



The State Bar of California

OPEN SESSION AGENDA ITEM 706 NOVEMBER 2019

DATE: November 14, 2019

TO: Members, Board of Trustees

FROM: Leah T. Wilson, Executive Director

SUBJECT: Proposed Amendments to Strategic Plan Objectives: (1) Access and Inclusion Objectives; (2) Due Date for Report from Task Force on Access through Innovation of Legal Services (ATILS); and Planning for the January 2020 Strategic Planning Session

EXECUTIVE SUMMARY

This agenda item seeks approval of the Board of Trustees (Board) to adjust the timeline for several objectives related to Goal 4 of the 2017-2022 Strategic Plan in light of internal and external factors that impact our ability to meet the deadlines as currently identified. This item also includes questions related to the Strategic Plan with the goal of preparing the Board for the 2020 Strategic Planning Session at the Board's January meeting.

BACKGROUND

The State Bar currently operates pursuant to a five-year Strategic Plan, the 2017-2022 Strategic Plan (Plan); the Plan has been updated annually by the Board of Trustees as part of its planning session which occurs each January. For example, the Board adopted new Plan objectives related to the State Bar's mandate to increase access to legal services and to increase the diversity of the legal profession subsequent to the January 2018 and 2019 (respectively) planning sessions. In addition, staff has periodically brought requests for Strategic Plan modification to the Board "off cycle", the most recent of which occurred at the Board's October 19, 2018, meeting.

The present agenda items reflects a similar request for mid-cycle Strategic Plan amendment.

DISCUSSION

Staff recommends that the due dates for the following Strategic Plan objectives related to access and inclusion be extended as follows:

Goal 4 Objective c. - *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.*

The work of the Task Force on Access Through Innovation of Legal Services (ATILS) has garnered extensive interest in the legal community, resulting in more than 1,400 comments submitted on the 16 conceptual proposals circulated for public comment this summer. The Task Force would benefit from additional time to synthesize the comments develop appropriate recommendations to the Board. In addition, additional work is needed to solicit feedback from the public at large. Staff therefore recommends extending the final date for submission of the ATILS work from December 31, 2019, to March 31, 2020.

Objective g. - *Work with the California Accredited Law Schools and registered schools to develop enhanced demographic reporting requirements by December 31, 2019.*

The Committee of State Bar Accredited and Registered Law Schools (CSBARS) has discussed the enhanced demographic reporting requirements on at least two separate occasions. Staff has been working diligently between meetings to develop comprehensive reporting requirements. We anticipate this topic to be discussed by CSBARS at its December meeting, however it is likely that final decisions on how to roll out the enhanced reporting requirements will not be finalized before the end of the year. Staff therefore recommends extending the deadline for this objective to February 28, 2020.

Objective h. - *Identify means of supporting existing law school programs to improve retention by December 31, 2019.*

After seeking to gather information from the law schools on their retention programs, conducting a review of law school programs outside of California, and listening to the core messages Dr. Reeves presented at the State Bar's 2nd Annual Diversity Summit, the Council on Access & Fairness (COAF) concluded that this objective should be altered, and the deadline extended. A key to identifying successful retention programs for students from diverse backgrounds is not what programs are reported by schools to be effective, but rather what programs students find to be effective, and, most importantly, that data analysis suggests are effective. Staff will assess the most viable modality for gathering both student satisfaction and outcomes data and will return to the Board with revised objective language; in the interim, the due date for the objective should be extended to December 31, 2020.

Objective i. - *No later than December 31, 2019, identify ways that diversity and inclusion principles can be institutionalized in Bar exam development and grading analysis and implement these practices no later than December 31, 2020.*

At least partially attributable to the number of objectives that were added in March 2019 with a December 31, 2019, due date, work on this objective is still in the very early stages. COAF received a presentation from Admissions staff on the processes currently employed, and volunteers from COAF have been identified to work on developing the necessary guidelines along with staff from the Office of Admissions and the Office of Access & Inclusion. Staff therefore recommends that this goal be modified to provide that the work of identifying how these principles can be institutionalized in State Bar practices be completed by March 31, 2020, with final proposals, including any formal guidelines or rule proposals, to be submitted to the Board by December 31, 2020.

Objective 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.*

Legislation enacted this year [AB 242 (Kamlager-Dove), Stats. 2019, ch. 418] addressed a similar topic, requiring the State Bar, by January 1, 2022, to adopt rules requiring that the MCLE curriculum include training on implicit bias and the promotion of bias-reducing strategies to address how unintended biases regarding race, ethnicity, gender identity, sexual orientation, socioeconomic status, or other characteristics undermine confidence in the legal system. COAF has adopted recommended language to implement this requirement which will be presented to the Board in January 2020.

Staff recommends modification of the Plan objective to comport with the statute as follows:

By December 31, 2020, adopt revised rules to modify the Elimination of Bias MCLE requirements in a manner that considers the creation of sub-topics and expanding the number of hours of requirement and is consistent with the time lines adopted in Business and Professions Code section 6070.5.

Planning for the January 2020 Strategic Planning Session

The next meeting of the Board of Trustees will be the planning session where the Board reviews the status of projects on the current Strategic Plan and determines whether any changes to the Plan are needed. Staff has identified the following questions for Board consideration and discussion to facilitate preparation for the January 2020 planning session:

- Balance of Internal vs. External Goals and Objectives – in recent years the State Bar has devoted a significant amount of its energy and resources to the reform of internal structures and operations. On the external side of the ledger, the State Bar has also

embarked on a number of significant studies that address attorney practice and the practice environment that the State Bar is charged with regulating. Does the Strategic Plan strike the right balance between sustained focus on the operation of the Bar, itself, and pushing forward with the policy and programmatic initiatives related to the future of the legal profession?

- Balance across Topics – the Strategic Plan contains five Strategic Goals, some of which include more than a dozen discrete objectives, others that include only three or four objectives. Is sufficient attention given to the each of the different goals and are they balanced appropriately?
- Integration and Synthesis of Issues – a number of key initiatives currently underway have implications for one another. The Task Force on Access Through Innovation of Legal Services (ATILS) work has clear implications for the Justice Gap study. Is this work being conducted in a manner that allows for information sharing and the identification and addressing of common issues to ensure that the State Bar maximizes the value of each of these work streams?
- Timing and Sequence – although the objectives contained in the Strategic Plan are linked to completion dates, timing and sequencing can be important both as a matter of prioritization and as a matter of the dependence of objectives upon one another. Do the dates assigned to the various objectives contained within the Strategic Plan take into consideration the priority of each item, and the sequence of interdependent activities to maximize the likelihood of success?
- Content – Are the five Strategic Goals contained in the Strategic Plan inclusive of the core work that the State Bar should be doing or is anything missing? Similarly, within the objectives contained under each of the Strategic Goals: are these objectives inclusive of everything that the State Bar should include in its plan or is anything missing? Are there items that should be removed from the Strategic Plan or modified?

FISCAL/PERSONNEL IMPACT

None

RULE AMENDMENTS

None

BOARD OF TRUSTEES POLICY MANUAL AMENDMENTS

None

STRATEGIC PLAN GOALS & OBJECTIVES

Goal: 4. Support access to legal services...and promote policies...programs to eliminate bias and promote an inclusive environment in the legal system...and strive to achieve a statewide attorney population that reflects the rich demographics of the state's population

Objectives: c. By December 31, 2018, review Lawyer Referral Services certification rules with a goal of increasing access to justice.

Objective: g. Work with the California Accredited Law Schools and registered schools to develop enhanced demographic reporting requirements by December 31, 2019.

Objective: h. Identify means of supporting existing law school programs to improve by December 31, 2019.

Objective: 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 Institutionalize these practices no later than December 31, 2020.

Objective: m. By December 31, 2020, modify the Elimination of Bias curriculum contained in the Mandatory Continuing Legal Education requirements to consider the creation of sub-topics, and expanding the number of required hours.

RECOMMENDATIONS

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

RESOLVED, that the Board of Trustees approve the adjustments to 2017-2022 Strategic Plan objectives outlined in this report.

ATTACHMENT(S) LIST

None