



The State Bar *of California*

OPEN SESSION

AGENDA ITEM

113 JANUARY 2020

BOARD EXECUTIVE COMMITTEE III.C

DATE: January 24, 2020

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

FROM: Linda Katz, Principal Program Analyst, Mission Advancement and
Accountability Division

SUBJECT: Approval of 2020 Legislative Priorities

EXECUTIVE SUMMARY

The activities of the State Bar are largely governed by its mission and strategic plan. Those governing principles guide the 2020 legislative priorities, presented in this item for approval by both the Board Executive Committee and the Board of Trustees.

BACKGROUND

In 2018 the Board adopted a new legislative program which articulated the purpose of the program along with a set of guiding principles. The purpose of the State Bar's legislative program is to monitor legislative activity and represent and advocate for the State Bar on legislative, policy and budget matters before the Legislature and the Governor. The State Bar seeks to ensure that laws are in place that enhance the ethical and competent practice of law, the ability to effectively license and regulate lawyers, and provide fair, just, and appropriate discipline of attorneys. It also seeks to ensure that laws enhance access to the profession and the justice system; and, to promote laws that identify effective new tools for, or eliminate unnecessary obstacles to, the carrying out of its public protection mission. The legislative program is designed to advance the State Bar's Strategic Plan.

This agenda item sets forth the State Bar's legislative priorities for 2020, requesting approval for the individual proposals falling within those guiding principles.

DISCUSSION

The following table provides a summary of the proposed legislative priorities for 2020:

Code Section (Business and Professions Code unless otherwise specified)	Purpose of the Proposal
6001.2	This section directed the State Bar to create a Governance in the Public Interest Task Force (Task Force) in 2013, and requires the Task Force to submit a report every three years. Reports and recommendations from the Task Force have led to systemic reforms, resulting in a State Bar whose mission, strategic plan, and goals and objectives are focused entirely on public protection. As such, the statutory mandate of the Task Force is redundant to the State Bar.
6060.25	<p>Section 6060.25 provides that any identifying or potentially identifying information submitted by an applicant to the State Bar for admission and a license to practice law shall be confidential and shall not be disclosed pursuant to any State law, including but not limited to the California Public Records Act.</p> <p>Amendments to this section would (1) add that identifying or potentially identifying information <i>submitted by a law student or by a law school to the State Bar for regulatory purposes</i> shall be confidential and shall not be disclosed pursuant to any State law, including but not limited to the California Public Records Act; and (2) add a subdivision consistent with section 6060.2(b) (regarding the confidentiality of moral character proceedings) providing that, notwithstanding the prohibition on disclosure of identifying or potentially identifying applicant or law student records, such records may be disclosed in response to a lawfully issued subpoena or a written request from a government agency responsible for either the enforcement of civil or criminal laws or the professional licensing of individuals that is conducting an investigation about the applicant.</p>
6086.10(a)	<p>Section 6086.10 provides that a Supreme Court order imposing disciplinary costs is enforceable as provided in Section 6.140.7 and as a money judgment.</p> <p>Amendments to this section would codify that Supreme Court disciplinary orders are enforceable through any means allowed under state law as exemplified by Sections 6086.10(a) (allows orders to be enforceable as a money judgment or for costs to become part of the license fee or reinstatement), 6034 (allows any unpaid amounts under 6086.10 to be collected through the Franchise Tax Board (FTB) Interagency Intercept Program) and Revenue and Taxation code 19280 (allows any amounts due pursuant to Section 6086.10 to be collected through FTB's Court-Ordered Debt Collection Program).</p>

Code Section (Business and Professions Code unless otherwise specified)	Purpose of the Proposal
6140.5	<p>Section 6140.5 provides that attorneys who caused the Client Security Fund (CSF) payout shall reimburse CSF for the amount of that payout as a condition of continued practice or reinstatement. However, there is no provision for the State Bar to file for an entry of money judgment for final orders issued by CSF, unless there is a restitution order for the CSF payout in a Supreme Court disciplinary order.</p> <p>Amendments to this section would codify that any amounts paid by CSF are owed and payable to the State Bar similar to the discipline costs, allow the State Bar to enter money judgments for all final orders issued by CSF going forward, and allow enforcement through any means allowed under state law, including a program administered by the FTB. Amendments would also allow attorneys to seek reductions, waivers, and extensions of all CSF payments, similar to provisions related to disciplinary costs, allowing them to be reinstated while paying down these costs or to be reinstated after having paid the reduced amount.</p>
TBD (new)	A new section in the State Bar Act that would exempt from disclosure under State law, including but not limited to the California Public Records Act, records relating to the preparation, approval, grading, or administration of the California Bar Examination, First-Year Law Students' Examination, or examinations for certification of a specialist.
Revenue and Taxation (new)	A new section in the Revenue and Taxation Code would allow the Franchise Tax Board to collect non-court ordered CSF debt as if it were a tax.

FISCAL/PERSONNEL IMPACT

None

AMENDMENTS TO RULES OF THE STATE BAR

None

AMENDMENTS TO BOARD OF TRUSTEES POLICY MANUAL

None

STRATEGIC PLAN GOALS & OBJECTIVES

Goal: None - core business operations

RECOMMENDATIONS

Should the Board Executive Committee concur in the proposed action, passage of the following resolution is recommended:

RESOLVED, that the Board Executive Committee recommends that the Board of Trustees approve the State Bar's 2020 legislative priorities included in this item.

Should the Board of Trustees concur in the proposed action, passage of the following resolution is recommended:

RESOLVED, that the Board of Trustees, upon recommendation of the Board Executive Committee approve the State Bar's 2020 Legislative Priorities included in this item.

ATTACHMENT(S) LIST

None