



The State Bar *of California*

OPEN SESSION AGENDA ITEM MARCH 2019 PROGRAMS COMMITTEE III.B

DATE: March 14, 2019

TO: Members, Programs Committee

FROM: Donna S. Hershkowitz, Chief of Programs
Hellen Hong, Director, Office of Access & Inclusion

SUBJECT: Adoption of Parameters of State Bar Role Re Access to Justice/Access to the Legal System

EXECUTIVE SUMMARY

Building on the discussion of access to justice and access to the legal system at the Board of Trustees' planning session in January, 2019, this agenda item sets forth the basic parameters/framework for the State Bar's role going forward on access issues. Following the discussion with, and direction from, the Programs Committee, staff, in partnership with Programs Committee Chair and Vice Chair, will seek input from the California Commission on Access to Justice (CCAJ) and the access community more broadly. That feedback will inform the proposal to be brought to the full Board at its May meeting, where action on this topic will be sought.

BACKGROUND

At its January 2018 planning session, a panel of experts discussed with the Board of Trustees (Board) a number of access issues that would benefit from the involvement and support of the State Bar of California. The outcome of that three-hour panel presentation was the adoption of several new objectives to support Goal 4 of the Bar's strategic plan – to support access to justice for all California residents and improvements to the state's justice system.

At its January 2019 planning session, the Board examined access missions and charges for a variety of organizations across the country, and internationally, as part of its determination of the appropriate role of the State Bar in access to justice and access to the legal system.

DISCUSSION

In May 2017, the Board of Trustees adopted a revised mission statement, which included access to legal services as part of the Bar's mission. Incremental changes have been made since that time to advance the Bar's role in access issues. In January 2018, a panel of staff and experts gave the Board extensive input on access issues for the Board's consideration. Based on that panel presentation, in March 2018, the Board adopted a series of objectives for inclusion in the strategic plan, identifying key areas of focus for the Bar on access issues. Prior to that time, the vast majority of the Bar's policy-related access work was carried out by the California Commission on Access to Justice.

Although the CCAJ Stakeholder Working Group, made the recommendation to separate from the Bar, and the Board approved that recommendation in January 2019, it remains important for the Board to formally establish the parameters for the Bar's participation in access to justice issues going forward, honing in on areas tied to the Bar's funding, regulatory, and oversight responsibilities. These parameters will guide decisions on legislation to sponsor or take positions on, new strategic plan directives to advance.

In January 2019, at its annual planning session, the Board engaged in a discussion of various access vision and mission statements to inform how the Bar's role in access should be defined. Based on the discussion of Board members during that meeting, staff proposes the following framework/parameters:

The State Bar will focus its work in the area of access to justice/access to legal services on efforts to achieve the following:

- Increasing or improving access to legal representation (e.g., funding for legal representation, unbundling and limited scope representation, loan repayment for law school debt, encouraging pro bono);
- Increasing or improving access to legal services that fall short of representation (e.g., self-help services, Practical Training of Law Student (PTLS) program); and
- Increasing or improving access to alternatives to legal representation (e.g. licensing paraprofessionals, examination of regulations to increase access through use of technology, exploration of alternative business structures / multidisciplinary practice to deliver legal services.)

The following chart may assist in understanding how this framework might be applied to various access issues.

| Issue | Related to Increasing and improving access to legal representation | Related to increasing and improving access to legal services | Related to increasing or improving access alternatives to legal representation | State Bar involvement? |
|--|--|--|--|------------------------|
| Justice Gap Study | X | X | X | Yes |
| Revision of special admissions rules | X | X | | Yes |
| Veteran's legal services | X | X | | Yes |
| Funding for legal services | X | X | | Yes |
| Revision of LRS rules to expand access | X | | | Yes |
| Civil Gideon | X | | | Yes |
| Pro Bono Practice Program | X | | | Yes |
| Incubator programs | X | | | Yes |
| Self-help services through legal services providers | | X | | Yes |
| Increasing access through technology (ATILS Taskforce) | | | X | Yes |
| Review of regulations re: paraprofessionals | | | X | Yes |
| Court interpreters | | | | No |
| Court reporters | | | | No |
| Access to courts | | | | No |
| Access standards for administrative agencies | | | | No |

This framework is intended to focus the Bar's work in this important area; to recognize where the Bar can add the most value and may be uniquely situated to act. This framework is not intended to elevate these access issues over others, but rather to identify the areas in which the Bar can and should be most impactful, while recognizing that others, including CCAJ, may be better positioned to address other important access issues.

Following any refinement of this framework by the Programs Committee, staff proposes, in partnership with the Chair and Vice-Chair of the Programs Committee, to seek input from the access community to inform the final proposal to be brought to the Board of Trustees in May 2019.

FISCAL/PERSONNEL IMPACT

None

RULE AMENDMENTS

None

BOARD BOOK AMENDMENTS

None

STRATEGIC PLAN GOALS & OBJECTIVES

Goal: 4. Support access to justice for all California residents and improvements to the state's justice system.

Objective: a. Support increased funding and enhanced outcome measures for Legal Services.

Objective: b. Study and implement improved programmatic approaches to increasing access to justice.

Objective: 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.

Objective: 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.

Objective: f. No later than December 31, 2020, explore options to increase access through licensing of paraprofessionals, limited license legal technicians, and other paraprofessionals.

RECOMMENDATIONS

It is recommended that the Programs Committee approve the following resolution:

RESOLVED, that staff, in partnership with the Chair and Vice-Chair of the Programs Committee, seek feedback from the access community in advance of brining this item to the Board of Trustees for adoption in May 2019.

ATTACHMENT LIST

None