



The State Bar of California

OPEN SESSION AGENDA ITEM 701 JULY 2021

DATE: July 1, 2021

TO: Members, Board of Trustees

FROM: Justin Ewert, Principal Analyst, Mission Advancement & Accountability Division

SUBJECT: Ad Hoc Commission on the Discipline System: Expansion of Membership

EXECUTIVE SUMMARY

At its meeting on September 24, 2020, the Board authorized the formation of the Ad Hoc Commission on the Discipline System (Commission). This item requests that the Board authorize the expansion of the Ad Hoc Commission on the Discipline System (Commission) with the addition of up to four new non-lawyer / consumer members.

BACKGROUND

At its meeting on September 24, 2020, the Board authorized the formation of the Ad Hoc Commission on the Discipline System (Commission). The Commission was established to engage in a comprehensive review of the discipline system taking into account the wide-ranging reforms and restructuring that the State Bar has undertaken in recent years to improve the effectiveness and fairness of the attorney discipline system.

At its meeting on November 19, 2020, the Board approved a charter to guide the Commission's work and also approved the composition of the Commission's membership. The Board of Trustees appointed 21 members to the Commission at its meeting on January 21, 2021, and delegated to the Chair of the Commission the authority to solicit and appoint members to fill vacancies.

DISCUSSION

The Commission consists of lawyers, judges, experts in attorney discipline and professional regulation. The designated stakeholder groups and the number of members representing each group are:

- Council on Access and Fairness (1)
- California Medical Board (1)
- Department of Consumer Affairs (1)
- California Lawyers Association (2)
- Association of Discipline Defense Counsel (2)
- National Organization of Bar Counsel (1)
- California criminal justice system (prosecutor, defense counsel, judge) (4)
- State Bar Board of Trustees (3)
- Office of Chief Trial Counsel (2)
- State Bar Court (2)
- Affinity Bar Associations (4)

After holding the inaugural meeting of the Commission and two subcommittee meetings, the Chair has determined that the Commission would benefit from an expansion of its membership. Specifically, the Chair is looking to increase the participation of non-attorneys in the Commission's work. The addition of such members will amplify the voice of consumers in discussions about how to improve the State Bar's discipline system.

Additional public members will be solicited via a social media campaign designed to target legal consumers, akin to the process used to identify public members for the California Paraprofessional Program Working Group.

Although the Board delegated to the Chair of the Ad Hoc Commission the authority to solicit and appoint members to fill vacancies, staff recommends that such appointments be made in consultation with the Board appointment liaisons. This practice was adopted at the Board's May meeting for the expansion of the Closing the Justice Gap Working Group.

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: 2. Ensure a timely, fair, and appropriately resourced admissions, discipline, and regulatory system for the more than 250,000 lawyers licensed in California.

Objective: b. Develop and implement transparent and accurate reporting and tracking of the health and efficacy of the discipline system, and measures to improve the fairness and efficacy of the discipline system to include: (a) an updated workload study for OCTC; (b) identification of staffing and resource needs based on the results of that study; (c) evaluating the different points of contact between the State Bar and Complaining Witnesses/Respondents to identify areas where modifications to the form or content of communication could improve the sense of procedural fairness; and (d) pilot changes in the form or content of communication w/ Complaining Witnesses and Respondents to identify measures that will improve the sense of procedural fairness by complaining witnesses or Respondent Attorneys.

RECOMMENDATIONS

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

RESOLVED, that the Board of Trustees authorize the chair of the Ad Hoc Commission on the Discipline System to solicit and appoint up to four additional nonlawyer / consumer members to serve on the Ad Hoc Commission on the Discipline System in consultation with the Board appointments liaisons.

ATTACHMENT(S) LIST

A. None