



OPEN SESSION

AGENDA ITEM

54-117 JULY 2020

BOARD EXECUTIVE COMMITTEE III.E

DATE: July 15, 2020

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

FROM: Mark Broughton, Appointments Liaison, Board Executive Committee
Juan De La Cruz, Appointments Liaison, Board Executive Committee

SUBJECT: Committee on Professional Responsibility and Conduct - Annual Appointment
of Members, Officers, and Alternates

EXECUTIVE SUMMARY

This item presents the candidates recommended for appointment to the Committee on Professional Responsibility and Conduct ("COPRAC" or "the Committee") for the 2020-2021 committee year. This item recommends the appointment of three new Committee members along with the Chair and Vice-Chair. In addition, this item recommends the re-appointment of the current Chair to serve as a special advisor to the Committee.

BACKGROUND

The Committee on Professional Responsibility and Conduct addresses matters involving professional ethics. The Committee helps educate and provide guidance to attorneys, judges, and the public about the ethical duties of an attorney. The Committee's work includes: (1) drafting advisory opinions on issues of professional ethics; (2) drafting arbitration advisories to provide guidance to fee arbitrators; (3) studying and recommending changes to the Rules of Professional Conduct; (4) conducting special studies and providing consultation to the Board of Trustees on professional responsibility issues; and (5) engaging in educational and outreach programs on legal ethics topics, including conducting an annual ethics symposium.

Currently, 12 volunteers serve on the Committee. The Committee has two officers who each serve a one-year term of office: Chair and Vice-Chair. Beginning last year, consistent with policy

changes the Board made to all subentities, the Committee appointed new members to a four-year term. All other members are serving a three-year term.

DISCUSSION

This year, the terms of four members will end: three Committee members and the Chair of the Committee. At the March 2019, Board meeting, the Board resolved to maintain a size of 12 members for COPRAC. In order to maintain this committee size, we recommend the appointment of three new individuals to COPRAC this year.

The individuals recommended for appointment will continue to provide a core of members with a background in legal ethics, which is critical to the Committee's ability to issue opinions and to develop educational programs. In addition, two of the candidates have experience in criminal law which will broaden the Committee's practice area expertise.

PROPOSED NEW MEMBERS

The State Bar received 15 applications. In order to fill three vacancies, the Board Appointment Liaisons reviewed the applications, considered recommendations from committee leadership and from staff. The Board Appointment Liaisons believe that the three individuals recommended for appointment will serve COPRAC and the Board well. The criteria used to consider the applications included, in no particular order: (1) prior experience in the legal ethics field; (2) prior experience in fee arbitration; (3) prior volunteer experience, particularly involvement in legal and other professional groups; and (4) diversity, including race, ethnicity, gender, sexual orientation, and geographic region.

The three individuals recommended for appointment to COPRAC are: Seth Flagsberg, Kyla Rowe, and Hunter Starr. All three applicants were considered strong candidates for COPRAC.

Seth Flagsberg

Seth Flagsberg has taught a professional responsibility course at the Santa Clara University School of Law for the past seven years. He also has extensive experience as a criminal defense attorney both as a deputy public defender and an attorney with the Northern California Innocence Project.

Kyla Rowe

Kyla Rowe has a strong academic and professional background which includes excellence in research and writing, a core function of the Committee's work. Her practice area focuses on real estate, corporate transactional and regulatory law.

Hunter Starr

Hunter Starr teaches professional responsibility at the Kern County College of Law. He is a deputy district attorney in Kern County. In addition, he has authored multiple publications and has local bar association committee experience.

Collectively, they would offer the following attributes to the Committee: (1) experience in the law governing lawyers; (2) experience in both prosecuting and defending criminal cases; (3) regulatory and transactional law experience; (4) legal ethics academia; (5) experience as a public lawyer (public defender and district attorney); and (6) gender, age, and geographic diversity.

PROPOSED OFFICERS

Current appointment practice provides that the current Vice-Chair be recommended as Chair for the upcoming committee year.¹ We recommend following this practice and, as a result, we recommend Dena Roche be appointed as the next Chair of the Committee. She is currently serving a one-year term as the Vice-Chair and we are recommending she be appointed to another one-year term to serve as Chair.

This year, there was one Committee member who expressed interest in being considered for appointment as Vice-Chair. The candidate is Justin Fields from San Francisco who is in his third year on the Committee. He has been an active member of the Committee and is well qualified to serve as Vice-Chair.

SPECIAL ADVISOR

On June 1, 2020, four district attorneys wrote a letter to the State Bar requesting the adoption of a rule of professional conduct, or an ethics opinion, prohibiting elected prosecutors, or those seeking election to a prosecutorial post, from seeking or accepting political or financial support from law enforcement unions. This proposal has been referred to COPRAC for evaluation and study. In order to assist the Committee with this assignment, we recommend reappointing the current Chair, Stephen Bundy, to continue to serve on the Committee in the role of special advisor for a one-year term, or until further order of the Board, whichever occurs earlier. Although this is a departure from the typical COPRAC appointments, it is justified by the workload of the special assignment to the Committee and the goal of mitigating any detrimental impact on the Committee's ethics opinion and arbitrator advisory work.

ALTERNATE MEMBERS

In the event the Board Executive Committee or the Board do not agree with one or more of the recommendations for appointment, or should a vacancy occur within COPRAC during the upcoming Committee year, we recommend the following individuals as alternates: (1) Joel Mark; (2) Jeffrey Aaron; and (3) Michael Yraceburn.

¹ See, [Appendix E to the Board of Trustees Policy Manual](#). Appointment and Composition Requirements or Guidelines: "For leadership continuity, committee staff will generally nominate the committee member serving as Vice-Chair to serve as Chair in the committee year following service as Vice-Chair."

APPLICANTS NOT SELECTED

The following is a list of applicants not currently recommended for appointment, listed alphabetically:

1. James Ching
2. Eli Salomon Contreras
3. Brad Estes
4. Jacob Evans
5. Anthony Khoury
6. Marcus Neupert
7. Young Ryu
8. Michael Teplinsky
9. David Wasson

FISCAL/PERSONNEL IMPACT

The fiscal impact of the appointment of an advisor member to the Committee will be absorbed by savings in this year's Office of Professional Competence budget and will be accounted for in staff's preparation of the 2020 budget.

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 appointment of the following new members, officers, and special advisor to serve on the Committee of Professional Responsibility and Conduct beginning in the 2020–2021 committee year:

Officers

Dena Roche, Chair
Justin Fields, Vice-Chair

Member Appointments

Seth Flagsberg
Kyla Rowe
Hunter Starr

Special Advisor

Stephen Bundy

Alternate Member Appointments

Joel Mark
Jeffrey Aaron
Michael Yraceburn

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 appointment of the following new members, officers, and special advisor to serve on the Committee of Professional Responsibility and Conduct beginning in the 2020–2021 committee year:

Officers

Dena Roche, Chair
Justin Fields, Vice-Chair

Member Appointments

Seth Flagsberg
Kyla Rowe
Hunter Starr

Special Advisor

Stephen Bundy

Alternate Member Appointments

Joel Mark
Jeffrey Aaron
Michael Yraceburn

ATTACHMENT(S) LIST

- A.** Worksheet Presenting Executive Committee Liaisons' Recommendation



ATTACHMENT A

PROPOSED: 2020–2021 COMMITTEE
COMMITTEE ON PROFESSIONAL RESPONSIBILITY AND CONDUCT
(Appointed/Reappointed by the Board of Trustees, July 16, 2020)

Officer and new member terms begin at the close of the September 2020 State Bar Board of Trustees meeting (September 24–25, 2020). Officer terms are one year and expire at the close of the September 2021 State Bar Board of Trustees meeting (September 23–24, 2021). Member terms expire at the close of the State Bar Board of Trustees meeting in the year indicated below.

POSITION	MEMBER	CITY	TERM EXPIRATION
Chair/ Continuing Member	Dena M. Roche	San Francisco	2021
Vice-Chair/ Continuing Member	Justin J. Fields	San Francisco	2021
Special Advisor/ Continuing Member	Stephen M. Bundy	Berkeley	2021 (or action of the Board, whichever occurs earlier)
Continuing Member	David C. Carr	San Diego	2021
Continuing Member	Tobi Inlender (PM)*	Sherman Oaks	2021
Continuing Member	Adam M. Koss	San Mateo	2021
Continuing Member	Si Eun Amber Lee	San Francisco	2021
Continuing Member	Kenneth E. Bacon	Sacramento	2023
Continuing Member	Sarah J. Banola	San Francisco	2023
Continuing Member	Brandon N. Krueger	Laguna Beach	2023
New Member	Seth Flagsberg	Los Altos	2024
New Member	Kyla Rowe	San Francisco	2024
New Member	Hunter Starr	Bakersfield	2024

***Public Member**