



The State Bar of California

AGENDA ITEM

MAY 10 – April 16, 2020, Open Session Minutes

Regular Meeting of the Board of Trustees

The State Bar of California
Teleconference via Zoom

Thursday, April 16, 2020
4:00 p.m.–6:00 p.m.

Time meeting commenced: 4:00 p.m. [The Board convened in Closed Session at 5:25 p.m., adjourned Closed Session at 6:45 p.m., and reconvened in Open Session at 6:49 p.m.]

Time meeting adjourned: 6:58 p.m.

Chair: Alan Steinbrecher

Secretary: Sarah Cohen

Members present: Mark Broughton, Hailyn Chen, José Cisneros, Juan De La Cruz, Sonia Delen, Ruben Duran, Chris Iglesias, Debbie Manning, Joshua Perttula, Sean SeLegue, Brandon Stallings

Members joined in progress: Renée LaBran

Members absent: Juan De La Cruz

Public Comment:

James Aguirre: Mr. Aguirre, a former member of the State Bar Board of Governors and a two-term member of the Committee of Bar Examiners, commented on the COVID-19 related rule change proposal in agenda item #702. Mr. Aguirre requested the Board consider additional rule changes to address late fee issues related to the California Bar Examination given that students are already in the penalty period to pay for the exam if they held off on signing up until now. According to Mr. Aguirre, students need settled ground and lead time and therefore should be advised as soon as possible if they will be given an extension to sign up for programs or the exam.

Raquel Hines: Ms. Hines, District Labor Council President for the State Bar bargaining units represented by SEIU Local 1000 and Program Analyst in the Office of Attorney Regulation & Consumer Resources, commented on agenda item #703, urging the Board to approve the memorandum of understanding between the union and management. Ms. Hines stated that 98 percent of the attorney unit and 97 percent of the general unit voted to ratify the tentative agreement reached on March 20. Ms. Hines stated that the negotiation process involved one of give and take and neither side got everything they wanted, but Ms. Hines believes that the agreement is fair.

End of Public Comment

30 CHAIR'S REPORT – Oral

50 CONSENT

50-1 Approval for Specified Contracts Pursuant to Business and Professions Code Section 6008.6

1. For law school inspections, with: Heather Georgakis

2. For Oracle support, with: Sierra-Cedar

RESOLVED, that the Board of Trustees approves execution of the contracts listed herein.

50-2 Commission on Judicial Nominees Evaluation – Approval of Extension of Terms of Third Year Commissioners and Officers

RESOLVED, that the Board of Trustees approves extension of the terms of the third year commissioners on the Commission of Judicial Nominees Evaluation (JNE) until such time as the final meeting of the 2019 JNE Commission can be held; and it is

FURTHER RESOLVED, that the Board of Trustees approves extension of the terms of the Chair and Vice-Chair of the JNE Commission until such time as the final meeting of the 2019 JNE Commission can be held.

Consent Item 50-1 and Item 50-2 voted on collectively:

Moved by Duran, seconded by SeLegue.

Ayes: Broughton, Chen, Cisneros, Delen, Duran, Iglesias, LaBran, Manning, Perttula, SeLegue, Stallings

Motions Carried

700 MISCELLANEOUS

701 Approval of 2019 Annual Discipline Report

RESOLVED, that the Board of Trustees approve the 2019 Annual Discipline Report, allowing for final edits pursuant to discussions during today's meeting, as well as nonsubstantive edits by staff.

Moved by Stallings, seconded by Delen.

Ayes: Broughton, Chen, Cisneros, Delen, Duran, Iglesias, LaBran, Manning, Perttula, SeLegue, Stallings

Motion Carried

702 Emergency Rule Changes Necessitated by COVID-19

1. Waiver of Licensing Fee Late Payment Penalty For Licensees Impacted by the COVID-19 Emergency.

RESOLVED, that the Board of Trustees, pursuant to Rule 2.16(H) of the Rules of the State Bar of California, hereby approves the waiver of any 2020 licensing fee late payment penalty where the requestor has provided proof, to the satisfaction of staff, that their ability to pay has been impacted by COVID-19 Emergency, and that the Board of Trustees hereby delegates to staff the authority to adopt reasonable measures to similarly address other payment issues that may be raised by licensees impacted by the COVID-19 emergency.

2. Extend from June 30 to September 30 the Final Deadline for Payment of License Fees.

RESOLVED, that the Board of Trustees approves of a modified schedule setting September 30, 2020, as the final deadline for licensees to pay outstanding fees or be recommended for suspension by the Supreme Court.

3. Extend from June 30 to September 30 the Final Deadline for MCLE Compliance.

RESOLVED, that the Board of Trustees approves of a modified schedule setting September 30, 2020, as the final deadline for licensees in Compliance Group 3 to comply with their MCLE requirements or be administratively enrolled on Involuntary Inactive status.

~~4. Extend from June 30 to September 30 the Final Deadline for Fingerprinting Compliance for Certain Licensees.~~

~~**RESOLVED**, that the Board of Trustees, pursuant to Rule 2.46 of the Rules of the State Bar of California, hereby resets from June 30, 2020, to September 30, 2020, the final deadline for compliance with the fingerprinting requirement for noncompliant licensees identified in Groups 1 through 4 of Agenda Item 704 November 2019 or be administratively enrolled on Involuntary Inactive status.~~

5. Extend from June 30 to September 30 Deadline for MCLE Multiple Activity Providers to Renew Status.

RESOLVED, that the Board of Trustees, pursuant to Rule 3.621 of the Rules of the State Bar of California, hereby resets from June 30, 2020, to September 30, 2020, the deadline for MCLE Multiple Activity Providers to submit renewal applications.

6. Extend from May 3 to June 30 the Penalty Deadline for Law Corporation Renewal (Rule 3.156(B)).

RESOLVED, that the Board of Trustees, pursuant to Rule 3.156(B) of the Rules of the State Bar of California, hereby modifies the Schedule of Charges and Deadlines to reset from May 3, 2020, to June 30, 2020, the final deadline for law corporations to submit annual registration fees and applications for renewal.

7. Interim Amendment to Rule 3.513 of the Rules of the State Bar of California to Permit Electronic Service in Mandatory Fee Arbitration Proceedings.

RESOLVED, that the Board of Trustees, having determined pursuant to Rule 1.10(C) of the Rules of the State Bar of California that an emergency justifies immediate enactment of this interim measure without public comment, hereby amends Rule 3.513 of the Rules of the State Bar of California to add the following subdivision (F):

(F) Electronic Service. [The following provisions of this subdivision (F) are interim emergency measures adopted by the Board of Trustees pursuant to Rule 1.10(C) of the Rules of the State Bar of California and shall expire on August 14, 2020, unless otherwise ordered by the Board of Trustees.]

(i) In addition to the methods of service provided for in subdivision (A) of this rule, the parties to an arbitration may consent to electronic service of documents upon each other pursuant to Code of Civil Procedure section 1010.6(a)(1)(A)-(C).

(ii) The parties to an arbitration may consent to receive electronic service of documents from the State Bar in lieu of service by mail by providing to the

State Bar written consent to receive electronic service of documents from the State Bar at the party's designated electronic address.

8. Interim Rule 5.26.1 of the Rules of the State Bar of California to Permit Electronic Service in State Bar Court Proceedings.

RESOLVED, that the Board of Trustees, having determined pursuant to Rule 1.10(C) of the Rules of the State Bar of California that an emergency justifies immediate enactment of this interim measure without public comment, hereby enacts interim Rule 5.26.1 of the Rules of Procedure of the State Bar of California as set forth below:

Interim Rule 5.26.1 Electronic Service of Later Pleadings

[This interim rule 5.26.1 is adopted by the Board of Trustees pursuant to Rule 1.10(C) of the Rules of the State Bar of California and shall expire on August 14, 2020, unless otherwise ordered by the Board of Trustees.]

- (A) Electronic Service.** In addition to the methods of service of later pleadings permitted by Rule 5.26(F), a party may serve later pleadings by electronic service. The court may electronically serve any document issued by the court to a party's or other person's email address. The court may use the attorney's email address that is reported to the State Bar pursuant to rule 9.9(a) of the California Rules of Court to electronically serve a party or other person.
- (B) Definitions.** The following definitions apply to this rule:
 - (1)** "Electronic service" means service of a document, on a party or other person, by electronic transmission. Electronic service may be performed directly by a party or other person, or by an agent of a party or other person, including the party or other person's attorney.
 - (2)** "Electronic transmission" means the transmission of a document by electronic means to the electronic service address.
- (C) Computing Time.**
 - (1)** Service of a pleading or document that is served by electronic service is deemed complete at the time of the electronic transmission of the pleading or document.
 - (2)** When service is made by electronic transmission, the prescribed period to act or respond is extended by two Court days.
 - (3)** The provisions of Rule 5.28 otherwise apply to computing time.

(D) Proof of Electronic Service.

(1) When a party serves a document by electronic service pursuant to this rule, a party must make proof of electronic service under Code of Civil Procedure section 1013b, subdivisions (a) and (b). The proof of electronic service may include an electronic signature as defined in State Bar Court General Order 20-03.

(2) For purposes of this rule, a party complies with the electronic service requirements if the party executes the party's own proof of service after completing the electronic transmission.

(3) The proof of electronic service must be filed with the court pursuant to Rule 5.27(C).

(E) Change of Electronic Service Address. A party or other person whose electronic service address changes while the proceeding is pending must promptly notify in writing, including by email, all other parties and all other persons required to be served of his or her change of electronic service address.

Moved by SeLegue, seconded by Stallings.

Ayes: Broughton, Chen, Cisneros, Delen, Duran, Iglesias, LaBran, Manning, Perttula, SeLegue, Stallings

Motion Carried

703 Approval of 2020–2022 Memoranda of Understanding (Attorney Unit and General Unit) Between the Service Employees International Union, Local 1000, and the State Bar of California

RESOLVED, that the Board of Trustees approves the terms of the tentative agreement between the State Bar and the Union for 2020–2022 Memoranda of Understanding, as described in Attachment A.

Moved by Duran, seconded by Cisneros.

Ayes: Broughton, Chen, Cisneros, Delen, Duran, Iglesias, LaBran, Manning, SeLegue, Stallings

Abstain: Perttula

Motion Carried

704 Approval of Amendments to Retiree Health Plan for Retirees of the State Bar

Updated 2017–2022 Strategic Plan Rev. 3: 3.b.

RESOLVED, that the Board of Trustees approves amendment and restatement of the State Bar of California Post Retirement Welfare Benefits Plan in the form contained in Attachment A hereto.

Moved by Duran, seconded by Cisneros.

Ayes: Broughton, Chen, Cisneros, Delen, Duran, Iglesias, LaBran, Manning, Perttula, SeLegue, Stallings

Motion Carried

705 Approval of Revisions to Rules and Regulations Pertaining to the Employment of Executive Staff Employees and to the Rules and Regulations Pertaining to the Employment of Confidential Employees

RESOLVED, that the Board of Trustees adopt the amended Rules and Regulations Pertaining to the Employment of Executive Staff Employees and the amended Rules and Regulations Pertaining to the Employment of Confidential Employees, as set forth above.

Moved by Manning, seconded by Delen.

Ayes: Broughton, Chen, Cisneros, Delen, Duran, Iglesias, LaBran, Manning, Perttula, SeLegue, Stallings

Motion Carried