar staff has been removed and transferred to staff manuals. Upon adoption of the proposed, revised Board Book, a copy of the current Board Book will be retained as a reference document.

DISCUSSION

Current Board Book Compared to Proposed, Revised Board Book

Working with Ms. Christenson to develop the rules that governed the revision process, the following guidelines were used to determine whether material either should be removed entirely, or merely moved to internal staff manuals or other appropriate documents:

- Removed entirely
 - Recitations of statutes
 - Extremely detailed information
 - Redundant material
- Moved to internal staff manuals or other appropriate documents
 - Staff procedures
 - Historical annotations

The revised Board Book retains the following categories of material:

- Governing Authorities
- Board Composition
- Meeting Procedures
- Subentity Rules
- Fiscal Oversight
- Legislation and Rulemaking
- Staffing
- Communication
- Expense Reimbursement
- Board Member Training
- Ethics and Conflict of Interest

Vetting by Internal State Bar Divisions and Trustees

Since the January meeting the revision has been thoroughly vetted and new or revised material developed by internal offices, including the Office of the General Counsel and Finance. The office of the General Counsel provided technical support on several sections of the revision, including: the section on the General Counsel, the amicus policy, the electronic communications policy and on structuring the resolutions for this agenda item. Additionally, the Finance Division helped articulate the reserve policy.

Since the last Board Executive Committee Meeting, staff also worked closely with Trustees Joanna Mendoza and Sean SeLegue to ensure that important content in the existing Board Book is retained in the revision. Trustees Mendoza and SeLegue devoted a substantial amount of their time to vetting this revision and have committed to overseeing the project until its finalization. This agenda item contains a resolution that would enable staff to continue to work with Trustees Mendoza and SeLegue after adoption and ratification of the revision, on non-substantive changes to finalize the document.

Scope and Intended Audience of the Revised Board Book

The revised Board Book sets forth high level descriptions of the basic rules governing the actions of the Board, its individual members, and State Bar subentities in carrying out the State Bar's mission. It is intended to be a resource primarily for Board members. Where more detailed material would assist Board members in fulfilling their responsibilities, appendices provide supplemental information.

In contrast to the existing Board Book, the proposed, revised Board Book does not include staff administrative policies and procedures; policies and procedures governing individual divisions and offices of the State Bar; detailed legal analyses; contracts and memoranda of understanding; and, excessively detailed appointments policies and procedures.

If adopted this revised Board Book will supersede and replace the existing Board Book with two exceptions, Appendices G (Subentity Charters) and J (Conflict of Interest Authority), for reasons described below.

Appendices

The proposed, revised Board Book includes a host of appendices which provide detailed information on topics relevant to Board members. These appendices are included in an effort to strike the right balance between providing Board members with readily accessible access to specific information that they may need to perform their duties effectively, and the more summary descriptions of the duties and functions of State Bar and the Board of Trustees contained in the body of the revised document.

By design, specific appendices are intended to be updated on a regular basis as the information contained in them changes – e.g., membership of committees, liaison assignments – without

the need to revise the body of the Board Book. The revision contains language clarifying that staff will be responsible for updating the appendices and ensuring that they remain current, without the need for Board action.

Notably, two of the appendices are missing from the revision at this time, marked clearly with “placeholder” pages. Those appendices are:

- Appendix G – Subentity Charters, and
- Appendix J – Conflict of Interest Policy Authority

In September and November of last year, the Board approved moving forward with significant changes in policy regarding subentity composition and governance flowing from Appendix I recommendations. Appendix G, containing subentity charters, is being withheld at this time, pending finalization of changes required by the Board’s Appendix I decisions. Until Appendix G is presented to and adopted and ratified by the Board Executive Committee and the Board, existing subentity charters within Section 5 of the old Board Book, “State Bar Committees, Commissions and Sections,” remain in effect.

Until Appendix J, containing the authority underlying the State Bar’s Conflict of Interest Policy, is presented to and adopted and ratified by the Board Executive Committee and the Board, Tab 3.1, Article 4, “Conflict of Interest Code for the Board of Trustees of the State Bar of California,” in the existing Board Book, will remain in effect.

Staff anticipates one or both of those appendices will be presented at the next set of committee and Board meetings.

New Policies

A small number of the revisions to the Board Book imply new policies or articulate existing policy in a slightly different form. These include:

- Addition to the Finance and Planning Charter: Responsibility for the overall monitoring of State Bar metrics is being added to the charter of the Finance and Planning Board standing committee.
 - The charters for all Board standing committees were last revised in January 2018. The addition to the Finance and Planning charter is the only change to Board standing committee charters.
- Global Rule Changes for Subentities: Subentities consist of State Bar volunteers that support and advise the Board. Appendix I related Board decisions last fall significantly changed the rules regarding subentities. Those rules are set forth in the revised Board Book.
- New Articulation of the Conflict of Interest Policy: While not a new policy, the State Bar’s Conflict of Interest Policy has been rewritten and clarified.
- New Electronic Communications (E-mail) Policy: New to the State Bar and, thus, to the Board Book is an electronic communications policy, encouraging Board members to use their State Bar email addresses when conducting State Bar business.

- 360° Performance Evaluations for Key Staff: The revision makes it explicit that the performance evaluations of the Executive Director, the Chief Trial Counsel and the General Counsel are to include 360° reviews.

FISCAL/PERSONNEL IMPACT

None

RULE AMENDMENTS

None

BOARD BOOK AMENDMENTS

Entire Board Book

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.

RECOMMENDATIONS

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

RESOLVED, that the Board Executive Committee approves and the Board of Trustees ratifies the revised Board Book; and it is

FURTHER RESOLVED, that the revised Board Book adopted and ratified at this time supersedes and replaces the old Board Book with the exception of Appendix G (Subentity Charters) and Appendix J (Conflict of Interest Policy Authority), which material in the old Board Book will remain in effect until those two appendices are adopted and ratified at future Board Executive Committee and Board of Trustees meetings; and it is

FURTHER RESOLVED, that the effective date of the revised Board Book adopted and ratified at this time will be March 16, 2018; and it is

FURTHER RESOLVED, that Trustees Joanna Mendoza and Sean SeLegue are authorized to work with staff on non-substantive changes to finalize the revision which may be placed on a consent agenda of the Board of Trustees at a future meeting for ratification.

ATTACHMENT(S) LIST

- A.** Revised Board Book



The State Bar *of California*

**STATE BAR OF CALIFORNIA BOARD OF TRUSTEES
POLICY MANUAL**

STATE BAR OF CALIFORNIA BOARD OF TRUSTEES POLICY MANUAL

TABLE OF CONTENTS

SECTION 1. STATE BAR OF CALIFORNIA	1
1.1 Overview	1
1.2 Governing Authority	1
1.3 Mission	2
SECTION 2. BOARD OF TRUSTEES	2
2.1 Composition	2
2.2 Board Member Terms	2
2.3 Resignation of Board Members	3
2.4 Responsibilities of the Board	3
2.5 Responsibilities of Board Members	4
2.6 Calendar of Board Meetings	4
2.7 Officer Selection	4
2.8 Responsibilities of the Chair	5
2.9 Responsibilities of the Vice-Chair	6
2.10 Board Liaisons	6
2.11 Board Standing Committees	6
2.12 Governance in the Public Interest Task Force	7
SECTION 3. MEETING PROCEDURES	7
3.1 Applicability of these Procedures	7
3.2 Bagley-Keene Open Meeting Act	7
3.3 Meeting Frequency	8
3.4 Meeting Locations	8

3.5 Board Member Attendance at Board Meetings	8
3.6 Agendas	8
3.7 Closed Session	9
3.8 Record of Meetings	9
3.9 Voting on Motions	9
3.10 Meeting Rules	10
3.11 Audio/Visual Recording or Webcast	10
3.12 Public Comment on Rules	10
SECTION 4. SUBENTITIES OF THE STATE BAR	11
4.1 Subentities	11
4.2 Appointments to Subentities	11
4.3 Restriction on Appointments to Subentities	11
4.4 Subentity Year	11
4.5 Policy on Number of Subentities	11
4.6 Presumption on Subentity Size	12
4.7 Justification Process for Larger Subentities	12
4.8 Sunset Review of Subentities	12
4.9 Term of Membership	13
4.10 Reappointment of Subentity Volunteers Filling Vacancies in Unexpired Terms	13
4.11 Selection and Term of Officers	13
4.12 Subentities Appointed Exclusively By the Board	13
4.13 Ad Hoc Committees	14
4.14 Subentities with Multiple Appointing Authorities	15

4.15 Appointment to External Entities	15
SECTION 5. BOARD PLANNING AND FISCAL OVERSIGHT	16
5.1 Strategic Planning	16
5.2 Fiscal Oversight	16
5.2.1 Budget	16
5.2.2 Revenue	17
5.2.3 Investment Policy	17
5.2.4 Reserve Policy	18
5.2.5 Contracts	18
5.2.6 Settlement of Claims against the State Bar	18
5.2.7 Audits	19
SECTION 6. ADVOCACY: LEGISLATION, RULEMAKING AND AMICUS CURIAE	19
6.1 Legislation	19
6.2 Rulemaking	20
6.3 Amicus Curiae	20
SECTION 7. STAFFING	21
7.1 Executive Director	21
7.2 Chief Trial Counsel	22
7.3 General Counsel	23
7.4 STATE BAR COURT	23
SECTION 8. COMMUNICATION	23
8.1 Contact for State Bar Inquiries	23
8.2 Use of State Bar Stationery and Business Cards	24

8.3 Electronic Communications (E-mail)	24
8.4 Responding to Inquiries from the Public or Media	24
8.5 Speaking Engagements and Public Outreach	25
8.6 Delegation of Authority to Execute Copyright Releases	25
SECTION 9. EXPENSE REIMBURSEMENT	25
9.1 Board Member Travel	25
9.2 Travel Arrangements	25
9.3 Lodging for State Bar Meetings	25
9.4 Meal Per Diems	26
9.5 Statutory Compensation	26
SECTION 10. BOARD MEMBER TRAINING	26
10.1 Board Member Orientation	26
10.2 Annual Board Member Training	26
SECTION 11. ETHICS AND CONFLICTS OF INTEREST	27
11.1 Conflict of Interest	27
11.2 Policy Restricting Business with the State Bar after Leaving Office	28

STATE BAR OF CALIFORNIA BOARD OF TRUSTEES POLICY MANUAL ¹

State Bar of California

SECTION 1. STATE BAR OF CALIFORNIA

1.1 Overview

The State Bar of California (hereafter referred to as the State Bar) was created in 1927 as a public corporation and was placed in the Judicial Article of the California Constitution in 1966. It was created to assist the Supreme Court in matters pertaining to the admission, regulation, and discipline of attorneys.

1.2 Governing Authority

The governing authority for the State Bar to carry out its role can be found in:

- State Bar Act (Bus. & Prof. Code section 6000 et seq.)
- California Rules of Court (Cal. Rules of Court, Title 9)
- Rules of the State Bar
- Supreme Court decisions

1.3 Mission

The State Bar's mission is to protect the public and includes the primary functions of licensing, regulation and discipline of attorneys; the advancement of the ethical and competent practice of law; and support of efforts for greater access to, and inclusion in, the legal system. Diversity and inclusion are an integral part of the State Bar's public protection mission to build and retain a profession of attorneys capable of providing high-quality legal services and representative of the rich diversity of California's population.

¹ This Policy Manual (commonly known and referred to as the "Board Book") sets forth high level descriptions of the basic rules governing the actions of the State Bar's Board of Trustees, its individual Board members, and State Bar subentities in carrying out the State Bar's mission. It is intended to be a resource primarily for Board members. Where more detailed material would assist Board members in fulfilling their responsibilities, appendices provide supplemental information. Staff is responsible for updating the appendices to ensure that they remain current and is authorized to do so without Board action.

Material outside the scope of this manual includes, but is not limited to: State Bar staff administrative policies and procedures; policies and procedures governing individual divisions and offices of the State Bar; detailed legal analyses; contracts and memoranda of understanding; and, appointments policies and procedures.

SECTION 2. BOARD OF TRUSTEES

2.1 Composition

The State Bar is governed by its Board of Trustees (Board). As of September 2019 the Board will consist of 13 members.

Five attorney members are appointed by the Supreme Court; one attorney member and one public (non-attorney) member are appointed by the Speaker of the Assembly; and one attorney member and one public member are appointed by the Senate Committee on Rules. Four public members are appointed by the Governor and are subject to Senate confirmation. See Appendix A for the current Board Membership.

Member Appointing Authority	Attorney Member	Public Member (Non-Attorney)
California Supreme Court	5	0
Speaker of Assembly	1	1
Senate Committee on Rules	1	1
Governor	0	4

To ensure both the talent and diversity needed for optimal functioning of the Board, the State Bar maintains a Trustee Skills Matrix to help identify gaps in trustee experience and ability. Staff provides appointing authorities with information about the composition of the Board for their consideration when recruiting and appointing trustees.

A full time employee of a public agency serving as a Board member may not suffer any loss of rights, promotions, salary increases, retirement benefits, tenure, or other job-related benefits as a result of his or her serving on the Board.

(Source: Bus. & Prof. Code §§ 6010, 6011, 6013.1, 6013.3, 6013.5, 6013.6; Cal. Rule of Court 9.90)

2.2 Board Member Terms

Each member is appointed for a term of four years. Rules regarding reappointment depend on the appointing authority and whether the member is an attorney or a public member (non-attorney). Members appointed by the Supreme Court may be reappointed only once. There are no limitations on the reappointment of other members.

When a position becomes vacant it may be filled by the appointing authority with a person who will serve for the remainder of the term.

(Source: Bus. & Prof. Code §§ 6013.1, 6013.3, 6013.5, 6016)

2.3 Resignation of Board Members

A Board member, including an officer, may resign at any time by giving written notice to the Secretary. The resignation will be effective upon receipt of that notice or on the date specified in the notice.

(Source: Gov. Code § 1750)

2.4 Responsibilities of the Board

The Board is the State Bar's governing body, responsible for developing the guiding policies and principles underpinning its mission. Among its responsibilities the Board provides guidance and feedback to the Executive Director to ensure effective management and leadership of the State Bar.

Responsibilities of the Board also include, but are not limited to:

- Governing the State Bar through collective policy-making
- Developing the guiding policies and principles underpinning the State Bar's regulatory mission
- Adopting the State Bar's Strategic Plan
- Approving the State Bar's budget
- Receiving and approving statutorily mandated reports
- Hiring, evaluating and terminating the employment of the Executive Director and the General Counsel
- Appointing and dismissing a Chief Trial Counsel (CTC) subject to confirmation by the State Senate²
- Reviewing and evaluating its own performance related to its governing responsibility
- Assuring the adjudicatory independence of the State Bar Court
- Appointing volunteers to State Bar committees, commissions, task forces, and other advisory bodies referred to herein as State Bar subentities

The Board reserves authority over all matters pertaining to the State Bar. State Bar officers, agents, Board standing committees and subentities have only the powers delegated to them by the Board. The Board's authority includes determinations of whether actions or positions taken by those actors are consistent with State Bar policies.

(Source: Bus. & Prof. Code §§ 6010, 6025 and 6030; and State Bar Rule 6.21)

² During a CTC's service the CTC reports to the Regulation and Discipline Committee. (Bus. & Prof. Code § 6079.5)

2.5 Responsibilities of Board Members

Each Board member is responsible for:

- Being familiar with the mission and purpose of the State Bar
- Participating in all Board meetings and meetings of assigned Board standing committees, including preparing for meetings in order to make sound decisions on behalf of the State Bar
- Being familiar with the existing governance structure of the Board so that each member can establish good working relationships with one another and staff
- Review and approval of the annual budget
- Being knowledgeable about conflict of interest standards and ensuring that reportable conflicts are specifically identified and acknowledged in formal filings and at Board meetings
- Being familiar with the guidelines for member communication contained in Section 8 of the Board Book
- Being familiar with the requirements of the Bagley-Keene Open Meeting Act
- Being prepared to represent the State Bar in any setting or forum and being able to explain the State Bar's responsibilities, initiatives, accomplishments and capabilities
- Bringing diverse experience, skills and expertise to bear when determining policy
- Attending swearing-in ceremonies of new attorneys
- Acting in accordance with their fiduciary responsibilities toward the State Bar
- Recognizing the equal role and responsibility of each Board member

2.6 Calendar of Board Meetings:

The annual meeting calendar for the Board of Trustees is determined by the due dates for statutorily mandated reports that assist the Board in fulfilling its oversight responsibilities, by the planning and implementation of the Strategic Plan initiatives, and by the Board's ongoing oversight responsibilities. The meeting dates when these events occur are provided in detail in Appendix B.

2.7 Officer Selection

The officers of the State Bar are a Chair, a Vice Chair and a Secretary.

The Chair and Vice Chair are appointed by the Supreme Court for one-year terms and may serve up to two terms in this capacity. Officers assume the duties of their respective offices at the conclusion of the annual meeting following their appointment, typically in September. In the event that an officer is appointed to fill a vacancy for the balance of the term, the remainder of that term does not count against the two-term limit.

Officers continue in office until their successors are appointed and qualify. Unless otherwise required by law officers of the State Bar have only the duties prescribed to them by the Board and are subject to its supervision and control.

Members interested in serving as an officer should submit a letter of interest to the Supreme Court by July 1st and provide an electronic copy of the submission to the Principal Attorney for the Chief Justice. State Bar staff sends a reminder announcement to Board members prior to the deadline.

The Secretary is an employee of the State Bar and has no voting rights. The Secretary is selected by the Board annually upon recommendation by the Executive Director.

(Source: Bus. & Prof. Code §§ 6020, 6021, 6022, 6023; State Bar Rule 6.42)

2.8 Responsibilities of the Chair:

The Board Chair is responsible for:

- Presiding over Board meetings.
- Facilitating decision-making by the Board
- Encouraging diverse opinions of Board members
- Ensuring that the Board focuses on the Strategic Plan Goals and Objectives
- Keeping the Board informed and aware of policy issues that may affect the functioning of the State Bar
- Resolving disputes and manages conflict among Board members
- Appointing Board members to serve as liaisons to Board standing committees
- Appointing Board members to serve as liaisons to functional areas of the agency's operation
- Presiding over the Board Executive Committee and the Governance in the Public Interest Task Force
- Acting as the key spokesperson on behalf of the Board regarding the annual performance evaluation and the hiring and firing of the Executive Director
- Acting as the key spokesperson for the Bar and is accountable for what is officially communicated by the Board and the State Bar to licensed attorneys in California, to the public and to the government
- Performing other duties as prescribed by the Board and provided by law

(Source: Bus. & Prof. Code § 6001.2)

2.9 Responsibilities of the Vice-Chair

The Vice-Chair is responsible for:

- Acting in the absence of the Chair
- Serving as the Vice-Chair of the Board Executive Committee
- Serving as the Chair of the Regulation and Discipline Committee

(Source: Bus. & Prof. Code § 6021; State Bar Rule 6.41)

2.10 Board Liaisons

The Chair may appoint members of the Board to serve as liaisons to State Bar subentities, and task forces, as well as to State Bar functional areas of operation. Board liaisons are responsible for facilitating the exchange of information between the Board and those subentities, task forces and areas of operation. See Appendix C for a list of current Board Liaisons.

2.11 Board Standing Committees

Board standing committees, composed only of Board members, are responsible for State Bar oversight and policy development through the strategic planning process and development of Committee Work Plans. The Board of Trustees has five (5) standing committees: the Regulation and Discipline Committee, the Programs Committee, the Audit Committee, the Finance and Planning Committee, and the Board Executive Committee.

Each standing committee must have at least five (5) members. The incoming chair presents and proposes committee chairs and appointments to Board standing committees after consulting with the outgoing Board Executive Committee and subject to approval by the Board. See Appendix D for Board Standing Committee Charters.

2.11.1 Regulation and Discipline Committee

The Regulation and Discipline Committee oversees the work of a number of State Bar functional areas and subentities including: the Office of the Chief Trial Counsel, the State Bar Court, the Office of Probation, the Client Security Fund Commission, and the Office of Professional Competence. See the Board Committee Structure Matrix in Appendix E.

2.11.2 Programs Committee

The Programs Committee also oversees the work of a number of State Bar functional areas and subentities. The Programs Committee oversees the work of the Office of Access and Inclusion, the Office of Admissions, Attorney Regulation and Consumer Resources, the Committee of Bar Examiners, Legal Services Trust Fund Commission, California Commission on Access to Justice, and the Council on Access and Fairness. See the Board Committee Structure Matrix in Appendix E.

2.11.3 Audit Committee

The Audit Committee is charged with assisting the Board in fulfilling its oversight responsibility as related to the integrity of accounting and financial reporting processes, the system of internal controls, and audit processes. In addition, the Audit Committee is charged with overseeing risk management and compliance efforts. The Audit Committee should include at least one public member of the Board.

2.11.4 Finance and Planning Committee

The Finance and Planning Committee develops and leads the Board's participation in all State Bar planning, including strategic planning and governance review, and budget preparation.

2.11.5 Board Executive Committee

The Board Executive Committee is responsible for the effective functioning of the Board, maintenance and development of the Board–Executive Director working relationship, and oversight of certain high-level operational matters including legislative liaison, and appointments of volunteers to subentities. The Executive Director sits on the Board Executive Committee but has no vote and is not counted toward a quorum of the committee.

2.12 Governance in the Public Interest Task Force

The Governance in the Public Interest Task Force is a 7-member, statutorily mandated body composed entirely of Board members. It is convened every three years to prepare and submit a report to the California Supreme Court, Governor, and the Assembly and Senate Committees on Judiciary. The report must include its recommendations for enhancing the protection of the public and ensuring that protection of the public is the highest priority in the licensing, regulation and discipline of attorneys. Beginning in 2011, a report is due every three years on May 15. The Governance in the Public Interest Task Force will be convened again in 2019, 2022, 2025, and 2028 to produce reports for 2020, 2023, 2026, and 2029.

(Source: Bus. & Prof. Code § 6001.2)

SECTION 3. MEETING PROCEDURES

3.1 Applicability of these Procedures

These meeting procedures apply to meetings of the Board, Board standing committees, and subentities with the exception of the Commission on Judicial Nominees Evaluation and the Review Committee of the Commission on Judicial Nominees Evaluation.

3.2 Bagley-Keene Open Meeting Act

All meetings of the Board of Trustees, Board standing committees and State Bar subentities, except for the Commission on Judicial Nominees Evaluation (JNE) and the JNE Review

Committee, are subject to the Bagley-Keene Open Meeting Act (“Bagley-Keene”). See Appendix F. Bagley-Keene sets forth notice and agenda requirements, provides for public comment, requires that meetings be conducted in open session (except where closed session is expressly authorized), and prohibits discussing or taking action on matters not included on the agenda. The provisions in this Board Book concerning meeting procedures are intended to restate and supplement Bagley-Keene. To the extent any provision in the Board Book may be inconsistent with Bagley-Keene, Bagley-Keene shall control. New Board members and members of subentities shall be trained on the requirements of Bagley-Keene before their first meeting to the extent practical.

(Source: Gov. Code § 11120 et seq.; Bus. & Prof. Code §§ 6026.7, 6026.5)

3.3 Meeting Frequency

The full Board of Trustees meets at least six times each year. The meeting schedule can be found at http://www.calbar.ca.gov/Portals/0/documents/bog/bot_ExecDir/bot_multi-year-schedule.pdf

3.4 Meeting Locations

In-person State Bar meetings must be held at the State Bar offices in San Francisco or Los Angeles, unless a quorum of the Board votes to meet elsewhere in California.

(Source: State Bar Rule 6.91)

3.5 Board Member Attendance at Board Meetings

Board members shall, to the extent practicable, attend all Board meetings. Board members unable to attend a meeting should contact the Chair, Executive Director or the Secretary.

Members are requested to notify the Secretary when they leave a meeting permanently, prior to its official end, for purposes of maintaining a quorum.

3.6 Agendas

The Executive Director and Secretary prepare agendas for Board meetings in consultation with the Board Chair. Board members may submit recommended agenda items to the Chair for consideration as soon as practicable but at least 15 days prior to the scheduled meeting.

Board standing committee coordinators and State Bar staff to subentities prepare agendas for meetings in consultation with the Board standing committee and subentity chairs, respectively.

(Source: State Bar Rule 6.42)

3.7 Closed Session

All matters discussed in closed session are confidential. Members of the public are not allowed in the meeting room during closed session.

Bagley-Keene sets forth the following examples of matters that can be considered in closed session:

- Certain personnel matters, such as the appointment, evaluation or dismissal of Board-appointed staff
- Certain California Bar Examination matters, such as the preparation, approval, grading or administration of examinations
- Anticipated and pending litigation
- Collective bargaining

(Source: Gov. Code § 11126; Bus. & Prof. Code § 6026.7)

3.8 Record of Meetings

Minutes of topics discussed and decisions made at Board meetings shall be maintained by the Secretary.

The minutes of a closed session are created and maintained by a designee of the Executive Director or, if a violation of the open meeting requirements is alleged, to the court having jurisdiction over the dispute.

(Source: Gov. Code § 11126.1; State Bar Rule 6.42)

3.9 Voting on Motions

To vote at a meeting Board members must be present in person or, at a properly noticed address, by telephone. Voting by proxy is not allowed. A roll call vote will be taken after each motion. Members' names will be called and each member will state their vote for the motion as follows:

- Support – Yes
- Oppose – No
- Abstain (not counted as a vote)
- Recused (not counted as a vote)

At in-person meetings “substitution of the roll” is allowed as long as there has been no change in the composition of the body since the last vote or since the call of roll and no members

object. “Substitution of the roll” allows the Board to take action without a roll call vote but, instead, by affirmation of those present without objection.

Substitution of the roll is not permitted at meetings that are held by video- or telephone-conference.

3.10 Meeting Rules

The State Bar will use Robert’s Rules of Order, to the extent they do not conflict with state law (e.g., Bagley-Keene Act), as a guide when conducting its meetings.

3.11 Audio/Visual Recording or Webcast

Audio and video of meetings may be recorded and/or broadcast live via the Internet (webcast).

3.12 Public Comment on Rules

Proposals for the Rules of the State Bar are circulated for public comment before adoption, amendment, or repeal by the Board. The State Bar also makes available for public comment its proposals for the California Rules of Court. Proposals are circulated for a forty-five day period, which can be shortened to a minimum of 30 days or extended to a maximum of 90 days, as designated by the Board.

Public comment is not required in the following circumstances:

- to correct clerical errors; clarify grammar; improve organization; conform to specific changes in a law; update references or citations; or make similar editorial changes;
- to modify a proposal that has been circulated for public comment when the Board deems the modification non-substantive, reasonably implicit in the proposal or a narrowed version of a proposal; or
- to add or modify an appendix to the Rules of the State Bar.

The Board may determine that an emergency requires it to adopt, amend, or suspend a rule on an interim basis without first circulating it for public comment. No interim measure may remain in effect for more than 120 days.

The adoption, amendment, or repeal of a rule becomes effective as of the date specified by the Board. If it specifies no date, the date of its action is the effective date.

(Source: State Bar Rule 1.10)

SECTION 4. SUBENTITIES OF THE STATE BAR

4.1 Subentities

Subentities of the State Bar, with the exception of JNE which advises the Governor and RJNE which hears appeals from JNE decisions – committees and commissions – are comprised of volunteers who provide support and advice to the Board in a number of areas. Some subentities are appointed exclusively by the Board while others are appointed by multiple appointing authorities. Subentities fall under the oversight of the Board. See Appendix G for subentity charters.

4.2 Appointments to Subentities

The State Bar solicits applications from members of the legal community and the public to serve on subentities and seeks to ensure that the pool of candidates and the composition of the subentities are inclusive and broadly representative of the diversity of California's population.

The Board Executive Committee reviews applications and makes appointment recommendations to the full Board. All State Bar volunteers must be provided a formal orientation that includes, among other State Bar related topics, training on Bagley-Keene open meeting requirements, conflicts of interest, the California Public Records Act, implicit bias and diversity.

4.3 Restriction on Appointments to Subentities

Advisors, ex officio members and consultants may not be appointed to State Bar subentities unless authorized by the Board of Trustees.

4.4 Subentity Year

For all subentities except the Commission on Judicial Nominees Evaluation, the year begins and ends at the conclusion of the Annual Meeting, typically in September, unless otherwise provided by law.

4.5 Policy on Number of Subentities

A subentity may only be created if it has work to do. Similarly, a person may only be appointed to a subentity if the subentity has work assigned to it.

4.6 Presumption on Subentity Size

Unless a specific exception applies or a justification is established based on workload or need for representation, or otherwise provided by law, subentities will have no more than 7 members.

4.7 Justification Process for Larger Subentities

Subentities may be created with more than 7 members if justified by the workload of the subentity or, if there is a need for broad representation.

If a proposal for the creation of a subentity recommends that it have more than 7 members, , that proposal must provide the following information in writing to the Board committee with oversight responsibility:

Workload		Representation	
Type of work	Description of the work that will be done by the subentity.	Role needed	Description of the category of representation that is sought and the reason why 7 members is insufficiently representative in terms of professional background, geography, demography, etc.
Quantity of work	Description of the reason why the work required of the subentity could not be performed by 7 or fewer members.	Reason needed	Description of the reason that role is needed.

The Board committee with oversight responsibility will then make a recommendation to the full Board based upon its determination of the merits of the request.

The Board must approve all subentity requests to increase membership over 7 members.

4.8 Sunset Review of Subentities

All subentities, except those subentities that are statutorily mandated, will be subject to sunset review every five years beginning in 2023. The sunset reviews will be conducted by the Board Executive Committee, which will make its recommendation to the full Board.

4.9 Term of Membership

Members of subentities serve 4- year, staggered terms. The Board's general policy is to permit only a single term but may make exceptions in its discretion. Exceptions include:

- (1) If the Board fills a vacancy mid-term, the appointee will serve the remainder of the term and is eligible in the Board's discretion for one additional consecutive term.
- (2) The terms for members of the Commission on Judicial Nominees Evaluation are one year; members may serve 3 consecutive terms subject to satisfactory evaluation by the Chair at the end of each year and may serve a fourth year as chair.
- (3) The terms for members of the Review Committee of the Commission on Judicial Nominees Evaluation are three years; and
- (4) The 2 Board members of the Review Committee of the Commission on Judicial Nominees Evaluation are selected by the Board Chair at the start of each Board year and serve only 1 year terms subject to reappointment by the successor Board Chair.

Members may not serve more than two consecutive terms, except to permit service as Chair, Vice-Chair or Chair-Elect.

4.10 Reappointment of Subentity Volunteers Filling Vacancies in Unexpired Terms

Unless statute requires otherwise, subentity volunteers appointed to fill a vacancy in unexpired terms of 1 year or less may be reappointed for an additional full 4-year term. Members appointed to fill unexpired vacancies of more than one 1 year are not eligible for reappointment, except to serve as an officer.

4.11 Selection and Term of Officers

Officers of subentities are appointed by the Board and serve one-year terms, with the possibility of reappointment.

4.12 Subentities Appointed Exclusively By the Board

4.12.1 Committee on Professional Responsibility and Conduct

The Committee on Professional Responsibility and Conduct addresses matters involving professional ethics and helps educate and provide guidance to attorneys, judges, and the public about the ethical duties of an attorney. The committee's work consists of drafting advisory opinions on issues of professional ethics and, studying and recommending changes to the Rules

of Professional Conduct.

4.12.2 California Board of Legal Specialization

The California Board of Legal Specialization (CBLS) administers a program that certifies specialists in specific areas of law, identifying those attorneys who have demonstrated proficiency in specialty fields through certification, and encouraging attorney competence. The CBLS recommends program rules and provides policies and guidelines for certification of specialists; develops testing and legal education criteria for specialists; and advises the Board on establishment of specialty fields.

4.12.3 Council on Access and Fairness

The Council on Access and Fairness advises the Board on advancing the State Bar's diversity and inclusion strategies and goals.

4.12.4 Client Security Fund Commission

The Client Security Fund (CSF) reimburses clients who have lost money or property due to theft or an equivalent dishonest act committed by a California lawyer acting in a professional capacity. The CSF commission reviews and rules on appeals of reimbursement decisions made by State Bar staff.

4.12.5 Commission on Judicial Nominees Evaluation

The Commission on Judicial Nominees Evaluation (JNE) assists the governor in the judicial selection process by providing independent, comprehensive, accurate and fair evaluations of candidates for judicial appointment and nomination.

(Source: Gov. Code § 12011.5)

4.12.6 Review Committee of the Commission on Judicial Nominees Evaluation

The Review Committee of the Commission on Judicial Nominees Evaluation (RJNE) reviews requests from candidates seeking reconsideration of a "not qualified" rating by the JNE Commission. RJNE evaluates information pertaining to the investigation of the candidate and focuses on possible violations of rules or procedures.

4.13 Ad Hoc Committees

Ad hoc committees are established by the Board for the purpose of accomplishing a specific goal within a specified timeframe. Unless the Board extends the term of the ad hoc committee, these committees sunset automatically when they complete their work or at the end of their

specified timeframe. Ad hoc committees can be composed of both Board members and volunteers. See Appendix H for a list of current ad hoc committees.

4.14 Subentities with Multiple Appointing Authorities

4.14.1 Committee of Bar Examiners

The Committee of Bar Examiners oversees the California Bar Examination, moral character determination process and the First-Year Law Students' Examination. It makes recommendations for rules and guidelines governing admissions functions; recommends qualified applicants to the California Supreme Court for admission to practice law in California; accredits law schools; registers unaccredited law schools; and studies and reports on proposed changes in the law and other matters concerning requirements for admission to practice law in California.

4.14.2 Legal Services Trust Fund Commission

The Legal Services Trust Fund Commission administers grant programs that fund nonprofit civil legal aid organizations, including Interest on Lawyers' Trust Accounts (IOLTA) grants, the Equal Access Fund, and the Justice Gap Fund.

4.14.3 California Commission on Access to Justice

The California Commission on Access to Justice works to develop and support projects to improve access to civil justice for Californians living on low and moderate incomes. The commission works closely with the Judicial Council to improve access to the courts.

4.15 Appointment to External Entities

4.15.1 Judicial Council

The Judicial Council is the constitutionally created policymaking body of the California courts, the largest court system in the nation. Under the leadership of the Chief Justice and in accordance with the California Constitution, the Council is responsible for ensuring the consistent, independent, impartial and accessible administration of justice. The State Bar appoints 4 members to the Judicial Council.

(Source: Cal. Const. Art. VI, § 6; Cal. Rule of Court 10.2)

4.15.2 American Bar Association House of Delegates

The House of Delegates (HOD) is the policy-making body of the American Bar Association (ABA). The State Bar's delegates are part of the California delegation, which also consists of delegates

appointed by ten local bar associations, ABA sections and divisions, and former officers and ABA board members. The State Bar appoints 6 of California's 26 delegates to the ABA's HOD.

4.15.3 Legal Services Corporation

The Legal Services Corporation is a non-profit corporation funded through the federal appropriations process. It seeks to ensure equal access to justice under the law by distributing grants to legal aid organizations providing civil legal assistance to individuals based on federal poverty guidelines. The Board appoints representatives to serve on boards of directors of programs funded by the Legal Services Corporation, including the boards of:

- Legal Services of Northern California
- California Rural Legal Assistance
- California Indian Legal Services
- Legal Aid Foundation of Los Angeles
- Legal Aid Society of Orange County

SECTION 5. BOARD PLANNING AND FISCAL OVERSIGHT

5.1 Strategic Planning

The State Bar develops and adopts a five-year strategic plan which is updated every two years. Each year in January, the State Bar conducts a planning session to review its progress and propose other measures to enhance its mission of public protection. Progress reports are provided to the Supreme Court, the Governor, and the Senate and Assembly Committees. See Appendix I for the current Strategic Plan.

(Source: Bus. & Prof. Code § 6140.12)

5.2 Fiscal Oversight

5.2.1 Budget

The budget is the primary instrument of fiscal control and contains all income and expenses of the State Bar. The State Bar's strategic plan provides the framework for the annual budget formulation and process. The budget presented to the Board for approval is prepared by the Office of Finance under the direction of the Chief Financial Officer. Each proposed budget includes the estimated revenues, expenditures, and staffing levels for all of the offices and funds administered by the State Bar. The budget correlates to State Bar legislative efforts in that it provides background information for the annual Fee Bill, which is the mechanism through which the State Bar receives the majority of its funding.

Following is a brief summary of the budget process and its relationship to the Fee Bill:

- January – Board adopts its final budget
- February – State Bar submits its final budget to the Legislature
- May – Fee Bill must pass house of origin
- September – Fee Bill must pass second house
- October – Governor must sign Fee Bill

During the year, quarterly financial reports, mid-year forecasting and budget-to-actual variance reports are required to be presented to the Board. An explanation of budgeted line item variance greater than \$100,000 of the budgeted line item shall be included in the report.

The Board may, by resolution, amend any adopted budget, upon the recommendation of the Finance and Planning Committee. All budget transfers of \$250,000 or more, all transfers between funds, and all increases of budgeted expenditures must be approved by the Board except in the case of an emergency. In an emergency they may be approved by the Executive Director after consultation with the Chair and Vice Chair, with notice given to the Board at its next regularly scheduled meeting.

5.2.2 Revenue

The State Bar receives its revenue from mandatory fees, voluntary donations, exam fees, grants and other revenue. The majority of the State Bar's revenue comes from mandatory fees which includes the attorney licensing fee. Examination fees include revenues from the First-Year Law Students' Examination and the California Bar Examination. Grants include revenues received by the State Bar from a variety of granting agencies and other sources. The State Bar also generates revenue through voluntary fees from licensees and donations.

5.2.3 Investment Policy

It is the policy of the State Bar to invest public funds in a manner which will provide the maximum security with best investment return, while meeting the daily cash flow demands of the State Bar and conforming to all laws governing the investment of public funds.

This policy is reviewed at least annually for the purpose of recommending needed changes and modifications. The Chief Financial Officer is responsible for initiating the review.

The State of California establishes standards for investment instruments and the State Bar utilizes these standards by diversifying its investment portfolio to minimize the risk of loss.

The Chief Financial Officer will provide quarterly reports to the Board on the status of the State Bar's investment portfolio.

5.2.4 Reserve Policy

The Board has adopted and maintains a reserve policy for specific programs and funds which reflects a two-month, or 17 percent, minimum target reserve level and a 30 percent reserve ceiling. The policy identifies circumstances under which reserves may be reduced below the minimum target level, such as:

- Meeting one-time needs, including: cash flow; short term revenue gaps; unexpected expenditure requirements or revenue shortfalls; and investments such as technology, human resources or other improvements that would strengthen State Bar revenues or reduce future costs; or
- Providing a strategic bridge to the future where a multi-year forecast shows an ongoing structural gap.

It also sets parameters for spending reserve balances in excess of the reserve ceiling. Any expenditure that would cause the balance of the General Fund, or any fund within the Restricted or Special Revenue Program Funds, to fall to a level totaling 10 percent or less of recurring annual operating expenses, must be approved by the Board. The policy, like other financial policies, should be reviewed and revised periodically by the Board and is an oversight responsibility of the Finance and Planning Committee.

5.2.5 Contracts

The Board must approve any contract for goods, services, or both, for an aggregate amount greater than \$50,000 or for information technology goods, services, or both, for an aggregate amount greater than \$100,000. The Executive Director may approve these contracts between Board meetings due to necessity provided that the contract is also approved by the Board Executive Committee and the Board is notified at the next regularly scheduled Board meeting.

(Source: Bus. & Prof. Code § 6008.6)

5.2.6 Settlement of Claims against the State Bar

The Board must approve settlements in amounts exceeding \$50,000 or in any matter which implicates a material policy issue for the State Bar, upon recommendation of the Board Executive Committee or the committee designated by the Board to review legal matters. A “material policy issue” is one with important political or operational consequences for the future of the State Bar.

(Source: Gov. Code § 900 et. seq.)

5.2.7 Audits

The State Bar is subject to the following types of audits:

Annual Financial Audit by Independent Auditors

A financial audit is conducted by external independent auditors annually and reviews management and governance practices to ensure their compliance with all applicable standards, including those of the Governmental Accounting Standard Board and the Financial Accounting Standards Board.

(Source: Bus. & Prof. Code § 6145)

Biannual Audit by the California State Auditor

The audit by the California State Auditor is a financial compliance and performance audit that focuses on the finances, discipline system, and other issues (varying from year to year) determined by the auditor. In addition, the audit follows up on concerns and problems highlighted from previous audits. There are no management practices that are outside of the State Auditor's purview. The State Auditor may audit any function including confidential and non-public files, and including the Office of the Chief Trial Counsel and the Office of General Counsel.

(Source: Bus. & Prof. Code § 6145)

Internal Control Review by Independent Auditors

The five-year internal control review of the State Bar's budget and fiscal policies and procedures is conducted by an independent consultant under the oversight of the Audit Committee.

SECTION 6. ADVOCACY: LEGISLATION, RULEMAKING AND AMICUS CURIAE

6.1 Legislation

The State Bar works closely with the Legislature to ensure that the framework governing the legal profession is consistent with the State Bar's public protection mission and the goals of the State Bar established in its Strategic Plan.

State Bar staff work with Board legislative liaisons to monitor legislative activity and advocate for the State Bar on legislative, policy and budget matters before the Legislature and Governor. The State Bar generally takes no position on bills involving substantive law. However, it may

take a position on an apparent issue of substantive law if issues of procedure and substance are so inextricably intertwined that they directly affect the State Bar's core mission.

Legislative advocacy by Board members, Board standing committees or subentities in the name of the State Bar may only occur by permission of the Board of Trustees or its designees. No standing committee or subentity of the State Bar may advocate in its own name.

6.2 Rulemaking

To define and carry out statutes contained in the State Bar Act, the Board has promulgated State Bar Rules that the Board may amend or repeal in its discretion. State Bar Rules outline the practices of the State Bar, including those related to its governance, admissions and educational standards and programs and services.

The Board may recommend to the Supreme Court enactment or modification of Rules of Professional Conduct. Rules of Professional Conduct establish standards of legal ethics and professional responsibility for attorneys in California and take effect upon approval by the Supreme Court.

The State Bar also works with the California Supreme Court on California Rules of Court regarding the practice of law.

(Source: Bus. & Prof. Code §§ 6025, 6077)

6.3 Amicus Curiae

As a regulatory agency, the State Bar does not generally participate as *amicus curiae* in litigation in which it is not a party. *Amicus* participation will generally be considered only where the litigation impacts issues germane to the State Bar, including the validity, interpretation, and implementation of the State Bar Act and the mission of the State Bar.

Participation as *amicus curiae* in the name of the State Bar may occur only by permission of the Board of Trustees or its designees, as set forth in this policy. No subentity of the State Bar may participate as *amicus curiae* in its own name in any litigation.

Any request for State Bar participation as *amicus curiae* in any litigation must be submitted to the Office of General Counsel, which shall review such request and make a recommendation to the Board of Trustees. The Office of General Counsel may of its own accord recommend that the State Bar participate as *amicus curiae* in any litigation.

The Office of General Counsel's recommendation concerning *amicus* participation shall, if practicable given filing deadlines, be presented to the entire Board of Trustees for approval or rejection. If insufficient time exists for presentation to the entire Board of Trustees, then the

Office of General Counsel may present its recommendation to the Board of Trustee members serving as Office of General Counsel litigation liaisons. These liaisons are delegated authority to approve or reject the Office of General Counsel's recommendation in consultation with the Chair of the Board of Trustees and the Executive Director of the State Bar and, if timing permits, the Executive Committee of the Board of Trustees.

In the event the Board of Trustees or its litigation liaisons approves State Bar *amicus* participation, the Office of General Counsel shall oversee the State Bar's *amicus* participation, including making any appearance necessary on behalf of the State Bar, overseeing preparation and filing of *amicus* briefs, and, where applicable, approving *amicus* briefs drafted by third parties in which the State Bar joins.

Any decision by the State Bar not to participate as *amicus curiae* in any litigation is not intended to be and shall not be interpreted as the State Bar taking any position in such litigation.

SECTION 7. STAFFING

7.1 Executive Director

The Executive Director is appointed by and is directly accountable to the Board as a whole. While the Board is fundamentally responsible for the governing responsibilities of the State Bar, it delegates responsibility for organizational management to staff through the Executive Director.

The Board has authority to hire and fire only the Executive Director, Chief Trial Counsel and General Counsel. The Executive Director has final authority to hire or fire all other staff, subject to applicable State Bar rules and regulations, and memoranda of understanding with the bargaining units that represent State Bar employees. Because of this organizational structure the Board and its members should not become involved in personnel decisions or any other matters involving any staff member other than those stated above. Concerns regarding State Bar staff should be directed to the Executive Director.

The Executive Director is responsible for the leadership and management of the State Bar according to the strategic direction set by the Board, including:

- Playing an active role in supporting the Board
- Speaking on behalf of the State Bar in public forums
- Executing conflict of interest waivers
- Authorizing certificates of recognition and/or proclamations bearing either the Board Chair or requesting Board member's signature to appropriate persons, groups or staff.
- Executing conflict of interest waivers
- Maintaining key external relationships
- Advancing the State Bar's Strategic Plan

- Providing appropriate direction to staff regarding internal operations and systems development
- Administering State Bar personnel matters
- Managing the financial affairs of the State Bar in an ethical and prudent fashion

An annual and confidential 360° performance evaluation of the Executive Director will be conducted by the Board Executive Committee and presented to the Board for review and approval not more than 90 days after the anniversary date of the Executive Director's appointment. The Board Executive Committee's evaluation will be based on a performance plan for the Executive Director to be developed in conjunction with the Office of Human Resources and provided to the Executive Director not more than 90 days after appointment. The Board and the Board Executive Committee may meet in closed session to discuss the annual performance evaluation of the Executive Director.

7.2 Chief Trial Counsel

The Chief Trial Counsel is the designated legal counsel responsible for the enforcement/prosecutorial arm of the disciplinary system. The Board must appoint a lawyer admitted to practice in California to serve as Chief Trial Counsel (CTC), subject to confirmation by the Senate. The CTC is appointed for a term of four years and may be reappointed for additional four-year periods. He or she serves at the pleasure of the Board and must not engage in private practice.

The CTC reports to and serves under the Regulation, Admissions, and Discipline Oversight Committee and does not serve under the direction of the Executive Director. However, the CTC and the Office of the CTC are subject to the executive and administrative authority of the Executive Director with regard to personnel, budget, facilities and other institutional matters. While the CTC works with the Executive Director on personnel and budget matters, the Executive Director has final authority on those matters. The State Bar, through its Executive Director, must respect the prosecutorial integrity and independence of the CTC.

An annual and confidential 360° performance evaluation of the Chief Trial Counsel will be conducted by the Regulation and Discipline Committee and Executive Committee not more than 90 days after the anniversary date of the Chief Trial Counsel's appointment. The Executive Director sits as a non-voting member of the Board Executive Committee in connection with the Chief Trial Counsel's evaluation. The evaluation will be based on a performance plan for the Chief Trial Counsel to be developed by the Regulation and Discipline Committee in conjunction with the Office of Human Resources and provided to the Chief Trial Counsel not more than 90 days after appointment. The Board and Board standing committees may meet in closed session to discuss the annual performance evaluation of the Chief Trial Counsel.

(Source: Gov. Code § 1774, Bus. & Prof. Code § 6079.5)

7.3 General Counsel

The Office of General Counsel is the designated legal counsel to the State Bar as an entity, including the State Bar's subentities, subject to the direction of the Board and its Executive Committee. Under Rule of Professional Conduct 1.13 (Organization as Client), the General Counsel represents the Bar as an entity, acting through the Board of Trustees as the Bar's highest body. Legal advice to the State Bar and its subentities shall in all instances be rendered only by the Office of General Counsel, except where the General Counsel retains outside counsel in compliance with existing policy for the retention of such counsel.

The General Counsel is authorized to take all necessary actions to protect the legal interests of the State Bar. The General Counsel shall keep the Board or its designee(s) reasonably informed of significant developments in major legal matters involving the State Bar.

Both the Board Executive Committee and the Executive Director, assisted by the State Bar Office of Human Resources, will conduct a confidential annual 360° performance evaluation of the General Counsel and report to the Board in closed session. The evaluation will be based on a performance plan for the General Counsel.

7.4 STATE BAR COURT

State Bar Court Administrative Officer and Chief Court Counsel serves in conformity with Executive Staff rules and regulations and has no independence from the Executive Director except where the adjudicatory independence of the State Bar Court is involved. In contrast the State Bar Court Judges are not State Bar employees and are not subject to Executive Director or Board administration. They are appointed by the Supreme Court, Legislature, or Governor. Their salary rates are established by statute. The Rules & Regulations Pertaining to the Service of State Bar Court Judges otherwise establish their terms and conditions of employment. The State Bar (through its Executive Director) must provide the State Bar Court with adequate supporting staff and facilities and conduct itself otherwise to assure the adjudicatory independence of the State Bar Court.

(Source: Bus. & Prof. Code § 6079.1; Cal. Rules of Court 9.11; State Bar Rules 1015, 1016)

SECTION 8. COMMUNICATION

8.1 Contact for State Bar Inquiries

The prevalence of social media and the media in general requires that consumers, applicants, licensees, and other stakeholders be provided with as much information as possible, in a manner that is consistent, timely, and factually accurate. Written or verbal statements made by individual members of the Board, Board standing committees, or subentities could easily be misconstrued to be a statement, policy or decision on behalf of the Board as a whole.

Therefore, the only persons with standing authority to respond to inquiries made to the Board or to make public statements on behalf of the Board or the State Bar are the Executive Director, the Chair or their designees.

While Board members may not speak on behalf of the State Bar unless expressly authorized to do so, Board members may communicate with licensees and other members of the public regarding matters related to the State Bar if:

- the communication is clearly designated as the member's individual act, opinion, or position and not that of the State Bar, and
- no confidential matter or document is commented upon or published or released without prior Board approval; and
- no State Bar funds are expended to further the communication, unless prior Board approval is obtained.

(Source: State Bar Rule 6.21)

8.2 Use of State Bar Stationery and Business Cards

State Bar letterhead is to be used only for official business. Only correspondence that is transmitted by State Bar staff may be printed or written on State Bar letterhead.

State Bar business cards, to be used for official business, will be made available to Board members upon request.

8.3 Electronic Communications (E-mail)

Board members are encouraged to use their official State Bar e-mail addresses or, in the alternative, to copy or forward their State Bar e-mail accounts when conducting State Bar business. This will ensure that the information created, transmitted, and received by Board members is stored on the State Bar's e-mail server and will enable Board members and the State Bar to easily search for records responsive to California Public Record Act requests without having to search through personal or work related e-mails. It will also ensure that State Bar information is securely and confidentially maintained.

8.4 Responding to Inquiries from the Public or Media

All technical, license or disciplinary inquiries to a Board, task force, ad hoc, or subentity member from applicants, licensees or members of the public should be referred to the Executive Director or his or her designee. Also, any inquiry or contact from the media should be referred to the Executive Director or his or her designee.

8.5 Speaking Engagements and Public Outreach

Requests for Board, committee, ad hoc committee, task force, or subentity members to make presentations on behalf of the Bar should be discussed with and approved by the Chair or Executive Director. Discussion should include the subject matter to be presented.

8.6 Delegation of Authority to Execute Copyright Releases

The Board authorizes the Executive Director or his or her designee to execute releases on behalf of the State Bar, in a form approved by the General Counsel, for the reprinting and distribution of materials in which the State Bar owns copyrights, for educational purposes.

SECTION 9. EXPENSE REIMBURSEMENT

9.1 Board Member Travel

Board members will be reimbursed for expenses incurred when conducting required State Bar business as provided for in the Travel and Business-Related Expense Policy for Volunteers and Contractors. To seek reimbursement, all members must submit a completed Expense Report on the current electronic version of the Expense Report form to the Secretary of the Board, and include the required supporting documentation. Members should employ expense discipline to minimize travel expenses. The State Bar will provide Board members with the relevant policies and forms necessary to seek reimbursement.

9.2 Travel Arrangements

Board members are responsible for coordinating their own travel arrangements to and from State Bar meetings and events, except for lodging when the Bar has contracted for a room block for a group meeting. The State Bar participates in the California Statewide Travel Program managed exclusively by the TravelStore, and coordinated by Meeting & Travel staff in the State Bar's Office of General Services. Board members may, if they wish, set up a TravelStore profile and make air, car rental and hotel reservations by phone or by using the TravelStore's online reservation system.

9.3 Lodging for State Bar Meetings

The State Bar reserves a block of rooms for most group meetings and events. Staff will send an e-mail prior to the meeting or event to determine those members needing a room, and will advise the hotel of the attendees. Attendees of that meeting or event should stay at the contracted hotel to ensure that the minimum number of contracted rooms is met. Board members who choose not to stay at the contracted hotel will only be reimbursed up to the State Bar's per diem rate for lodging.

When the State Bar has not reserved a block of hotel rooms for a group meeting or event, Board members should make their own arrangements, but should check to see if government rates or other discounted rates are available. Reimbursement for lodging expenses will be made for the actual cost of a standard hotel room, up to the maximum authorized lodging rate as noted in the travel policy.

9.4 Meal Per Diems

Meal costs will be reimbursed at the authorized per diem meal rate as noted in the travel policy. The meal per diem may not be claimed when a meal is otherwise provided (e.g. a State Bar catered lunch).

9.5 Statutory Compensation

Public members (non-attorneys) are entitled to receive \$50 per day for each day actually spent in the discharge of official duties, not to exceed \$500 per month. Members must complete and return the Public Member Request for Statutory Compensation form in order to receive this compensation.

Attorney members do not receive any compensation other than travel reimbursement and the per diem when on travel status for meals and incidentals.

(Source: Bus. & Prof. Code § 6028)

SECTION 10. BOARD MEMBER TRAINING

10.1 Board Member Orientation

A mandatory Board member orientation and training meeting will be conducted in conjunction with the September meeting. All State Bar volunteers must be provided a formal orientation which includes, among other State Bar related topics, training on implicit bias and diversity. Members unable to attend the meeting will be offered the opportunity to set up a substitute meeting to comply with this requirement and may also watch it on an archived webcast.

(Source: Bus. & Prof. Code § 6079.1)

10.2 Annual Board Member Training

As determined by the Chair, in consultation with the Executive Director, ongoing training of the Board will be given as needed throughout the year. Topics may include the Bagley-Keene Act, admissions, the disciplinary process, budget process, access to justice, labor relations, anti-trust policy, and the California Public Records Act.

SECTION 11. ETHICS AND CONFLICTS OF INTEREST

11.1 Conflict of Interest

Members of the Board of Trustees must act ethically and prudently in exercising their duties, recognizing that their role is that of a fiduciary. Violations of the statutes and policies governing these duties can result in serious penalties including fines, removal from the Board of Trustees, disqualification from holding public office, or criminal sanctions.

11.1.1 Financial Disclosures

The rules regarding financial and personal conflicts for Board Members and the effect and applicability of such rules are governed by the Board of Trustees' "Conflict of Interest Code" as adopted by the Supreme Court of California. Appendix J sets forth the authority for the State Bar's Conflict of Interest Policy. See Appendix J for relevant statutory authority, Board resolutions and historical notes regarding the adoption of conflict of interest guidelines. The definitions set forth in Government Code section 81000, et seq., apply to all Board members.

Board members must file disclosure statements on the Form 700 prescribed by the Fair Political Practices Commission ("FPPC") under certain circumstances as set forth in Government Code sections 87206 and 87207. Board Members shall disclose an investment, interest in real property, and income if, during a reporting period, the Board of Trustees has made a decision that materially affects the investment, interest in real property, or income.

Government Code section 87207(b)(2) provides for certain exceptions to disclosure and the applicable procedures if a Board member believes that disclosure of the name of a person who paid fees or made payments to a business entity would violate a legally recognized privilege under California law.

In addition to Conflict of Interest Code requirements, Board members are subject to the following Business and Professions Code sections regarding disclosures of financial and personal nonfinancial conflicts: Business and Professions Code sections 6035, 6036, 6037 and 6038.

11.1.2 Disqualification

Board members must disqualify themselves from making or influencing decisions of the Board or a committee of the Board, in which they have a financial interest or a personal nonfinancial interest which will prevent them from applying disinterested skill and undivided loyalty to the State Bar.

Whether a Board member has a "financial interest" in a decision is defined by Government Code section 87103 and includes matters where it is reasonably foreseeable that the decision

will have a material financial effect, distinguishable from its effect on the public generally, on the official, or on a member of his or her immediate family. In addition, section 87103 contains other enumerated “interests” involving management control or monetary investments in business entities, interest in real property, or other sources of income.

The question whether a nonfinancial interest exists is highly fact-specific. Examples include decisions affecting friends or family members of Board members. Board members should contact the Office of General Counsel if they have any questions as to whether they have an interest in any matter before the Board. See Appendix J for further references.

When Board members disqualify themselves they must immediately disclose that they have a personal or financial interest, and must refrain from participating in the matter, influencing others, and voting.

Any Board member who intentionally violates the conflict of interest disqualification rules is subject to criminal prosecution, fines, and termination from his or her position as Board member.

(Source: Bus. & Prof. Code §§ 6036, 6037.)

11.1.3 Conflict Rules Regarding State Bar Contracts

Strict conflict of interest rules also apply to State Bar contracts. Board members cannot be financially interested in any contract made by them in their official capacity, by the Board or by the State Bar. For conflict purposes, a contract includes, but is not limited to, purchase orders, payments for good and services, leases and grants.

If one Board Member has a “financial interest,” the State Bar cannot enter into the contract. There are, of course, exceptions to this rule.

Appendix J sets forth the legal authority governing the State Bar’s Conflicts Policy.

(Source: Gov. Code § 1090.)

11.2 Policy Restricting Business with the State Bar after Leaving Office

Members of the Board of Trustees and Senior Managers designated by the Executive Director, for a period of twelve months following expiration of their term of office or termination of employment, shall not:

Seek to do, or do, business with the State Bar for monetary gain, or Act as agent or attorney for, or otherwise represent any person, for compensation by making any formal or informal appearance, or any oral or written communication before the State Bar, or any officer or employee or agent thereof, if the appearance or

communication is for the purpose of influencing official State Bar action, including the awarding or revocation of services, contracts, or the sale or purchase of goods or property.

The Board, or its designee, may waive the requirements of this policy for good cause.

APPENDICES

APPENDIX A BOARD MEMBERSHIP

APPENDIX B CALENDAR OF ANNUAL BOARD ISSUES

APPENDIX C BOARD LIAISONS

APPENDIX D STANDING COMMITTEE CHARTERS

APPENDIX E BOARD COMMITTEE STRUCTURE MATRIX

APPENDIX F BAGLEY-KEENE OPEN MEETING ACT

APPENDIX G SUBENTITY CHARTERS [PLACEHOLDER]

APPENDIX H LIST OF AD HOC COMMITTEES

APPENDIX I STRATEGIC PLAN

APPENDIX J CONFLICT OF INTEREST POLICY [PLACEHOLDER]

APPENDIX A – BOARD MEMBERSHIP

2018 – 19 BOARD OF TRUSTEES

OFFICERS

Jason P. Lee, Chair

(Supreme Court appointee)

Alan Steinbrecher, Vice-Chair

(Supreme Court appointee)

Trustees

Mark Broughton

(Supreme Court appointee)

Sonia T. Delen

(Governor appointee, public member)

Renée LaBran

(Governor appointee, public member)

Joanna Mendoza

(Elected member)

Sean M. SeLegue

(Elected member)

Hailyn Chen

(Supreme Court appointee)

Ruben Duran

(Assembly appointee)

Debbie Y. Manning

(Senate appointee, public member)

Joshua Perttula

(Senate appointee)

Brandon N. Stallings

(Supreme Court appointee)

APPENDIX B – CALENDAR OF ANNUAL BOARD ISSUES



Calendar of Annually Recurring Board of Trustees (BOT) Agenda Items

Note #1: The following are standing items on most BOT meeting agendas:

Open Session

- Approval of open session minutes from prior meeting
- Approval of contracts (if related to bar exam, placed in Closed Session)
- Executive Director report
- Licensee Requests for Adjustment of Fees, Penalties and Charges

Closed Session

- Approval of closed session minutes from prior meeting
- Litigation reports

Note #2: The BOT should also expect the following items at least once during the September-September BOT year:

Closed Session

- Executive Director performance evaluation report
- General Counsel performance evaluation report
- Chief Trial Counsel performance evaluation report

September Meeting: @ Los Angeles State Bar

- Final meeting of outgoing BOT
 - Appreciation to Outgoing Chair and BOT members
 - Attorney Regulation and Consumer Resources
 - Annual Recommendation Re Licensees in Non-Compliance with Minimum Continuing Legal Education (MCLE) Audit
 - Proposed [following year] Changes to Schedule of Licensee Fees, Penalties, Charges and Deadlines
 - Office of Finance
 - Update on [following year] Budget
 - Q2 Financial Statement Report, Investment Report, Client Security Fund Report
 - Q2 Board and Management Travel Expenses
- First meeting of incoming BOT
 - Administration of Oath of Office by Chief Justice
 - Permission for Members to be Absent from State
 - Annual Approval of Secretary
 - Litigation report (Closed Session)
 - Chair Report
 - Approval of Board Committee and Liaison Assignments
 - Reappointment/Reauthorization of Ad Hoc Committees
 - Multi-Year Calendar of Board Meetings – informational

November Meeting: @ San Francisco State Bar

- Conflict of Interest Code: Request to Circulate for Public Comment
- Annual Recommendation for Appointment and Reappointment of Fee Arbitrators; Reappointment of Presiding Arbitrator and Assistant Presiding Arbitrators
- Attorney Regulation and Consumer Resources
 - Annual Recommendation to the Supreme Court for Expungement of Suspensions of Licensees Delinquent in Payment of License Fees, Penalties and Charges
 - Annual Recommendation for Expungement of Administrative Inactive Status for Minimum Continuing Legal Education (MCLE) Non-Compliance in Accordance with Rule 9.31
- Office of Finance
 - Q3 Financial Statement Report, Investment Report, Client Security Fund Report
 - Q3 Board and Management Travel Expenses

January Meeting: @ Los Angeles State Bar

Strategic Planning Session and BOT meeting: The goal of the two-day meeting is to review the progress made towards achieving the goals and objectives of the State Bar Five-Year Strategic Plan and determine whether any changes are needed; Business and Professions Code section 6140.12 requires that the BOT complete and implement a five-year strategic plan and update it every two years in conjunction with submission of BOT's final budget as required by Business and Professions Code section 6140.1.

- Adoption of Revised Strategic Plan, if necessary
- Conflict of Interest Code: Return from Public Comment and Request for Approval (if not approved at November Meeting)
- [year] Affirmative Legislative Proposals
- Annual Report on [prior year] Use of Outside Counsel
- Annual Review of Debt Collection Efforts
- Office of Finance
 - **Approval of State Bar Final [year] Budget Pursuant to Business and Professions Code section 6140.1** (due February 28)

March Meeting: @ San Francisco State Bar

- **Approval of [year] Annual Discipline Report (ADR) Pursuant to Business and Professions Code section 6086.15** (due April 30)
- **Receipt and Filing of [year] Annual Lawyer Assistance Program Oversight Committee Report Pursuant to Business and Professions Code Section 6238** (due March 1)
- **Receipt and Filing of [year] Annual Diversity Report Pursuant to Business and Professions Code Section 6001.3(c)** (due March 15)
- Office of Finance
 - Review Investment Policy
 - Review Cost Allocation Policy
 - Q4 Financial Statement Report, Investment Report, Client Security Fund Report
 - Q4 Board and Management Travel Expenses

May Meeting: @ Los Angeles State Bar

- Appointments
- Attorney Regulation and Consumer Resources
 - Annual Recommendation to Supreme Court for Suspension of Licensees Delinquent in Payment of License Fees, Penalties and Charges
 - Statement of Expenditures of Mandatory License Fees and Independent Auditor Report
 - Annual Recommendation Re Licensees in Minimum Continuing Legal Education (MCLE) Non-Compliance
- Office of Finance
 - **Report of Action Taken by the Audit Committee on behalf of the BOT: Receipt and Filing of [year] Annual Financial Statements and Report of Independent Auditors Pursuant to Business and Professions Code section 6145(a)** (due 120 days after close of fiscal year - April 29 or 30 depending on leap year)
 - Q1 Financial Statement Report, Investment Report, Client Security Fund Report
 - Q1 Board and Management Travel Expenses
 - Annual Audit

July Meeting: @ San Francisco State Bar

- Appointments
- Legal Services Trust Fund Commission – Set Amounts for Distribution [year] Interest on Legal Trust Account (IOLTA) Grants
- Office of Finance
 - Biannual State Audit Report (in odd years)
 - Legislative Analyst Office Report

APPENDIX C – BOARD LIAISONS

**BOARD STANDING COMMITTEE AND
LIAISON ASSIGNMENTS 2018-2019**
(Revised November 16, 2018)

**Board Executive Committee [Ex Com]
(110)**

1. **Jason Lee (Sup Ct), Chair**
2. **Alan Steinbrecher (Sup Ct), Vice Chair**
3. Mark Broughton (Sup Ct)
4. Ruben Duran (Assembly)
5. Renée LaBran (Governor)
6. Debbie Manning (Senate)
7. Joanna Mendoza
8. Brandon Stallings (Sup Ct)
9. Leah Wilson (ex officio)

** Staff Coordinator: Kimberly DaSilva*

**Regulation and Discipline Committee [RAD]
(120)**

1. **Alan Steinbrecher, Co-Chair**
2. **Sean SeLegue, Co-Chair**
3. Mark Broughton
4. Sonia Delen
5. Ruben Duran
6. Renée LaBran
7. Jason Lee
8. Joanna Mendoza
9. Joshua Perttula
10. Brandon Stallings

** Staff Coordinator: Hatem Khalek*

**Programs Committee [ProCom]
(130)**

1. **Brandon Stallings, Chair**
2. **Debbie Manning, Vice Chair**
3. Mark Broughton
4. Hailyn Chen
5. Sonia Delen
6. Ruben Duran
7. Joanna Mendoza
8. Sean SeLegue

** Staff Coordinators: Andrew Conover/Justin Ewert*

**Finance and Planning Committee [F&P]
(140)**

1. **Joanna Mendoza, Chair**
2. **Hailyn Chen, Vice Chair**
3. Mark Broughton
4. Sonia Delen
5. Renée LaBran
6. Brandon Stallings
7. Alan Steinbrecher

** Staff Coordinator: Louisa Ayrapetyan*

**Audit Committee [Audit]
(180)**

1. **Mark Broughton, Chair**
2. **Joshua Perttula, Vice Chair**
3. Sonia Delen
4. Ruben Duran
5. Renée LaBran
6. Debbie Manning

** Staff Coordinator: Louisa Ayrapetyan*

**BOARD OF TRUSTEES LIAISON ASSIGNMENTS
2018 – 2019**

ASSIGNMENT

**California Commission on Access to
Justice & Other Access to Justice Efforts**

California Judges Association

Committee of Bar Examiners

Diversity Policy Making / COAF

Legislature / Communications

Litigation / OGC Oversight

Administrative / Labor Relations

Information Technology

BOARD LIAISONS

Mark Broughton / Debbie Manning

Mark Broughton / Brandon Stallings

Joanna Mendoza / Brandon Stallings

Hailyn Chen / Debbie Manning

Joshua Perttula / Debbie Manning

Sean SeLegue / Alan Steinbrecher

Renée LaBran / Alan Steinbrecher

Joanna Mendoza / Brandon Stallings

SPECIAL ASSIGNMENT

**Review Committee, Commission on Judicial
Nominees Evaluation (RJNE)**

**Applicant Evaluation and Nomination
Committee (AENC)**

DESIGNATED TRUSTEES

Sean SeLegue / Debbie Manning

Hailyn Chen / Debbie Manning

APPENDIX D – STANDING COMMITTEE CHARTERS

CHARTER FOR BOARD EXECUTIVE COMMITTEE

The Chair of the Board of Trustees shall serve as the Chair of the Board Executive Committee and the Vice Chair of the Board of Trustees shall serve as its Vice Chair. The Board Executive Committee shall include at least one Board member appointed by each of the following appointing authorities: (1) The Supreme Court; (2) The Governor; (3) The Speaker of the Assembly; and (4) The Senate Committee on Rules. In addition, the Board Executive Committee shall include the chairs of each standing committee. An individual Trustee may fill more than one position on the Board Executive Committee, e.g., positions assigned to standing committee chair and Supreme Court appointee may be filled by the same Trustee. The Executive Director shall be a member of the Board Executive Committee, but shall have no vote and shall not be counted towards a quorum of the Board Executive Committee. The Board Executive Committee shall be responsible for the effective functioning of the Board of Trustees, the maintenance and development of Board of Trustees–Executive Director working relationship, and the oversight of certain high–level internal operational matters.

The Board Executive Committee shall:

- Board of Trustees Functioning: Oversee the functioning of the Board of Trustees by coordinating the work of the other Board committees and approving Board Committee work plans; keep the State Bar Mission Statement updated; set Board Member performance standards; monitor Board Member performance; perform the annual Board Assessment; and maintain and update the Trustee Skills Matrix to assist the Board and appointing authorities in Trustee and officer selection and development.
- Board Book: Approve amendments to the Board of Trustees Policy Manual, also referred to as the Board Book, subject to Board ratification.
- Volunteer Management/Coordination: Nominate volunteer applicants to serve on State Bar sub-entities and external entities; provide adequate public notice of appointment opportunities to ensure a well-qualified and diverse field of applicants; be responsible for any substantive changes to the appointments process; and ensure that all volunteers appointed to serve on State Bar sub-entities are provided uniform orientation on the State Bar mission, program areas, structure and fiscal/administrative policies as well as specific training on the role and responsibilities of the sub-entity on which the volunteer has been appointed to serve.
- Board of Trustees Recruitment: Inform the legal community about the work of the Board and fashion and execute strategies that encourage qualified and diverse candidates to join the Board.
- Trustee Orientation and Development: Develop and oversee execution of a formal

Board member capacity building program to ensure that each incoming group of Trustees receives timely training on all significant aspects of the State Bar, the elements of which may include:

- On-boarding orientation about the State Bar, its governance structure and Trustee roles and responsibilities.
- Training on Admissions and the Discipline System.
- Ongoing continuing education and training pursuant to a cyclical training calendar.
- A mentoring program pairing new Board members with senior Board members.

Secretary Oversight: Oversee the Board Secretary function.

Executive Director Evaluation:

An annual performance evaluation of the Executive Director will be conducted by the Executive Committee and presented to the Board for review and approval within 90 days of the anniversary date of the Executive Director's appointment. The Executive Committee will conduct its evaluation using a performance plan established in conjunction with the Office of Human Resources and Executive Director. The performance plan will be provided to the Executive Director within 90 days of appointment. The Bar may meet in closed session to discuss the annual performance evaluation of the Executive Director.

General Counsel Evaluation:

The Office of General Counsel is the designated legal counsel to the Bar as an entity, including the Bar's sub-entities, subject to the direction of the Board and its Executive Committee or the committee designated by the Board to review legal matters.

An annual performance evaluation of the General Counsel will be conducted by the Executive Committee and Executive Director and will be presented to the Board for review within 90 days of the anniversary date of the General Counsel's appointment. The Executive Committee will conduct its evaluation using a performance plan established in conjunction with the Office of Human Resources and the Executive Director. The performance plan will be provided to the General Counsel within 90 days of appointment. The Bar may meet in closed session to discuss the annual performance evaluation of the General Counsel.

Chief Trial Counsel Evaluation:

The Chief Trial Counsel is the designated legal counsel responsible for the enforcement/prosecutorial arm of the disciplinary system. The Executive Director selects the Chief Trial Counsel, the selection is appointed by the Board, and the candidate is subject to Senate confirmation. The Chief Trial Counsel is appointed for a term of four years and may be reappointed for additional terms. The Chief Trial Counsel

reports to the Regulation and Discipline Committee in connection with the exercise of prosecutorial direction.

(Source: Bus & Prof. Code § 6079.5.)

An annual performance evaluation of the Chief Trial Counsel will be conducted by the Regulation and Discipline Committee and Executive Committee and will be presented to the Board for review within 90 days of the anniversary date of the Chief Trial Counsel's appointment. The Regulation and Discipline Committee will conduct its evaluation using a performance plan established in conjunction with the Office of Human Resources and Executive Director. The performance plan will be provided to the Chief Trial Counsel within 90 days of appointment. The Bar may meet in closed session to discuss the annual performance evaluation of the Chief Trial Counsel

Senior Executive Oversight: Receives reports from the Executive Director regarding any material changes to terms and conditions of employment or performance of any senior executive.

Litigation Oversight: Address legal issues and recommend Board action as appropriate; and provide oversight of litigation involving the State Bar.

Settlement Authority Oversight: Receives reports from General Counsel on all non-material policy settlements up to \$25,000. Authorizes non-material policy settlements between \$25,001 and \$50,000 and reports about the settlements to the Board on a quarterly basis. Makes recommendations to the Board for all settlements more than \$50,000.

Operational Responsibilities: Address internal operational issues not falling within the purview of other Board committees and non-delegable to staff (e.g. ratifying union/management Memoranda of Understanding, recommending changes to internal rules and regulations such as conflict in interest policies, responding to governmental inquiries and other matters such as fee bill negotiations), recommending Board action as appropriate.

Delegation of Authority: Take action on behalf of the Board when obtaining a quorum of the full Board would not be feasible before it is necessary to take action.

- Decisions of the Board Executive Committee under this delegation of authority shall be consistent with the goals, values and direction of the Board.
- The Executive Director, or an authorized staff member, shall report on any action taken under this delegation of authority promptly and in no event later than the next regularly scheduled Board meeting.

Perform such other functions relevant to the Board Executive Committee's

subject area as the Board of Trustees may from time to time assign.

CHARTER FOR FINANCE AND PLANNING COMMITTEE

The Finance and Planning Committee shall develop and lead the Board's participation in all State Bar planning and budget preparation, including examination of financials, strategic planning and governance review.

The Finance and Planning Committee shall:

- Budget and Planning: Consult with the Chair, Vice Chair and Executive Director on the detailed design of the State Bar's planning and budget development cycle -- with special attention to the Board's role in planning -- and on the annual planning calendar; ensure that the Board participates fully and proactively in the planning process on an ongoing basis; and work with the Executive Director and Chief Financial Officer to vet the proposed budget, as well as any mid-year updates or proposed changes to the budget, before presentation and recommendation to the Board of Trustees.
- Budget Process: Recommend to the Board any amendment to the adopted budget.
- Financial Review: Ensure that the financials are thoroughly examined on a quarterly basis; develop a functional and detailed understanding of the State Bar's revenue streams, expenditures, and overall fiscal conditions and issues in order to be engaged proactively in the budget preparation, development and planning process on an ongoing basis; monitor the State Bar's performance relative to the budget; and ensure that appropriate actions are taken to address any material variances to the budget.
- Strategic Planning Session: Coordinate with the Chair and Vice Chair the overseeing, preparing for, and hosting the annual strategic planning session.
- Governance Review: Review Board and Board committee functioning; make recommendations to the Board for changes in governance structure to ensure appropriate alignment with State Bar program operations, administrative policy and mission; and ensure incorporation of approved governance recommendations into the State Bar Strategic Plan.
- Oversight: Ensure as part of the annual operational planning/budget preparation process that a department-by-department fiscal review is performed to evaluate budget projections; and monitor State Bar progress on the Strategic Plan, including performance on metrics.
- Work Plan: Develop and adopt a Finance and Planning Committee Work Plan for approval by the Board Executive Committee; for each Finance and Planning Committee project, the Work Plan shall include a description of the project, the Strategic Plan Goal(s) and Objective(s) that are furthered by the project, and an estimated timeline for completion and presentation to the Finance and Planning Committee and/or the Board.

- Perform such other functions relevant to the Finance and Planning Committee's subject area as the Board of Trustees may from time to time assign.

CHARTER FOR REGULATION AND DISCIPLINE COMMITTEE

The Regulation and Discipline Committee is a performance-monitoring and oversight committee. It is accountable for monitoring the operational performance of the State Bar Program Areas identified on the Board Committee Structure Matrix in Appendix E. Pursuant to California Rule of Court 9.11(a)(2) any Board member appointed and serving on the Supreme Court's Applicant and Nomination Committee may not sit on this committee

The Regulation and Discipline Committee shall:

- Establish the key elements of a programmatic reporting process, including the content, format, and frequency of performance reports to the Board, and oversee implementation of the process.
- Oversee (as directed by Bus. & Prof. Code, § 6079.5), the work of the Chief Trial Counsel, who reports to and serves under the Regulation and Discipline Committee.
- Chief Trial Counsel Evaluation: Ensure that the Chief Trial Counsel position description is updated as necessary to reflect changing State Bar needs, priorities and conduct the annual performance evaluation with the Board Executive Committee. An annual performance evaluation of the Chief Trial Counsel will be conducted by the Regulation and Discipline Committee and Executive Committee and will be presented to the Board for review within 90 days of the anniversary date of the Chief Trial Counsel's appointment. The Regulation and Discipline Committee will conduct its evaluation using a performance plan established in conjunction with the Office of Human Resources and Executive Director. The performance plan will be provided to the Chief Trial Counsel within 90 days of appointment. The Bar may meet in closed session to discuss the annual performance evaluation of the Chief Trial Counsel
- Approve changes to high-level quality-control policies that apply to the functioning of the State Bar Program Areas under the Regulation and Discipline Committee's performance-monitoring and oversight authority.
- Review performance reports in Regulation and Discipline Committee meetings and report program performance to the full Board.
- Identify and oversee the implementation of needed corrective actions.
- Oversee the preparation of in-depth assessments of program/function effectiveness for presentation at the annual strategic planning session.
- Review internal and external audit reports as they relate to the functions of the State Bar under the Regulation and Discipline Committee's performance- monitoring and oversight authority and oversee implementation of recommendations identified therein.

- Oversee the Annual Discipline Report process and underlying discipline statistics.
- Develop and adopt a Regulation and Discipline Committee Work Plan for approval by the Board Executive Committee; for each Regulation and Discipline Committee project listed on the Work Plan, the Work Plan shall include a description of the project, the Strategic Plan Goal(s) and Objective(s) that are furthered by the project, and an estimated timeline for completion and presentation to the Regulation and Discipline Committee and/or the Board.
- Perform such other functions relevant to the Regulation and Discipline Committee's subject area as the Board of Trustees may from time to time assign.

CHARTER FOR PROGRAMS COMMITTEE

The Programs Committee is a performance-monitoring and oversight committee. It is accountable of monitoring the operational performance of the State Bar Program Areas identified on the Board Committee Structure Matrix in Appendix E.

The Programs Committee shall:

- Establish the key elements of a programmatic reporting process, including the content, format, and frequency of performance reports to the Board, and oversee implementation of the process.
- Approve changes to high-level quality-control policies that apply to the functioning of the State Bar Program Areas under the Programs Committee's performance-monitoring and oversight authority.
- Review performance reports in Programs Committee meetings and report program performance to the full Board.
- Identify and oversee the implementation of needed corrective actions.
- Oversee the preparation of in-depth assessments of program/function effectiveness for presentation at the annual strategic planning session.
- Review internal and external audit reports as they relate to the functions of the State Bar under the Programs Committee's performance-monitoring and oversight authority and oversee implementation of recommendations identified therein.
- Develop and adopt a Programs Committee Work Plan for approval by the Board Executive Committee; for each Programs Committee project listed on the Work Plan, the Work Plan shall include a description of the project, the Strategic Plan Goal(s) and Objective(s) that are furthered by the project and an estimated timeline for completion and presentation to the Programs Committee and/or the Board.
- Perform such other functions relevant to the Programs Committee's subject area as the Board of Trustees may from time to time assign.

CHARTER FOR AUDIT COMMITTEE

The Audit Committee is charged with assisting the Board of Trustees in fulfilling its oversight responsibility as related to the integrity of accounting and financial reporting processes, the system of internal controls, and audit processes. In addition, the Audit Committee is charged with overseeing risk management and compliance efforts. The Audit Committee has a goal of including at least one public member of the Board of Trustees.

The Audit Committee shall:

- Undertake the following responsibilities relating to the annual financial statement audit:
 - o Recommend appointment of the external auditors, taking into account the recommendation of the Executive Director and Chief Financial Officer, for approval by the full Board of Trustees.
 - o Evaluate the independence of the external auditors, including their recent or planned future engagement by the State Bar for non-audit services.
 - o Review and approve the annual audit scope and the fees of the external auditors.
 - o Monitor the progress of the financial statement audit.
 - o Evaluate the results, findings and recommendations of the financial statement audit.
 - o Ensure that the State Bar's responses to control weaknesses and compliance issues identified in the course of the financial statement audit are appropriate and timely.
 - o Serve as a direct communications link between the Board of Trustees and the independent auditor.
 - o Monitor the State Bar's implementation of the financial statement audit recommendations, working with staff to identify other compliance initiatives that should be undertaken.
 - o Review with the Chief Financial Officer or his or her designee and the independent auditor the financial statement audit's results, findings and recommendations, including any difficulties encountered; review with the Chief Financial Officer or his or her designee and the independent auditor all matters required to be communicated to the Audit Committee under generally accepted auditing standards.
- Undertake the following responsibilities relating to financial statements:
 - o Review significant accounting and reporting issues, including complex or unusual transactions, and recent professional and regulatory pronouncements, and understand their impact on the financial statements.
 - o Review the annual financial statements, and consider whether they are complete, consistent with information known to the Audit Committee members, employ appropriate accounting principles, and appropriately reflect the financial condition of the State Bar.

- Review other sections of the annual report and related regulatory filings before release and consider the accuracy and completeness of the information.
- Understand how staff develops interim financial information, and the nature and extent of external auditor involvement.
- Undertake the following responsibilities relating to cybersecurity:
 - Recommend commission of a biennial cybersecurity report, taking into account the recommendation of the Executive Director and the Director of Information Technology, to the full Board of Trustees for approval.
 - Review and approve the biennial cybersecurity report scope and fees.
 - Evaluate the results, findings and recommendations of the biennial cybersecurity report.
 - Ensure that the State Bar's responses to control weaknesses and compliance issues identified in the course of the biennial cybersecurity report process are appropriate and timely.
 - Serve as a direct communications link between the Board of Trustees and cybersecurity experts.
 - Monitor the State Bar's implementation of the cybersecurity report recommendations, working with staff to identify other cybersecurity initiatives that should be undertaken.
 - Review with the Executive Director or his or her designee and cybersecurity experts the results, findings and recommendations in the cybersecurity report, including any difficulties encountered, to ensure the State Bar's vigilance in identifying, analyzing and addressing any and all cybersecurity vulnerabilities on an ongoing and continuous basis.
 - In the interim year between the biennial reports, review with the Director of Information Technology the status of cybersecurity including progress in implementation of corrective measures and identification of any new risks or concerns; ensure that the Director of Information Technology's responses to any new risks or concerns are appropriate and timely.
- Review the results of the biennial performance audit conducted by the State Bureau of Audits; and monitor the State Bar's implementation of the financial-related recommendations of the biennial performance audit, working with staff to identify other fiscal and operational initiatives and best practices that should be undertaken.
- Monitor, review and evaluate the effectiveness and adequacy of the State Bar's internal control structure on an ongoing basis:
 - Ensure that the State Bar performs its duties pursuant to Tab 4.1, Section 10 of the Board Book, which requires that a review of the State Bar's budget and fiscal control policies and procedures be undertaken every five years by an independent consultant.
 - Review and approve the independent consultant review scope and fees.
 - Evaluate the results, findings and recommendations of the independent

consultant.

- Ensure that the State Bar's responses to control weaknesses and compliance issues identified in the course of the independent consultant review, the annual financial statement audit, the State Auditor's biennial review or any other audit or review are appropriate and timely.
 - Serve as a direct communications link between the Board of Trustees and the independent consultant.
 - Monitor the implementation of the recommendations, working with staff to identify other internal control initiatives that should be undertaken.
 - Meet with the Chief Financial Officer and other members of Bar leadership staff, or their designees, on a biennial basis to:
 - Review and discuss the State Bar's internal control structure, including progress on implementation of the recommendations of the independent consultant and other initiatives undertaken to improve the State Bar's internal control structure.
 - Ensure the State Bar's vigilance in identifying, analyzing and addressing significant internal control structure vulnerabilities on an ongoing and continuous basis.
 - Seek assurances from Bar leadership staff on the effectiveness of risk management practices and controls.
 - Reassess whether the policies and procedures provide for the effective identification, assessment, reporting, monitoring and control of the State Bar's principal risks; if they do not, require that the policies and procedures be updated to address any deficiencies.
- Perform such specific oversight functions as expressly requested by the Board of Trustees.
 - Review, on a quarterly basis, reports prepared by the Office of Finance regarding Executives' and Board Members' travel and expense reimbursements.
 - Develop and adopt an Audit Committee Work Plan for approval by the Board Executive Committee; for each Audit Committee project listed on the Work Plan, the Work Plan shall include a description of the project, the Strategic Plan Goal(s) and Objective(s) that are furthered by the project and an estimated timeline for completion and presentation to the Audit Committee and/or the Board.

Access to the Chief Financial Officer: The Chief Financial Officer shall have direct access to the Board of Trustees on all financial matters, and is authorized to meet with the Committee, or if more expedient with the Audit Committee Chair, on the Chief Financial Officer's own initiative or at the request of the Audit Committee Chair, outside the presence of other State Bar leadership staff at Audit Committee meetings; in addition, the Audit Committee shall meet independently with the Chief Financial Officer on a quarterly basis.

Access to Information: The State Bar Audit Committee may request any independent auditor, expert, officer; trustee, agent or employee of the State Bar to appear before it to report on the financial condition of the State Bar and answer any questions the Audit Committee might have, relating to the accomplishment of its responsibilities enumerated in this charter.

Limitations on the Role and Responsibility of the Audit Committee:

Oversight Scope Defined: The role and responsibility of the Audit Committee is oversight, not preparation of reports or statements or operation.

- The Executive Director and Chief Financial Officer and their designees are responsible for preparing the financial statements; responding to governmental and other reports relating to the State Bar; operating the State Bar, including its financial and accounting systems; and assuring compliance with applicable laws and with policies and procedures established by the Board.
- The external auditors are responsible for auditing the financial statements and such other functions as they are specifically engaged to perform.

Reliance on Advisory Information Provided by State Bar Leadership staff, Auditors and Others: In carrying out its oversight function, the Audit Committee is not expected to provide expert or special assurance as to the State Bar's financial statements or professional certification as to the work of the State Bar's staff or of the external auditors. In discharging their duties, the members of the Audit Committee may rely on information, opinions, reports or statements, including financial statements or other financial data, prepared or presented by officers, employees, internal or external counsel, public accountants, committees of the Board duly designated with authority in particular areas, or other persons whom the member believes are reliable and competent in the matters presented, provided that in so relying the member is acting in good faith and with that degree of diligence, care and skill which ordinarily prudent the State Bar Audit Committee members would exercise under similar circumstances.

APPENDIX E – BOARD COMMITTEE STRUCTURE MATRIX



Board Committee Structure

Board Oversight	Programs Committee			Regulation and Discipline Committee		
Program Area	Admissions/Licensing Legal Specialization	Access to Justice Diversity and Inclusion	Attorney Regulation and Consumer Resources	Discipline	Prevention and Remediation	Ethics
Principal Functions	Pre-Admissions <ul style="list-style-type: none">• First Year Law Student Examination• Bar Examination• Moral Character	Grants to Legal Services Providers	Maintenance of Attorney Roll <ul style="list-style-type: none">• Administrative Suspensions	<ul style="list-style-type: none">• Discipline-Related Attorney Investigation and Prosecution• Unauthorized Practice of Law Prosecution• Involuntary Inactive Enrollment, Special and Regulatory Proceedings	Client Security Fund	Formulation of Rules of Professional Conduct
	Certifying Applicants for Admission	Access to Justice Policy and Initiatives	MCLE Provider Certification and Attorney Compliance/Tracking	Ethics School Client Trust Account School		
	Special Admissions			Probation Monitoring	Lawyer Assistance Program	Ethics Hotline
	Certification of Legal Specialists/ Approval of Other Entities to Certify Specialists	Diversity and Elimination of Bias	Certification of Law Corporations and Limited Liability Partnerships	State Bar Court* Hearing and Appellate Review		Ethics Opinions
	Law School Regulation				Mandatory Fee Arbitration	Ethics Symposium
Sub-Entities	Committee of Bar Examiners Board of Legal Specialization	Commission on Access to Justice Legal Services Trust Fund Commission Council on Access and Fairness Commission on Judicial Nominees Evaluation and Review Committee	Client Security Fund Commission Lawyer Assistance Program Oversight Committee Commission for Revision of the Rules of Professional Conduct Committee on Professional Responsibility and Conduct			
Infrastructure	Executive Director, Finance, General Counsel, General Services, Governmental Affairs, Human Resources, Information Technology, Research, Staff Training and Development					

*The State Bar Court is not subject to direct oversight by the Board of Trustees with respect to its quasi-judicial functions.

APPENDIX F – BAGLEY-KEENE OPEN MEETING ACT

BAGLEY-KEENE ACT PROVISIONS

CHAPTER 1. STATE AGENCIES

ARTICLE 9. MEETINGS

§ 11120

It is the public policy of this state that public agencies exist to aid in the conduct of the people's business and the proceedings of public agencies be conducted openly so that the public may remain informed.

In enacting this article the Legislature finds and declares that it is the intent of the law that actions of state agencies be taken openly and that their deliberation be conducted openly.

The people of this state do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

This article shall be known and may be cited as the Bagley-Keene Open Meeting Act. (Amended by Stats. 1981, Ch. 968, Sec. 4.)

§ 11121

As used in this article, "state body" means each of the following:

- (a) Every state board, or commission, or similar multimember body of the state that is created by statute or required by law to conduct official meetings and every commission created by executive order.
- (b) A board, commission, committee, or similar multimember body that exercises any authority of a state body delegated to it by that state body.
- (c) An advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body of a state body, if created by formal action of the state body or of any member of the state body, and if the advisory body so created consists of three or more persons.

(d) A board, commission, committee, or similar multimember body on which a member of a body that is a state body pursuant to this section serves in his or her official capacity as a representative of that state body and that is supported, in whole or in part, by funds provided by the state body, whether the multimember body is organized and operated by the state body or by a private corporation.

(e) Notwithstanding subdivision (a) of Section 11121.1, the State Bar of California, as described in Section 6001 of the Business and Professions Code. This subdivision shall become operative on April 1, 2016. (Amended by Stats. 2015, Ch. 537, Sec. 22. (SB 387) Effective January 1, 2016.)

§ 11121.1

As used in this article, "state body" does not include any of the following:

- (a) Except as provided in subdivision (e) of Section 11121, state agencies provided for in Article VI of the California Constitution.
- (b) Districts or other local agencies whose meetings are required to be open to the public pursuant to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5).
- (c) State agencies provided for in Article IV of the California Constitution whose meetings are required to be open to the public pursuant to the Grunsky-Burton Open Meeting Act (Article 2.2 (commencing with Section 9027) of Chapter 1.5 of Part 1 of Division 2 of Title 2).
- (d) State agencies when they are conducting proceedings pursuant to Section 3596.
- (e) State agencies provided for in Section 109260 of the Health and Safety Code, except as provided in Section 109390 of the Health and Safety Code.
- (f) The Credit Union Advisory Committee established pursuant to Section 14380 of the Financial Code. (Amended by Stats. 2015, Ch. 537, Sec. 23. (SB 387) Effective January 1, 2016.)

§ 11121.9

Each state body shall provide a copy of this article to each member of the state body upon his or her

BAGLEY-KEENE ACT PROVISIONS

appointment to membership or assumption of office.
(Amended by Stats. 1981, Ch. 968, Sec. 7.1.)

§ 11121.95

Any person appointed or elected to serve as a member of a state body who has not yet assumed the duties of office shall conform his or her conduct to the requirements of this article and shall be treated for purposes of this article as if he or she has already assumed office. (Added by Stats. 1997, Ch. 949, Sec. 1. Effective January 1, 1998.)

§ 11122

As used in this article “action taken” means a collective decision made by the members of a state body, a collective commitment or promise by the members of the state body to make a positive or negative decision or an actual vote by the members of a state body when sitting as a body or entity upon a motion, proposal, resolution, order or similar action. (Amended by Stats. 1981, Ch. 968, Sec. 7.3.)

§ 11122.5

(a) As used in this article, “meeting” includes any congregation of a majority of the members of a state body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the state body to which it pertains.

(b) (1) A majority of the members of a state body shall not, outside of a meeting authorized by this chapter, use a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter of the state body.

(2) Paragraph (1) shall not be construed to prevent an employee or official of a state agency from engaging in separate conversations or communications outside of a meeting authorized by this chapter with members of a legislative body in order to answer questions or provide information regarding a matter that is within the subject matter jurisdiction of the state agency, if that person does not communicate to members of the legislative body the comments or position of any other member or members of the legislative body.

(c) The prohibitions of this article do not apply to any of the following:

(1) Individual contacts or conversations between a member of a state body and any other person that do not violate subdivision (b).

(2) (A) The attendance of a majority of the members of a state body at a conference or similar gathering open to the public that involves a discussion of issues of general interest to the public or to public agencies of the type represented by the state body, if a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specified nature that is within the subject matter jurisdiction of the state body.

(B) Subparagraph (A) does not allow members of the public free admission to a conference or similar gathering at which the organizers have required other participants or registrants to pay fees or charges as a condition of attendance.

(3) The attendance of a majority of the members of a state body at an open and publicized meeting organized to address a topic of state concern by a person or organization other than the state body, if a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specific nature that is within the subject matter jurisdiction of the state body.

(4) The attendance of a majority of the members of a state body at an open and noticed meeting of another state body or of a legislative body of a local agency as defined by Section 54951, if a majority of the members do not discuss among themselves, other than as part of the scheduled meeting, business of a specific nature that is within the subject matter jurisdiction of the other state body.

(5) The attendance of a majority of the members of a state body at a purely social or ceremonial occasion, if a majority of the members do not discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the state body.

(6) The attendance of a majority of the members of a state body at an open and noticed meeting of a

BAGLEY-KEENE ACT PROVISIONS

standing committee of that body, if the members of the state body who are not members of the standing committee attend only as observers. (Amended by Stats. 2009, Ch. 150, Sec. 1. (AB 1494) Effective January 1, 2010.)

§ 11123

(a) All meetings of a state body shall be open and public and all persons shall be permitted to attend any meeting of a state body except as otherwise provided in this article.

(b) (1) This article does not prohibit a state body from holding an open or closed meeting by teleconference for the benefit of the public and state body. The meeting or proceeding held by teleconference shall otherwise comply with all applicable requirements or laws relating to a specific type of meeting or proceeding, including the following:

(A) The teleconferencing meeting shall comply with all requirements of this article applicable to other meetings.

(B) The portion of the teleconferenced meeting that is required to be open to the public shall be audible to the public at the location specified in the notice of the meeting.

(C) If the state body elects to conduct a meeting or proceeding by teleconference, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the rights of any party or member of the public appearing before the state body. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. The agenda shall provide an opportunity for members of the public to address the state body directly pursuant to Section 11125.7 at each teleconference location.

(D) All votes taken during a teleconferenced meeting shall be by rollcall.

(E) The portion of the teleconferenced meeting that is closed to the public may not include the consideration of any agenda item being heard pursuant to Section 11125.5.

(F) At least one member of the state body shall be physically present at the location specified in the notice of the meeting.

(2) For the purposes of this subdivision, "teleconference" means a meeting of a state body, the members of which are at different locations, connected by electronic means, through either audio or both audio and video. This section does not prohibit a state body from providing members of the public with additional locations in which the public may observe or address the state body by electronic means, through either audio or both audio and video.

(c) The state body shall publicly report any action taken and the vote or abstention on that action of each member present for the action. (Amended by Stats. 2014, Ch. 510, Sec. 1. (AB 2720) Effective January 1, 2015.)

§11123.1

All meetings of a state body that are open and public shall meet the protections and prohibitions contained in Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. (Added by Stats. 2002, Ch. 300, Sec. 1. Effective January 1, 2003.)

§ 11123.5

(a) In addition to the authorization to hold a meeting by teleconference pursuant to subdivision (b) of Section 11123, any state body that is an advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body may hold an open meeting by teleconference as described in this section, provided the meeting complies with all of the section's requirements and, except as set forth in this section, it also complies with all other applicable requirements of this article.

(b) A member of a state body as described in subdivision (a) who participates in a teleconference meeting from a remote location subject to this section's

BAGLEY-KEENE ACT PROVISIONS

requirements shall be listed in the minutes of the meeting.

(c) The state body shall provide notice to the public at least 24 hours before the meeting that identifies any member who will participate remotely by posting the notice on its Internet Web site and by emailing notice to any person who has requested notice of meetings of the state body under this article. The location of a member of a state body who will participate remotely is not required to be disclosed in the public notice or email and need not be accessible to the public. The notice of the meeting shall also identify the primary physical meeting location designated pursuant to subdivision (e).

(d) This section does not affect the requirement prescribed by this article that the state body post an agenda of a meeting at least 10 days in advance of the meeting. The agenda shall include information regarding the physical meeting location designated pursuant to subdivision (e), but is not required to disclose information regarding any remote location.

(e) A state body described in subdivision (a) shall designate the primary physical meeting location in the notice of the meeting where members of the public may physically attend the meeting and participate. A quorum of the members of the state body shall be in attendance at the primary physical meeting location, and members of the state body participating remotely shall not count towards establishing a quorum. All decisions taken during a meeting by teleconference shall be by rollcall vote. The state body shall post the agenda at the primary physical meeting location, but need not post the agenda at a remote location.

(f) When a member of a state body described in subdivision (a) participates remotely in a meeting subject to this section's requirements, the state body shall provide a means by which the public may remotely hear audio of the meeting or remotely observe the meeting, including, if available, equal access equivalent to members of the state body participating remotely. The applicable teleconference phone number or Internet Web site, or other information indicating how the public can access the meeting remotely, shall be in the 24-hour notice described in subdivision (a) that is available to the public.

(g) Upon discovering that a means of remote access required by subdivision (f) has failed during a meeting, the state body described in subdivision (a) shall end or adjourn the meeting in accordance with Section 11128.5.

In addition to any other requirements that may apply, the state body shall provide notice of the meeting's end or adjournment on its Internet Web site and by email to any person who has requested notice of meetings of the state body under this article. If the meeting will be adjourned and reconvened on the same day, further notice shall be provided by an automated message on a telephone line posted on the state body's agenda, or by a similar means, that will communicate when the state body intends to reconvene the meeting and how a member of the public may hear audio of the meeting or observe the meeting.

(h) For purposes of this section:

(1) "Participate remotely" means participation in a meeting at a location other than the physical location designated in the agenda of the meeting.

(2) "Remote location" means a location other than the primary physical location designated in the agenda of a meeting.

(3) "Teleconference" has the same meaning as in Section 11123.

(i) This section does not limit or affect the ability of a state body to hold a teleconference meeting under another provision of this article. (Added by Stats. 2018, Ch. 881, Sec. 1. (AB 2958) Effective January 1, 2019.)

§ 11124

No person shall be required, as a condition to attendance at a meeting of a state body, to register his or her name, to provide other information, to complete a questionnaire, or otherwise to fulfill any condition precedent to his or her attendance.

If an attendance list, register, questionnaire, or other similar document is posted at or near the entrance to the room where the meeting is to be held, or is circulated to persons present during the meeting, it shall state clearly that the signing, registering, or completion of the document is voluntary, and that all persons may attend the meeting regardless of whether a person signs, registers, or completes the document. (Amended by Stats. 1981, Ch. 968, Sec. 8.)

BAGLEY-KEENE ACT PROVISIONS

§ 11124.1

(a) Any person attending an open and public meeting of the state body shall have the right to record the proceedings with an audio or video recorder or a still or motion picture camera in the absence of a reasonable finding by the state body that the recording cannot continue without noise, illumination, or obstruction of view that constitutes, or would constitute, a persistent disruption of the proceedings.

(b) Any audio or video recording of an open and public meeting made for whatever purpose by or at the direction of the state body shall be subject to inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), but may be erased or destroyed 30 days after the recording. Any inspection of an audio or video recording shall be provided without charge on equipment made available by the state body.

(c) No state body shall prohibit or otherwise restrict the broadcast of its open and public meetings in the absence of a reasonable finding that the broadcast cannot be accomplished without noise, illumination, or obstruction of view that would constitute a persistent disruption of the proceedings. (Amended by Stats. 2009, Ch. 88, Sec. 42. (AB 176) Effective January 1, 2010.)

§ 11125

(a) The state body shall provide notice of its meeting to any person who requests that notice in writing. Notice shall be given and also made available on the Internet at least 10 days in advance of the meeting, and shall include the name, address, and telephone number of any person who can provide further information prior to the meeting, but need not include a list of witnesses expected to appear at the meeting. The written notice shall additionally include the address of the Internet site where notices required by this article are made available.

(b) The notice of a meeting of a body that is a state body shall include a specific agenda for the meeting, containing a brief description of the items of business to be transacted or discussed in either open or closed session. A brief general description of an item generally need not exceed 20 words. A description of an item to be transacted or discussed in closed session shall include a citation of the specific statutory authority under which a closed session is being held. No item shall be added to

the agenda subsequent to the provision of this notice, unless otherwise permitted by this article.

(c) Notice of a meeting of a state body that complies with this section shall also constitute notice of a meeting of an advisory body of that state body, provided that the business to be discussed by the advisory body is covered by the notice of the meeting of the state body, provided that the specific time and place of the advisory body's meeting is announced during the open and public state body's meeting, and provided that the advisory body's meeting is conducted within a reasonable time of, and nearby, the meeting of the state body.

(d) A person may request, and shall be provided, notice pursuant to subdivision (a) for all meetings of a state body or for a specific meeting or meetings. In addition, at the state body's discretion, a person may request, and may be provided, notice of only those meetings of a state body at which a particular subject or subjects specified in the request will be discussed.

(e) A request for notice of more than one meeting of a state body shall be subject to the provisions of Section 14911.

(f) The notice shall be made available in appropriate alternative formats, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof, upon request by any person with a disability. The notice shall include information regarding how, to whom, and by when a request for any disability-related modification or accommodation, including auxiliary aids or services may be made by a person with a disability who requires these aids or services in order to participate in the public meeting. (Amended by Stats. 2002, Ch. 300, Sec. 2. Effective January 1, 2003.)

§ 11125.1

(a) Notwithstanding Section 6255 or any other provisions of law, agendas of public meetings and other writings, when distributed to all, or a majority of all, of the members of a state body by any person in connection with a matter subject to discussion or consideration at a public meeting of the body, are disclosable public records under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall be made available upon request without delay. However, this section shall

BAGLEY-KEENE ACT PROVISIONS

not include any writing exempt from public disclosure under Section 6253.5, 6254, or 6254.7 of this code, or Section 489.1 or 583 of the Public Utilities Code.

(b) Writings that are public records under subdivision (a) and that are distributed to members of the state body prior to or during a meeting, pertaining to any item to be considered during the meeting, shall be made available for public inspection at the meeting if prepared by the state body or a member of the state body, or after the meeting if prepared by some other person. These writings shall be made available in appropriate alternative formats, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof, upon request by a person with a disability.

(c) In the case of the Franchise Tax Board, prior to that state body taking final action on any item, writings pertaining to that item that are public records under subdivision (a) that are prepared and distributed by the Franchise Tax Board staff or individual members to members of the state body prior to or during a meeting shall be:

- (1) Made available for public inspection at that meeting.
- (2) Distributed to all persons who request notice in writing pursuant to subdivision (a) of Section 11125.
- (3) Made available on the Internet.

(d) Prior to the State Board of Equalization taking final action on any item that does not involve a named tax or fee payer, writings pertaining to that item that are public records under subdivision (a) that are prepared and distributed by board staff or individual members to members of the state body prior to or during a meeting shall be:

- (1) Made available for public inspection at that meeting.
- (2) Distributed to all persons who request or have requested copies of these writings.
- (3) Made available on the Internet.

(e) Nothing in this section shall be construed to prevent a state body from charging a fee or deposit for a copy of a public record pursuant to Section 6253, except

that no surcharge shall be imposed on persons with disabilities in violation of Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. The writings described in subdivision (b) are subject to the requirements of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall not be construed to limit or delay the public's right to inspect any record required to be disclosed by that act, or to limit the public's right to inspect any record covered by that act. This section shall not be construed to be applicable to any writings solely because they are properly discussed in a closed session of a state body. Nothing in this article shall be construed to require a state body to place any paid advertisement or any other paid notice in any publication.

(f) "Writing" for purposes of this section means "writing" as defined under Section 6252. (Amended by Stats. 2005, Ch. 188, Sec. 1. Effective January 1, 2006.)

§ 11125.2

Any state body shall report publicly at a subsequent public meeting any action taken, and any rollcall vote thereon, to appoint, employ, or dismiss a public employee arising out of any closed session of the state body. (Amended by Stats. 1981, Ch. 968, Sec. 10.3.)

§ 11125.3

(a) Notwithstanding Section 11125, a state body may take action on items of business not appearing on the posted agenda under any of the conditions stated below:

- (1) Upon a determination by a majority vote of the state body that an emergency situation exists, as defined in Section 11125.5.
- (2) Upon a determination by a two-thirds vote of the state body, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that there exists a need to take immediate action and that the need for action came to the attention of the state body subsequent to the agenda being posted as specified in Section 11125.

(b) Notice of the additional item to be considered shall be provided to each member of the state body and to all

BAGLEY-KEENE ACT PROVISIONS

parties that have requested notice of its meetings as soon as is practicable after a determination of the need to consider the item is made, but shall be delivered in a manner that allows it to be received by the members and by newspapers of general circulation and radio or television stations at least 48 hours before the time of the meeting specified in the notice. Notice shall be made available to newspapers of general circulation and radio or television stations by providing that notice to all national press wire services. Notice shall also be made available on the Internet as soon as is practicable after the decision to consider additional items at a meeting has been made. (Amended by Stats. 2001, Ch. 243, Sec. 9. Effective January 1, 2002.)

§ 11125.4

(a) A special meeting may be called at any time by the presiding officer of the state body or by a majority of the members of the state body. A special meeting may only be called for one of the following purposes when compliance with the 10-day notice provisions of Section 11125 would impose a substantial hardship on the state body or when immediate action is required to protect the public interest:

- (1) To consider "pending litigation" as that term is defined in subdivision (e) of Section 11126.
- (2) To consider proposed legislation.
- (3) To consider issuance of a legal opinion.
- (4) To consider disciplinary action involving a state officer or employee.
- (5) To consider the purchase, sale, exchange, or lease of real property.
- (6) To consider license examinations and applications.
- (7) To consider an action on a loan or grant provided pursuant to Division 31 (commencing with Section 50000) of the Health and Safety Code.
- (8) To consider its response to a confidential final draft audit report as permitted by Section 11126.2.
- (9) To provide for an interim executive officer of a state body upon the death, incapacity, or vacancy in the office of the executive officer.

(b) When a special meeting is called pursuant to one of the purposes specified in subdivision (a), the state body shall provide notice of the special meeting to each member of the state body and to all parties that have requested notice of its meetings as soon as is practicable after the decision to call a special meeting has been made, but shall deliver the notice in a manner that allows it to be received by the members and by newspapers of general circulation and radio or television stations at least 48 hours before the time of the special meeting specified in the notice. Notice shall be made available to newspapers of general circulation and radio or television stations by providing that notice to all national press wire services. Notice shall also be made available on the Internet within the time periods required by this section. The notice shall specify the time and place of the special meeting and the business to be transacted. The written notice shall additionally specify the address of the Internet Web site where notices required by this article are made available. No other business shall be considered at a special meeting by the state body. The written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the clerk or secretary of the state body a written waiver of notice. The waiver may be given by telegram, facsimile transmission, or similar means. The written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes. Notice shall be required pursuant to this section regardless of whether any action is taken at the special meeting.

(c) At the commencement of any special meeting, the state body must make a finding in open session that the delay necessitated by providing notice 10 days prior to a meeting as required by Section 11125 would cause a substantial hardship on the body or that immediate action is required to protect the public interest. The finding shall set forth the specific facts that constitute the hardship to the body or the impending harm to the public interest. The finding shall be adopted by a two-thirds vote of the body, or, if less than two-thirds of the members are present, a unanimous vote of those members present. The finding shall be made available on the Internet. Failure to adopt the finding terminates the meeting. (Amended by Stats. 2007, Ch. 92, Sec. 1. Effective January 1, 2008.)

BAGLEY-KEENE ACT PROVISIONS

§ 11125.5

(a) In the case of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities, a state body may hold an emergency meeting without complying with the 10-day notice requirement of Section 11125 or the 48-hour notice requirement of Section 11125.4.

(b) For purposes of this section, “emergency situation” means any of the following, as determined by a majority of the members of the state body during a meeting prior to the emergency meeting, or at the beginning of the emergency meeting:

- (1) Work stoppage or other activity that severely impairs public health or safety, or both.
- (2) Crippling disaster that severely impairs public health or safety, or both.

(c) However, newspapers of general circulation and radio or television stations that have requested notice of meetings pursuant to Section 11125 shall be notified by the presiding officer of the state body, or a designee thereof, one hour prior to the emergency meeting by telephone. Notice shall also be made available on the Internet as soon as is practicable after the decision to call the emergency meeting has been made. If telephone services are not functioning, the notice requirements of this section shall be deemed waived, and the presiding officer of the state body, or a designee thereof, shall notify those newspapers, radio stations, or television stations of the fact of the holding of the emergency meeting, the purpose of the meeting, and any action taken at the meeting as soon after the meeting as possible.

(d) The minutes of a meeting called pursuant to this section, a list of persons who the presiding officer of the state body, or a designee thereof, notified or attempted to notify, a copy of the rollcall vote, and any action taken at the meeting shall be posted for a minimum of 10 days in a public place, and also made available on the Internet for a minimum of 10 days, as soon after the meeting as possible. (Amended by Stats. 1999, Ch. 393, Sec. 3. Effective January 1, 2000. As provided in Sec. 7 of Ch. 393, amendment is to be implemented on July 1, 2001, or other date authorized by Dept. of Information Technology pursuant to Executive Order D-3-99.)

§ 11125.6

(a) An emergency meeting may be called at any time by the president of the Fish and Game Commission or by a majority of the members of the commission to consider an appeal of a closure of or restriction in a fishery adopted pursuant to Section 7710 of the Fish and Game Code. In the case of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of an established fishery, the commission may hold an emergency meeting without complying with the 10-day notice requirement of Section 11125 or the 48-hour notice requirement of Section 11125.4 if the delay necessitated by providing the 10-day notice of a public meeting required by Section 11125.4 would significantly adversely impact the economic benefits of a fishery to the participants in the fishery and to the people of the state or significantly adversely impact the sustainability of a fishery managed by the state.

(b) At the commencement of an emergency meeting called pursuant to this section, the commission shall make a finding in open session that the delay necessitated by providing notice 10 days prior to a meeting as required by Section 11125 or 48 hours prior to a meeting as required by Section 11125.4 would significantly adversely impact the economic benefits of a fishery to the participants in the fishery and to the people of the state or significantly adversely impact the sustainability of a fishery managed by the state. The finding shall set forth the specific facts that constitute the impact to the economic benefits of the fishery or the sustainability of the fishery. The finding shall be adopted by a vote of at least four members of the commission, or, if less than four of the members are present, a unanimous vote of those members present. Failure to adopt the finding shall terminate the meeting.

(c) Newspapers of general circulation and radio or television stations that have requested notice of meetings pursuant to Section 11125 shall be notified by the presiding officer of the commission, or a designee thereof, one hour prior to the emergency meeting by telephone.

(d) The minutes of an emergency meeting called pursuant to this section, a list of persons who the president of the commission, or a designee thereof,

BAGLEY-KEENE ACT PROVISIONS

notified or attempted to notify, a copy of the rollcall vote, and any action taken at the meeting shall be posted for a minimum of 10 days in a public place as soon after the meeting as possible. (Added by Stats. 1998, Ch. 1052, Sec. 21. Effective January 1, 1999.)

§ 11125.7

(a) An emergency meeting may be called at any time by the president of the Fish and Game Commission or by a majority of the members of the commission to consider an appeal of a closure of or restriction in a fishery adopted pursuant to Section 7710 of the Fish and Game Code. In the case of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of an established fishery, the commission may hold an emergency meeting without complying with the 10-day notice requirement of Section 11125 or the 48-hour notice requirement of Section 11125.4 if the delay necessitated by providing the 10-day notice of a public meeting required by Section 11125 or the 48-hour notice required by Section 11125.4 would significantly adversely impact the economic benefits of a fishery to the participants in the fishery and to the people of the state or significantly adversely impact the sustainability of a fishery managed by the state.

(b) At the commencement of an emergency meeting called pursuant to this section, the commission shall make a finding in open session that the delay necessitated by providing notice 10 days prior to a meeting as required by Section 11125 or 48 hours prior to a meeting as required by Section 11125.4 would significantly adversely impact the economic benefits of a fishery to the participants in the fishery and to the people of the state or significantly adversely impact the sustainability of a fishery managed by the state. The finding shall set forth the specific facts that constitute the impact to the economic benefits of the fishery or the sustainability of the fishery. The finding shall be adopted by a vote of at least four members of the commission, or, if less than four of the members are present, a unanimous vote of those members present. Failure to adopt the finding shall terminate the meeting.

(c) Newspapers of general circulation and radio or television stations that have requested notice of meetings pursuant to Section 11125 shall be notified by the presiding officer of the commission, or a designee

thereof, one hour prior to the emergency meeting by telephone.

(d) The minutes of an emergency meeting called pursuant to this section, a list of persons who the president of the commission, or a designee thereof, notified or attempted to notify, a copy of the rollcall vote, and any action taken at the meeting shall be posted for a minimum of 10 days in a public place as soon after the meeting as possible. (Added by Stats. 1998, Ch. 1052, Sec. 21. Effective January 1, 1999.)

§ 11125.8

(a) Notwithstanding Section 11131.5, in any hearing that the California Victim Compensation Board conducts pursuant to Section 13963.1 and that the applicant or applicant's representative does not request be open to the public, no notice, agenda, announcement, or report required under this article need identify the applicant.

(b) In any hearing that the board conducts pursuant to Section 13963.1 and that the applicant or applicant's representative does not request be open to the public, the board shall disclose that the hearing is being held pursuant to Section 13963.1. That disclosure shall be deemed to satisfy the requirements of subdivision (a) of Section 11126.3. (Amended by Stats. 2016, Ch. 31, Sec. 72. (SB 836) Effective June 27, 2016.)

§ 11125.9

Regional water quality control boards shall comply with the notification guidelines in Section 11125 and, in addition, shall do both of the following:

(a) Notify, in writing, all clerks of the city councils and county boards of supervisors within the regional board's jurisdiction of any and all board hearings at least 10 days prior to the hearing. Notification shall include an agenda for the meeting with contents as described in subdivision (b) of Section 11125 as well as the name, address, and telephone number of any person who can provide further information prior to the meeting, but need not include a list of witnesses expected to appear at the meeting. Each clerk, upon receipt of the notification of a board hearing, shall distribute the notice to all members of the respective city council or board of supervisors within the regional board's jurisdiction.

BAGLEY-KEENE ACT PROVISIONS

(b) Notify, in writing, all newspapers with a circulation rate of at least 10,000 within the regional board's jurisdiction of any and all board hearings, at least 10 days prior to the hearing. Notification shall include an agenda for the meeting with contents as described in subdivision (b) of Section 11125 as well as the name, address, and telephone number of any person who can provide further information prior to the meeting, but need not include a list of witnesses expected to appear at the meeting. (Added by Stats. 1997, Ch. 301, Sec. 1. Effective January 1, 1998.)

§ 11126

(a) (1) Nothing in this article shall be construed to prevent a state body from holding closed sessions during a regular or special meeting to consider the appointment, employment, evaluation of performance, or dismissal of a public employee or to hear complaints or charges brought against that employee by another person or employee unless the employee requests a public hearing.

(2) As a condition to holding a closed session on the complaints or charges to consider disciplinary action or to consider dismissal, the employee shall be given written notice of his or her right to have a public hearing, rather than a closed session, and that notice shall be delivered to the employee personally or by mail at least 24 hours before the time for holding a regular or special meeting. If notice is not given, any disciplinary or other action taken against any employee at the closed session shall be null and void.

(3) The state body also may exclude from any public or closed session, during the examination of a witness, any or all other witnesses in the matter being investigated by the state body.

(4) Following the public hearing or closed session, the body may deliberate on the decision to be reached in a closed session.

(b) For the purposes of this section, "employee" does not include any person who is elected to, or appointed to a public office by, any state body. However, officers of the California State University who receive compensation for their services, other than per diem and ordinary and necessary expenses, shall, when engaged in that capacity, be considered employees. Furthermore, for purposes of this section, the term employee includes a

person exempt from civil service pursuant to subdivision (e) of Section 4 of Article VII of the California Constitution.

(c) Nothing in this article shall be construed to do any of the following:

(1) Prevent state bodies that administer the licensing of persons engaging in businesses or professions from holding closed sessions to prepare, approve, grade, or administer examinations.

(2) Prevent an advisory body of a state body that administers the licensing of persons engaged in businesses or professions from conducting a closed session to discuss matters that the advisory body has found would constitute an unwarranted invasion of the privacy of an individual licensee or applicant if discussed in an open meeting, provided the advisory body does not include a quorum of the members of the state body it advises. Those matters may include review of an applicant's qualifications for licensure and an inquiry specifically related to the state body's enforcement program concerning an individual licensee or applicant where the inquiry occurs prior to the filing of a civil, criminal, or administrative disciplinary action against the licensee or applicant by the state body.

(3) Prohibit a state body from holding a closed session to deliberate on a decision to be reached in a proceeding required to be conducted pursuant to Chapter 5 (commencing with Section 11500) or similar provisions of law.

(4) Grant a right to enter any correctional institution or the grounds of a correctional institution where that right is not otherwise granted by law, nor shall anything in this article be construed to prevent a state body from holding a closed session when considering and acting upon the determination of a term, parole, or release of any individual or other disposition of an individual case, or if public disclosure of the subjects under discussion or consideration is expressly prohibited by statute.

(5) Prevent any closed session to consider the conferring of honorary degrees, or gifts, donations, and bequests that the donor or proposed donor has requested in writing to be kept confidential.

BAGLEY-KEENE ACT PROVISIONS

(6) Prevent the Alcoholic Beverage Control Appeals Board from holding a closed session for the purpose of holding a deliberative conference as provided in Section 11125.

(7) (A) Prevent a state body from holding closed sessions with its negotiator prior to the purchase, sale, exchange, or lease of real property by or for the state body to give instructions to its negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease.

(B) However, prior to the closed session, the state body shall hold an open and public session in which it identifies the real property or real properties that the negotiations may concern and the person or persons with whom its negotiator may negotiate.

(C) For purposes of this paragraph, the negotiator may be a member of the state body.

(D) For purposes of this paragraph, "lease" includes renewal or renegotiation of a lease.

(E) Nothing in this paragraph shall preclude a state body from holding a closed session for discussions regarding eminent domain proceedings pursuant to subdivision (e).

(8) Prevent the California Postsecondary Education Commission from holding closed sessions to consider matters pertaining to the appointment or termination of the Director of the California Postsecondary Education Commission.

(9) Prevent the Council for Private Postsecondary and Vocational Education from holding closed sessions to consider matters pertaining to the appointment or termination of the Executive Director of the Council for Private Postsecondary and Vocational Education.

(10) Prevent the Franchise Tax Board from holding closed sessions for the purpose of discussion of confidential tax returns or information the public disclosure of which is prohibited by law, or from considering matters pertaining to the appointment or removal of the Executive Officer of the Franchise Tax Board.

(11) Require the Franchise Tax Board to notice or disclose any confidential tax information considered in closed sessions, or documents executed in connection therewith, the public disclosure of which is prohibited pursuant to Article 2 (commencing with Section 19542) of Chapter 7 of Part 10.2 of Division 2 of the Revenue and Taxation Code.

(12) Prevent the Corrections Standards Authority from holding closed sessions when considering reports of crime conditions under Section 6027 of the Penal Code.

(13) Prevent the State Air Resources Board from holding closed sessions when considering the proprietary specifications and performance data of manufacturers.

(14) Prevent the State Board of Education or the Superintendent of Public Instruction, or any committee advising the board or the Superintendent, from holding closed sessions on those portions of its review of assessment instruments pursuant to Chapter 5 (commencing with Section 60600) of Part 33 of Division 4 of Title 2 of the Education Code during which actual test content is reviewed and discussed. The purpose of this provision is to maintain the confidentiality of the assessments under review.

(15) Prevent the Department of Resources Recycling and Recovery or its auxiliary committees from holding closed sessions for the purpose of discussing confidential tax returns, discussing trade secrets or confidential or proprietary information in its possession, or discussing other data, the public disclosure of which is prohibited by law.

(16) Prevent a state body that invests retirement, pension, or endowment funds from holding closed sessions when considering investment decisions. For purposes of consideration of shareholder voting on corporate stocks held by the state body, closed sessions for the purposes of voting may be held only with respect to election of corporate directors, election of independent auditors, and other financial issues that could have a material effect on the net income of the corporation. For the purpose of real property investment decisions that may be considered in a closed session pursuant to this paragraph, a state body shall also be exempt from the provisions of paragraph (7) relating to the

BAGLEY-KEENE ACT PROVISIONS

identification of real properties prior to the closed session.

(17) Prevent a state body, or boards, commissions, administrative officers, or other representatives that may properly be designated by law or by a state body, from holding closed sessions with its representatives in discharging its responsibilities under Chapter 10 (commencing with Section 3500), Chapter 10.3 (commencing with Section 3512), Chapter 10.5 (commencing with Section 3525), or Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 as the sessions relate to salaries, salary schedules, or compensation paid in the form of fringe benefits. For the purposes enumerated in the preceding sentence, a state body may also meet with a state conciliator who has intervened in the proceedings.

(18) (A) Prevent a state body from holding closed sessions to consider matters posing a threat or potential threat of criminal or terrorist activity against the personnel, property, buildings, facilities, or equipment, including electronic data, owned, leased, or controlled by the state body, where disclosure of these considerations could compromise or impede the safety or security of the personnel, property, buildings, facilities, or equipment, including electronic data, owned, leased, or controlled by the state body.

(B) Notwithstanding any other law, a state body, at any regular or special meeting, may meet in a closed session pursuant to subparagraph (A) upon a two-thirds vote of the members present at the meeting.

(C) After meeting in closed session pursuant to subparagraph (A), the state body shall reconvene in open session prior to adjournment and report that a closed session was held pursuant to subparagraph (A), the general nature of the matters considered, and whether any action was taken in closed session.

(D) After meeting in closed session pursuant to subparagraph (A), the state body shall submit to the Legislative Analyst written notification stating that it held this closed session, the general reason or reasons for the

closed session, the general nature of the matters considered, and whether any action was taken in closed session. The Legislative Analyst shall retain for no less than four years any written notification received from a state body pursuant to this subparagraph.

(19) Prevent the California Sex Offender Management Board from holding a closed session for the purpose of discussing matters pertaining to the application of a sex offender treatment provider for certification pursuant to Sections 290.09 and 9003 of the Penal Code. Those matters may include review of an applicant's qualifications for certification.

(d) (1) Notwithstanding any other law, any meeting of the Public Utilities Commission at which the rates of entities under the commission's jurisdiction are changed shall be open and public.

(2) Nothing in this article shall be construed to prevent the Public Utilities Commission from holding closed sessions to deliberate on the institution of proceedings, or disciplinary actions against any person or entity under the jurisdiction of the commission.

(e) (1) Nothing in this article shall be construed to prevent a state body, based on the advice of its legal counsel, from holding a closed session to confer with, or receive advice from, its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the state body in the litigation.

(2) For purposes of this article, all expressions of the lawyer-client privilege other than those provided in this subdivision are hereby abrogated. This subdivision is the exclusive expression of the lawyer-client privilege for purposes of conducting closed session meetings pursuant to this article. For purposes of this subdivision, litigation shall be considered pending when any of the following circumstances exist:

(A) An adjudicatory proceeding before a court, an administrative body exercising its adjudicatory authority, a hearing officer, or an arbitrator, to which the state body is a party, has been initiated formally.

BAGLEY-KEENE ACT PROVISIONS

- (B) (i) A point has been reached where, in the opinion of the state body on the advice of its legal counsel, based on existing facts and circumstances, there is a significant exposure to litigation against the state body.
- (ii) Based on existing facts and circumstances, the state body is meeting only to decide whether a closed session is authorized pursuant to clause (i).
- (C) (i) Based on existing facts and circumstances, the state body has decided to initiate or is deciding whether to initiate litigation.
- (ii) The legal counsel of the state body shall prepare and submit to it a memorandum stating the specific reasons and legal authority for the closed session. If the closed session is pursuant to paragraph (1), the memorandum shall include the title of the litigation. If the closed session is pursuant to subparagraph (A) or (B), the memorandum shall include the existing facts and circumstances on which it is based. The legal counsel shall submit the memorandum to the state body prior to the closed session, if feasible, and in any case no later than one week after the closed session. The memorandum shall be exempt from disclosure pursuant to Section 6254.25.
- (iii) For purposes of this subdivision, "litigation" includes any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator.
- (iv) Disclosure of a memorandum required under this subdivision shall not be deemed as a waiver of the lawyer-client privilege, as provided for under Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code.
- (f) In addition to subdivisions (a), (b), and (c), nothing in this article shall be construed to do any of the following:
- (1) Prevent a state body operating under a joint powers agreement for insurance pooling from holding a closed session to discuss a claim for the payment of tort liability or public liability losses incurred by the state body or any member agency under the joint powers agreement.
 - (2) Prevent the examining committee established by the State Board of Forestry and Fire Protection, pursuant to Section 763 of the Public Resources Code, from conducting a closed session to consider disciplinary action against an individual professional forester prior to the filing of an accusation against the forester pursuant to Section 11503.
 - (3) Prevent the enforcement advisory committee established by the California Board of Accountancy pursuant to Section 5020 of the Business and Professions Code from conducting a closed session to consider disciplinary action against an individual accountant prior to the filing of an accusation against the accountant pursuant to Section 11503. Nothing in this article shall be construed to prevent the qualifications examining committee established by the California Board of Accountancy pursuant to Section 5023 of the Business and Professions Code from conducting a closed hearing to interview an individual applicant or accountant regarding the applicant's qualifications.
 - (4) Prevent a state body, as defined in subdivision (b) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in closed session by the state body whose authority it exercises.
 - (5) Prevent a state body, as defined in subdivision (d) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in a closed session by the body defined as a state body pursuant to subdivision (a) or (b) of Section 11121.
 - (6) Prevent a state body, as defined in subdivision (c) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in a closed session by the state body it advises.

BAGLEY-KEENE ACT PROVISIONS

(7) Prevent the State Board of Equalization from holding closed sessions for either of the following:

(A) When considering matters pertaining to the appointment or removal of the Executive Secretary of the State Board of Equalization.

(B) For the purpose of hearing confidential taxpayer appeals or data, the public disclosure of which is prohibited by law.

(8) Require the State Board of Equalization to disclose any action taken in closed session or documents executed in connection with that action, the public disclosure of which is prohibited by law pursuant to Sections 15619 and 15641 of this code and Sections 833, 7056, 8255, 9255, 11655, 30455, 32455, 38705, 38706, 43651, 45982, 46751, 50159, 55381, and 60609 of the Revenue and Taxation Code.

(9) Prevent the California Earthquake Prediction Evaluation Council, or other body appointed to advise the Director of Emergency Services or the Governor concerning matters relating to volcanic or earthquake predictions, from holding closed sessions when considering the evaluation of possible predictions.

(g) This article does not prevent either of the following:

(1) The Teachers' Retirement Board or the Board of Administration of the Public Employees' Retirement System from holding closed sessions when considering matters pertaining to the recruitment, appointment, employment, or removal of the chief executive officer or when considering matters pertaining to the recruitment or removal of the Chief Investment Officer of the State Teachers' Retirement System or the Public Employees' Retirement System.

(2) The Commission on Teacher Credentialing from holding closed sessions when considering matters relating to the recruitment, appointment, or removal of its executive director.

(h) This article does not prevent the Board of Administration of the Public Employees' Retirement System from holding closed sessions when considering matters relating to the development of rates and competitive strategy for plans offered pursuant to

Chapter 15 (commencing with Section 21660) of Part 3 of Division 5 of Title 2.

(i) This article does not prevent the Managed Risk Medical Insurance Board from holding closed sessions when considering matters related to the development of rates and contracting strategy for entities contracting or seeking to contract with the board, entities with which the board is considering a contract, or entities with which the board is considering or enters into any other arrangement under which the board provides, receives, or arranges services or reimbursement, pursuant to Part 6.2 (commencing with Section 12693), Part 6.3 (commencing with Section 12695), Part 6.4 (commencing with Section 12699.50), Part 6.5 (commencing with Section 12700), Part 6.6 (commencing with Section 12739.5), or Part 6.7 (commencing with Section 12739.70) of Division 2 of the Insurance Code.

(j) Nothing in this article shall be construed to prevent the board of the State Compensation Insurance Fund from holding closed sessions in the following:

(1) When considering matters related to claims pursuant to Chapter 1 (commencing with Section 3200) of Division 4 of the Labor Code, to the extent that confidential medical information or other individually identifiable information would be disclosed.

(2) To the extent that matters related to audits and investigations that have not been completed would be disclosed.

(3) To the extent that an internal audit containing proprietary information would be disclosed.

(4) To the extent that the session would address the development of rates, contracting strategy, underwriting, or competitive strategy, pursuant to the powers granted to the board in Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code, when discussion in open session concerning those matters would prejudice the position of the State Compensation Insurance Fund.

(k) The State Compensation Insurance Fund shall comply with the procedures specified in Section 11125.4 of the Government Code with respect to any closed session or meeting authorized by subdivision (j), and in addition shall provide an opportunity for a member of the public to be heard on the issue of the

BAGLEY-KEENE ACT PROVISIONS

appropriateness of closing the meeting or session. (Amended by Stats. 2017, Ch. 641, Sec. 22. (AB 830) Effective January 1, 2018.)

§ 11126.1

The state body shall designate a clerk or other officer or employee of the state body, who shall then attend each closed session of the state body and keep and enter in a minute book a record of topics discussed and decisions made at the meeting. The minute book made pursuant to this section is not a public record subject to inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall be kept confidential. The minute book shall be available to members of the state body or, if a violation of this chapter is alleged to have occurred at a closed session, to a court of general jurisdiction. Such minute book may, but need not, consist of a recording of the closed session. (Amended by Stats. 1981, Ch. 968, Sec. 13.)

§ 11126.2

(a) Nothing in this article shall be construed to prohibit a state body that has received a confidential final draft audit report from the Bureau of State Audits from holding closed sessions to discuss its response to that report.

(b) After the public release of an audit report by the Bureau of State Audits, if a state body meets to discuss the audit report, it shall do so in an open session unless exempted from that requirement by some other provision of law. (Added by Stats. 2004, Ch. 576, Sec. 2. Effective January 1, 2005.)

§ 11126.3

(a) Prior to holding any closed session, the state body shall disclose, in an open meeting, the general nature of the item or items to be discussed in the closed session. The disclosure may take the form of a reference to the item or items as they are listed by number or letter on the agenda. If the session is closed pursuant to paragraph (2) of subdivision (d) of Section 11126, the state body shall state the title of, or otherwise specifically identify, the proceeding or disciplinary action contemplated. However, should the body determine that to do so would jeopardize the body's ability to effectuate

service of process upon one or more unserved parties if the proceeding or disciplinary action is commenced or that to do so would fail to protect the private economic and business reputation of the person or entity if the proceeding or disciplinary action is not commenced, then the state body shall notice that there will be a closed session and describe in general terms the purpose of that session. If the session is closed pursuant to subparagraph (A) of paragraph (2) of subdivision (e) of Section 11126, the state body shall state the title of, or otherwise specifically identify, the litigation to be discussed unless the body states that to do so would jeopardize the body's ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

(b) In the closed session, the state body may consider only those matters covered in its disclosure.

(c) The disclosure shall be made as part of the notice provided for the meeting pursuant to Section 11125 or pursuant to subdivision (a) of Section 92032 of the Education Code and of any order or notice required by Section 11129.

(d) If, after the agenda has been published in compliance with this article, any pending litigation (under subdivision (e) of Section 11126) matters arise, the postponement of which will prevent the state body from complying with any statutory, court-ordered, or other legally imposed deadline, the state body may proceed to discuss those matters in closed session and shall publicly announce in the meeting the title of, or otherwise specifically identify, the litigation to be discussed, unless the body states that to do so would jeopardize the body's ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage. Such an announcement shall be deemed to comply fully with the requirements of this section.

(e) Nothing in this section shall require or authorize a disclosure of names or other information that would constitute an invasion of privacy or otherwise unnecessarily divulge the particular facts concerning the closed session or the disclosure of which is prohibited by state or federal law.

(f) After any closed session, the state body shall reconvene into open session prior to adjournment and shall make any reports, provide any documentation, and

BAGLEY-KEENE ACT PROVISIONS

make any other disclosures required by Section 11125.2 of action taken in the closed session.

(g) The announcements required to be made in open session pursuant to this section may be made at the location announced in the agenda for the closed session, as long as the public is allowed to be present at that location for the purpose of hearing the announcement. (Amended by Stats. 2001, Ch. 243, Sec. 11. Effective January 1, 2002.)

§ 11126.4

(a) Nothing in this article shall be construed to prevent the California Gambling Control Commission from holding a closed session when discussing matters involving trade secrets, nonpublic financial data, confidential or proprietary information, and other data and information, the public disclosure of which is prohibited by law or a tribal-state gaming compact.

(b) Discussion in closed session authorized by this section shall be limited to the confidential data and information related to the agenda item and shall not include discussion of any other information or matter.

(c) Before going into closed session the commission shall publicly announce the type of data or information to be discussed in closed session, which shall be recorded upon the commission minutes.

(d) Action taken on agenda items discussed pursuant to this section shall be taken in open session. (Added by Stats. 2005, Ch. 274, Sec. 1. Effective January 1, 2006.)

§ 11126.4.5

(a) This article does not prohibit the Tribal Nation Grant Panel from holding a closed session when discussing matters involving information relating to the administration of Article 2.3 (commencing with Section 12019.30) of Chapter 1 of Part 2 that describes, directly or indirectly, the internal affairs of an eligible tribe, including, but not limited to, the finances and competitive business plans of an eligible tribe.

(b) Discussion in closed session authorized by this section shall be limited to the confidential information related to the agenda item and shall not include discussion of any other information or matter.

(c) Before going into closed session, the Tribal Nation Grant Panel shall publicly announce the type of information to be discussed in closed session, which shall be recorded in the minutes.

(d) Action taken on agenda items discussed pursuant to this section shall be taken in open session.

(e) For purposes of this section, the terms "Tribal Nation Grant Panel" and "eligible tribe" shall have the same meanings as set forth in Article 2.3 (commencing with Section 12019.30) of Chapter 1 of Part 2. (Added by Stats. 2018, Ch. 801, Sec. 1. (AB 880) Effective January 1, 2019.)

§ 11126.5

In the event that any meeting is willfully interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals who are willfully interrupting the meeting the state body conducting the meeting may order the meeting room cleared and continue in session. Nothing in this section shall prohibit the state body from establishing a procedure for readmitting an individual or individuals not responsible for willfully disturbing the orderly conduct of the meeting. Notwithstanding any other provision of law, only matters appearing on the agenda may be considered in such a session. Representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this section. (Amended by Stats. 1981, Ch. 968, Sec. 15.)

§ 11126.7

No fees may be charged by a state body for providing a notice required by Section 11125 or for carrying out any provision of this article, except as specifically authorized pursuant to this article. (Amended by Stats. 1981, Ch. 968, Sec. 16.)

§ 11127

Each provision of this article shall apply to every state body unless the body is specifically excepted from that provision by law or is covered by any other conflicting provision of law. (Amended by Stats. 1981, Ch. 968, Sec. 17.)

BAGLEY-KEENE ACT PROVISIONS

§ 11128

Each closed session of a state body shall be held only during a regular or special meeting of the body. (Amended by Stats. 1981, Ch. 968, Sec. 18.)

§ 11128.5

The state body may adjourn any regular, adjourned regular, special, or adjourned special meeting to a time and place specified in the order of adjournment. Less than a quorum may so adjourn from time to time. If all members are absent from any regular or adjourned regular meeting, the clerk or secretary of the state body may declare the meeting adjourned to a stated time and place and he or she shall cause a written notice of the adjournment to be given in the same manner as provided in Section 11125.4 for special meetings, unless that notice is waived as provided for special meetings. A copy of the order or notice of adjournment shall be conspicuously posted on or near the door of the place where the regular, adjourned regular, special, or adjourned special meeting was held within 24 hours after the time of the adjournment. When a regular or adjourned regular meeting is adjourned as provided in this section, the resulting adjourned regular meeting is a regular meeting for all purposes. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings by law or regulation. (Added by Stats. 1997, Ch. 949, Sec. 11. Effective January 1, 1998.)

§ 11129

Any hearing being held, or noticed or ordered to be held by a state body at any meeting may by order or notice of continuance be continued or recontinued to any subsequent meeting of the state body in the same manner and to the same extent set forth in Section 11128.5 for the adjournment of meetings. A copy of the order or notice of continuance shall be conspicuously posted on or near the door of the place where the hearing was held within 24 hours after the time of the continuance; provided, that if the hearing is continued to a time less than 24 hours after the time specified in the order or notice of hearing, a copy of the order or notice of continuance of hearing shall be posted immediately following the meeting at which the order or declaration of continuance was adopted or made. (Amended by Stats. 1997, Ch. 949, Sec. 12. Effective January 1, 1998.)

§ 11130

(a) The Attorney General, the district attorney, or any interested person may commence an action by mandamus, injunction, or declaratory relief for the purpose of stopping or preventing violations or threatened violations of this article or to determine the applicability of this article to past actions or threatened future action by members of the state body or to determine whether any rule or action by the state body to penalize or otherwise discourage the expression of one or more of its members is valid or invalid under the laws of this state or of the United States, or to compel the state body to audio record its closed sessions as hereinafter provided.

(b) The court in its discretion may, upon a judgment of a violation of Section 11126, order the state body to audio record its closed sessions and preserve the audio recordings for the period and under the terms of security and confidentiality the court deems appropriate.

(c) (1) Each recording so kept shall be immediately labeled with the date of the closed session recorded and the title of the clerk or other officer who shall be custodian of the recording.

(2) The audio recordings shall be subject to the following discovery procedures:

(A) In any case in which discovery or disclosure of the audio recording is sought by the Attorney General, the district attorney, or the plaintiff in a civil action pursuant to this section or Section 11130.3 alleging that a violation of this article has occurred in a closed session that has been recorded pursuant to this section, the party seeking discovery or disclosure shall file a written notice of motion with the appropriate court with notice to the governmental agency that has custody and control of the audio recording. The notice shall be given pursuant to subdivision (b) of Section 1005 of the Code of Civil Procedure.

(B) The notice shall include, in addition to the items required by Section 1010 of the Code of Civil Procedure, all of the following:

(i) Identification of the proceeding in which discovery or disclosure is sought, the party seeking discovery or

BAGLEY-KEENE ACT PROVISIONS

disclosure, the date and time of the meeting recorded, and the governmental agency that has custody and control of the recording.

(ii) An affidavit that contains specific facts indicating that a violation of the act occurred in the closed session.

(3) If the court, following a review of the motion, finds that there is good cause to believe that a violation has occurred, the court may review, in camera, the recording of that portion of the closed session alleged to have violated the act.

(4) If, following the in camera review, the court concludes that disclosure of a portion of the recording would be likely to materially assist in the resolution of the litigation alleging violation of this article, the court shall, in its discretion, make a certified transcript of the portion of the recording a public exhibit in the proceeding.

(5) Nothing in this section shall permit discovery of communications that are protected by the attorney-client privilege. (Amended by Stats. 2009, Ch. 88, Sec. 43. (AB 176) Effective January 1, 2010.)

§ 11130.3

(a) Any interested person may commence an action by mandamus, injunction, or declaratory relief for the purpose of obtaining a judicial determination that an action taken by a state body in violation of Section 11123 or 11125 is null and void under this section. Any action seeking such a judicial determination shall be commenced within 90 days from the date the action was taken. Nothing in this section shall be construed to prevent a state body from curing or correcting an action challenged pursuant to this section.

(b) An action shall not be determined to be null and void if any of the following conditions exist:

(1) The action taken was in connection with the sale or issuance of notes, bonds, or other evidences of indebtedness or any contract, instrument, or agreement related thereto.

(2) The action taken gave rise to a contractual obligation upon which a party has, in good faith, detrimentally relied.

(3) The action taken was in substantial compliance with Sections 11123 and 11125.

(4) The action taken was in connection with the collection of any tax. (Amended by Stats. 1999, Ch. 393, Sec. 5. Effective January 1, 2000.)

§ 11130.5

A court may award court costs and reasonable attorney's fees to the plaintiff in an action brought pursuant to Section 11130 or 11130.3 where it is found that a state body has violated the provisions of this article. The costs and fees shall be paid by the state body and shall not become a personal liability of any public officer or employee thereof.

A court may award court costs and reasonable attorney's fees to a defendant in any action brought pursuant to Section 11130 or 11130.3 where the defendant has prevailed in a final determination of the action and the court finds that the action was clearly frivolous and totally lacking in merit. (Amended by Stats. 1985, Ch. 936, Sec. 2.)

§ 11130.7

Each member of a state body who attends a meeting of that body in violation of any provision of this article, and where the member intends to deprive the public of information to which the member knows or has reason to know the public is entitled under this article, is guilty of a misdemeanor. (Amended by Stats. 1997, Ch. 949, Sec. 14. Effective January 1, 1998.)

§ 11131

No state agency shall conduct any meeting, conference, or other function in any facility that prohibits the admittance of any person, or persons, on the basis of ancestry or any characteristic listed or defined in Section 11135, or that is inaccessible to disabled persons, or where members of the public may not be present without making a payment or purchase. As used in this section, "state agency" means and includes every state body, office, officer, department, division, bureau, board, council, commission, or other state agency. (Amended by Stats. 2007, Ch. 568, Sec. 32. Effective January 1, 2008.)

BAGLEY-KEENE ACT PROVISIONS

§ 11131.5

No notice, agenda, announcement, or report required under this article need identify any victim or alleged victim of crime, tortious sexual conduct, or child abuse unless the identity of the person has been publicly disclosed. (Added by Stats. 1997, Ch. 949, Sec. 16. Effective January 1, 1998.)

§ 11132

Except as expressly authorized by this article, no closed session may be held by any state body. (Added by Stats. 1987, Ch. 1320, Sec. 4.)

APPENDIX G – SUB-ENTITY CHARTERS

PLACEHOLDER

APPENDIX H – AD HOC COMMITTEES

Ad Hoc Committees

Commission for Revision of Rules of Professional Conduct

The Commission for the Revision of the Rules of Professional Conduct is responsible for the evaluation of the California Rules of Professional Conduct and considers changes in rules concerning attorneys' professional conduct. Members of this commission are appointed by the Board Chair.

Task Force on Access Through Innovation of Legal Services

The Task Force on Access Through Innovation of Legal Services is charged with identifying possible regulatory changes to enhance the delivery of, and access to, legal services through the use of technology, including artificial intelligence and online legal service delivery models.

A Task Force report setting forth recommendations will be submitted to the Board no later than December 31, 2019. Each Task Force recommendation should include an explanatory rationale that reflects a balance of the dual goals of public protection and increased access to justice.

In carrying out this assignment, the Task Force should do the following:

Review the current consumer protection purposes of the prohibitions against unauthorized practice of law (UPL) as well as the impact of those prohibitions on access to legal services with the goal of identifying potential changes that might increase access while also protecting the public. In addition, assess the impact of the current definition of the practice of law on the use of artificial intelligence and other technology driven delivery systems, including online consumer self-help legal research and information services, matching services, document production and dispute resolution;

Evaluate existing rules, statutes and ethics opinions on lawyer advertising and solicitation, partnerships with non-lawyers, fee splitting (including compensation for client referrals) and other relevant rules in light of their longstanding public protection function with the goal of articulating a recommendation on whether and how changes in these laws might improve public protection while also fostering innovation in, and expansion of, the delivery of legal services and law related services especially in those areas of service where there is the greatest unmet need; and

With a focus on preserving the client protection afforded by the legal profession's core values of confidentiality, loyalty and independence of professional judgment, prepare a recommendation addressing the extent to which, if any, the State Bar should consider

increasing access to legal services by individual consumers by implementing some form of entity regulation or other options for permitting non lawyer ownership or investment in businesses engaged in the practice of law, including consideration of multidisciplinary practice models and alternative business structures.

Malpractice Insurance Working Group

The State Bar has appointed the Malpractice Insurance Working Group to conduct a mandated review and study of errors and omissions insurance for attorneys licensed in California.

The Board appointed members of the working group who represent a broad range of interests to ensure the voices of the Legislature, the bench, legal consumers, lawyers and insurance industry representatives are included in the study. The group will review areas specified in Business and Professions Code Section 6069.5, including:

The adequacy, availability and affordability of errors and omissions insurance for attorneys licensed in this state

Proposed measures for encouraging attorneys licensed in this state to obtain and maintain errors and omissions insurance

The ranges of errors and omissions insurance limits for attorneys licensed in this state recommended to protect the public

The adequacy and efficacy of the disclosure rule regarding errors and omissions insurance, currently embodied in Rule 3-410 of the Rules of Professional Conduct

The advisability of mandating errors and omissions insurance for attorneys licensed in this state and attendant considerations

Other proposed measures relating to errors and omissions insurance for attorneys in California that will further the goal of public protection

The working group will prepare a report for the Board to review and submit to the California Supreme Court and the Legislature by March 31, 2019.

APPENDIX I – STRATEGIC PLAN



The State Bar *of California*

2017–2022 Strategic Plan

Updated February 2019



MISSION STATEMENT

The State Bar of California’s mission is to protect the public and includes the primary functions of licensing, regulation and discipline of attorneys; the advancement of the ethical and competent practice of law; and support of efforts for greater access to, and inclusion in, the legal system.

GOAL

1

Successfully transition to the “new State Bar”—an agency focused on public protection, regulating the legal profession, and promoting access to justice.

OBJECTIVES

- 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.
- 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.
- c. No later than September 30, 2018, determine the appropriate role of, and Board responsibility for, State Bar Standing Committees, Special Committees, Boards, and Commissions in the new State Bar.

Ensure a timely, fair, and appropriately resourced admissions, discipline, and regulatory system for the more than 250,000 lawyers licensed in California.

ATTORNEY DISCIPLINE OBJECTIVES

- a. For greater transparency, accountability, efficiency, and access, develop and deploy a new case management system for the Office of Chief Trial Counsel, State Bar Court, and the Office of Probation by October 31, 2018.
- b. Develop and implement transparent and accurate reporting and tracking of the health and efficacy of the discipline system, to include: (a) completion of a workload study for OCTC and SBC; (b) identification of staffing and resource needs based on the results of that study; and (c) development of new metrics for measuring the effectiveness of the discipline system including any needed revisions to the statutory backlog metric.
- c. Begin auditing attorney compliance with MCLE requirements in the most cost effective and efficient manner no later than December 31, 2020.
- d. Support adequate funding of the Client Security Fund.
- e. No later than December 31, 2020, evaluate attorney self-assessment models and determine which model will be implemented in California.
- f. No later than July 1, 2021, create a fully articulated preventative education approach to include a self-assessment component as well as client trust accounting modules which may be mandatory for some attorneys.
- g. No later than January 1, 2019, require all attorneys to report firm size and practice type to the State Bar and to maintain and update that information.

UNAUTHORIZED PRACTICE OF LAW OBJECTIVES

- h. Monitor improvements in the response to complaints regarding the unauthorized practice of law through tracking and reporting on complaints received, investigation timelines, civil filings, and law enforcement referrals.
- i. Partner with law enforcement agencies to create a coordinated regional response to the unauthorized practice of law.
- j. Identify funding sources, including grant or state funding, to support the Bar's UPL efforts.
- k. Use communications strategies to support UPL enforcement objectives.

ADMISSIONS OBJECTIVES

- l. For greater transparency, accountability, efficiency, and access, develop and deploy a new case management system for the Office of Admissions by June 30, 2019.
- m. After the results of the February 2019 Bar Exam are published, evaluate the results of the two-day exam on pass rates and costs.
- n. No later than December 2019, conduct a California specific job analysis to determine the knowledge, skills, and abilities for entry level attorneys. Upon completion, conduct a new content validation study.
- o. No later than December 31, 2018, review special admissions rules to determine whether changes are needed to support the goal of increased access to legal services or for other reasons, and implement needed changes.

Improve the fiscal and operational management of the State Bar, emphasizing integrity, transparency, accountability, and excellence.

EMPLOYEE ENGAGEMENT OBJECTIVES

- a. Improve productivity through performance accountability, training, and professional development.
- b. Improve staff morale and career satisfaction through recognition of performance, career path development, transparent and collaborative communication, and recognition and encouragement of innovation, efficiencies, and money saving ideas.
- c. Conduct an annual employee engagement survey, evaluate changes from prior years, and implement an action plan to address areas needing improvement.
- d. No later than July 1, 2018, develop and implement a Communications Strategy Plan for timely and effective internal communication.

FINANCIAL MANAGEMENT OBJECTIVES

- e. No later than December 1, 2019, evaluate current collection efforts and determine what might be necessary to improve the Bar's ability to collect discipline and CSF costs.
- f. As part of the annual budget development process, determine, consistent with Business and Professions Code section 6140.9, whether there are excess funds in the LAP Fund which can be transferred to support the CSF.

INFORMATION TECHNOLOGY OBJECTIVES

- g. Implement a new Enterprise Resource Planning System (the Oracle Fusion suite of applications), beginning with the Human Capital Management module by the end of 2018 and continuing with the Finance and Procurement modules by the end of 2019.
- h. Implement a new Licensee Information Management System (LIMS), replacing AS400, by the end of 2021.
- i. Implement a phased upgrade to the Bar's Information Technology infrastructure (networks, servers, desktops, telecommunications and audio/visual), for enhanced capacity, functionality and security throughout 2018 and 2019.

MANAGEMENT OF OTHER ASSETS OBJECTIVES

- j. No later than November 30, 2018, develop goals and objectives for each functional area of the Bar and use those to develop organizational performance metrics.
- k. In conjunction with annual budgets, ensure maintenance and use of the Bar's Los Angeles and San Francisco buildings to maximize benefit to the Bar and the people of California.
- l. Pursue a two-year fee bill to ensure a balance between accountability and meaningful implementation of important reforms.

Support access to justice for all California residents and improvements to the state's justice system.

ACCESS TO JUSTICE OBJECTIVES

- a. Support increased funding and enhanced outcome measures for Legal Services.
- b. Study and implement improved programmatic approaches to increasing access to justice.
- c. By December 31, 2018, review Lawyer Referral Services certification rules with a goal of increasing access to justice.
- d. Commencing in 2018 and concluding no later than December 31, 2019, study online legal service delivery models and determine if any regulatory changes are needed to better support and/or regulate the expansion of access through the use of technology in a manner that balances the dual goals of public protection and increased access to justice.
- e. No later than December 31, 2019, complete a California Justice Gap Study. The Justice Gap Study will be modeled on the 2017 Legal Services Corporation Justice Gap Study but will also include an evaluation of the costs of legal education in California and the impact of those costs on access to justice, as well as possible approaches to addressing the costs of legal education including loan forgiveness programs or other means.
- f. No later than December 31, 2020, explore options to increase access through licensing of paraprofessionals, limited license legal technicians, and other paraprofessionals.

DIVERSITY AND INCLUSION OBJECTIVES

- g. Work with the California Accredited Law Schools and registered schools to develop enhanced demographic reporting requirements by December 31, 2019.
- h. Identify means of supporting existing law school programs to improve retention by December 31, 2019.
- i. No later than December 31, 2019, identify ways that diversity and inclusion principles can be institutionalized in Bar exam development and grading analyses and implement these practices no later than December 31, 2020.
- j. Assuming positive results from the Productive Mindset Intervention, expand implementation by February 2020.
- k. Continue development and implementation of initiative to collect demographic data about licensed attorneys through all stages of their career through 2019.
- l. No later than December 31, 2019, analyze available data to identify the particular obstacles to diverse attorneys' entry into, retention, and advancement in the legal profession.
- m. By December 31, 2020, modify the Elimination of Bias curriculum contained in the Minimum Continuing Legal Education requirements to consider the creation of sub-topics, and expanding the number of required hours.
- n. Develop and publish an annual report card on the state of the profession by January 31, 2020, and annually thereafter.
- o. Partner with the Judicial Council to complete the Judicial Diversity Toolkit.

Proactively inform and educate all stakeholders, but particularly the public, about the State Bar’s responsibilities, initiatives, and resources.

OBJECTIVES

- a. No later than July 1, 2018, develop and implement a Communication Strategy Plan for timely and effective communication about public protection goals, objectives, and accomplishments to external audiences including the public, oversight bodies, regulated parties, and other bars.
- b. Develop metrics to measure both the quality and effectiveness of the Bar’s communication and stakeholder engagement strategies and use those metrics to inform modifications to strategy.
- c. Maintain and enhance relationships with courts and other regulatory and enforcement agencies that share a mission of public protection.
- d. Improve transparency, accountability, accessibility, and governance by increasing the availability of meeting materials and public access to meetings and records and reporting these efforts to stakeholders and the general public.

APPENDIX J - CONFLICT OF INTEREST POLICY AUTHORITY

PLACEHOLDER