



The State Bar of California

CLOS

II.A. Rec on Sandbox
08-25-21 SAGE Meeting
Open Session

WORKING GROUP

DATE: August 20, 2021

TO: SAGE Subcommittee Members

FROM: SAGE Subcommittee Co-Chairs

SUBJECT: II.A. Discussion and Possible Action on a Subcommittee Recommendation for the Structure and Governance of a Sandbox Regulatory Authority

At the Closing the Justice Gap Working Group meeting on August 11, 2021, SAGE presented resolutions regarding the structure and governance of a sandbox regulatory authority. During the working group's discussion, revisions to those resolutions were recommended. In addition to those revisions, the Subcommittee Co-Chairs have carried out further revisions to those resolutions. The further revised resolutions provided below are presented for your review and discussion at the August 25, 2021 meeting.

RESOLVED, that the structure of the Sandbox Regulator will have the following features:

1. The Sandbox Regulator will be established by the Legislature as a [public corporation] within the judicial branch of government, serving as an arm of the California Supreme Court.
2. As with all existing occupational licensing regulatory bodies in California, the Sandbox Regulator may eventually be funded primarily by applicant fees. However, reliable initial funding will be necessary to ensure adequate resources for monitoring, data collection and analysis, and consumer protection. Ideally, this initial funding would be provided by the Legislature as a pilot program with the possibility of appropriate grants and other such funding as supplementation.
3. The Sandbox Regulator is subject to active supervision by the Supreme Court and must act pursuant to clearly articulated state policy. The Sandbox Regulator should make recommendations to the Supreme Court concerning the licensing and discipline of sandbox participants. However, as with attorneys, the Court should reserve to itself the authority over licensure of sandbox participants and approval of any governing principles it employs. The Supreme Court shall exercise that authority as it deems most efficient and appropriate.

4. The Sandbox Regulator should have a volunteer board with responsibility for all operations of the office, including licensing and discipline recommendations made to the Supreme Court. The Sandbox Regulator should also have a staff which handles administrative operations, makes assessments, and monitors sandbox participants under the Board's supervision.
5. The Sandbox Regulator board should consist of 7 public members and 6 persons authorized to provide legal services in California, with the Senate and Assembly each nominating one public member, the Governor nominating the remaining public members, and the Supreme Court nominating the legal services providers. The Governor's nominees must include an economist, a technologist, and a nonlawyer provider of services to communities with significant unmet legal needs. The Supreme Court's nominees must include at least one each of individuals with experience with legal ethics and legal services to low-income Californians, and regulation of the legal profession.
6. The Sandbox Regulator should be established for an initial period of 7 years, subject to renewal by the Legislature.