



The State Bar of California

OPEN SESSION AGENDA ITEM SEPTEMBER 2021 AUDIT COMMITTEE III.C

DATE: September 23, 2021

TO: Members, Audit Committee

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

SUBJECT: Annual Update on Implementation of Audit Recommendations

EXECUTIVE SUMMARY

The State Bar has been audited numerous times over the past several years. The purpose of this agenda item is to update members of the Audit Committee on the implementation status of recommendations contained in each of those audits.

BACKGROUND

Every other year the California State Auditor conducts an audit of the State Bar as required by subdivision (b) of Business and Professions Code section 6145. The reports produced by the State Auditor make recommendations for improvements to State Bar operations, policies, and procedures. In addition to the statutorily mandated audits produced by the State Auditor, the charter of the Audit Committee includes a schedule for additional audits to be conducted including an annual financial statement audit and an internal control audit every five years.¹ This agenda item provides an update on the status of implementation of recommendations included in audits that were not fully implemented as of last year's update to the Audit Committee:

¹ A complete list of the audits that the State Bar undertakes can be found in the *Board of Trustees Policy Manual*.

- California State Auditor Report 2018–30 (April 2019)
- Moss Adams Internal Audit and Policy and Procedure Review (March 2018)
- California State Auditor Report 2020–30 (April 2021)

The State Bar periodically reports to the State Auditor on the status of its recommendations. The following section of this report provides an update on the status of the audits listed above. As discussed below, most of the recommendations in each of these reports have been fully implemented or are in progress.

DISCUSSION

1. California State Auditor Report 2018–30 (April 2019)

This audit was added to the normal every-two-year audit cycle by the Legislature and focused on the fee increase proposed by the State Bar. The report recommended changes to property management and discipline-related practices and procedures.

- Number of Recommendations: 7
- Recommendations fully implemented: 5
- Recommendations partially implemented: 2

2. Moss Adams Internal Audit and Policy Procedure Review (March 2018)

This internal Audit focused on the State Bar’s policies and internal controls; the report recommended changes to some of those policies and controls.

- Number of Recommendations: 70
- Recommendations fully implemented: 69
- Recommendations partially implemented: 1

3. California State Auditor Report 2020–30 (April 2021)

This audit was added to the normal every-two-year audit cycle by the Legislature and focused on the discipline system and contracting. The report recommended changes to discipline-related practices and procedures, discipline reporting, and contracting.

- Number of Recommendations: 8
- Recommendations fully implemented: 1
- Recommendations pending implementation: 7

FISCAL/PERSONNEL IMPACT

None

AMENDMENTS TO RULES

None

AMENDMENTS TO BOARD OF TRUSTEES POLICY MANUAL

None

STRATEGIC PLAN GOALS & OBJECTIVES

Goal: None – core business operations

RECOMMENDATIONS

None

ATTACHMENT(S) LIST

- A. State Audit 2018–30 Recommendation Status Summary
- B. State Audit 2020–30 Recommendation Status Summary

No.*	Recommendation	Current Status (Updates Submitted April and September 2021)
9	To enable it to effectively determine its budget, State Bar should continue to annually prepare five-year projections.	Fully Implemented
10	To ensure that it maximizes the revenue from its San Francisco building, State Bar should lease all available space and ensure that its leases reflect market rates.	Partially Implemented: It is the State Bar's intention to lease its vacant space at market rates, with the assistance of its brokerage team at Cushman & Wakefield. There is one remaining vacant floor. The commercial leasing market has experienced a sharp downturn due to the pandemic, with increasing supply and diminishing demand. It is not clear when the leasing market will recover. Estimated Completion Date: Unknown
11	To ensure that it maximizes the revenue from its San Francisco building, in the event of any future staff growth, State Bar should avoid adding space by reducing its space allocations when practical to more closely match industry standards.	Partially Implemented: The State Bar began assessing its space usage in the San Francisco office to determine if it could further consolidate its operations and release one or more of its current floors for leasing to tenants. This effort is now on hold due to the pandemic and the resulting downturn in the leasing market. Estimated Completion Date: Ongoing
12	To further its ability to operate more efficiently and reduce the backlog of discipline cases, State Bar should develop benchmarks by December 2019 delineating the duration of each step in its investigations process.	Fully Implemented
13	To further its ability to operate more efficiently and reduce the backlog of discipline cases, State Bar should ensure consistency by December 2019 in the policy and guidance documents its staff follow when performing investigations work.	Fully Implemented
14	To further its ability to operate more efficiently and reduce the backlog of discipline cases, State Bar should use its performance measures and collected data going forward to evaluate its case processing goals and work with the Legislature to revise the 180-day statutory goal if necessary.	Fully Implemented
15	To better assess the security fund's revenue needs after 2020, State Bar should develop by August 2019 a methodology for estimating the payments that it is likely to make in a particular year. This methodology should consider the average length of time it will spend processing applications that are eligible for reimbursement and estimate the number of applications anticipated to become eligible for reimbursement during the course of that year.	Fully Implemented

*Only recommendations directed to the State Bar, and not those directed to the Legislature, are included in this table.

No. *	Recommendation	Current Status (60-Day Response Submitted June 2021)
5	To ensure that it is operating efficiently, the State Bar should assess the impact of its discipline system reorganization, including determining how the changes have affected its ability to efficiently resolve cases and fulfill its mandate to protect the public. Based on the assessment's results, the State Bar should determine whether additional changes to its organizational structure are warranted.	Pending: Staff in the Office of Research & Institutional Accountability will begin developing an evaluation plan in the fall of 2021 and begin executing that plan in early 2022. We expect preliminary results to be available in the spring of 2022. Estimated Completion Date: Spring 2022
6	To determine if the changes to its discipline process have been effective and to help it identify problems in specific phases of its process before they affect the backlog, the State Bar should implement methods to monitor its enforcement process performance, including comparing the trial counsel staff's performance against its benchmarks.	Pending: Staff in the Office of Research & Institutional Accountability will begin developing an evaluation plan in the fall of 2021 and begin executing that plan in early 2022. The evaluation plan will require an analysis of management and operational reports to allow us to implement the plan effectively; as a result, we expect preliminary results to be available in the spring of 2022. Estimated Completion Date: Spring 2022
7	To reduce its backlog of discipline cases and ensure that it has appropriately allocated resources to all phases of its discipline process, the State Bar should develop and recommend an appropriate backlog measure and goal as required by state law, including the number of days at which a case should be added to the backlog as well as a goal for the number of cases in the backlog.	Pending: On June 21, 2021, the State Bar presented legislative staff with proposed case-processing time standards in lieu of the current static backlog measure that looks at a single point in time. The proposal is derived from the civil case processing standards that apply to trial courts. Conversations will continue regarding this proposal and the statutory changes that would be required to implement it. Further conversations will be held in the coming weeks. Estimated Completion Date: November 30, 2021
8	To reduce its backlog of discipline cases and ensure that it has appropriately allocated resources to all phases of its discipline process, the State Bar should determine the staffing level necessary to achieve the goal it develops and recommends, as required by state law.	Pending: Assuming the current trend in the number of new complaints received by the discipline system continues, the proposal presented to legislative staff is largely intended to capture the case processing times the State Bar is able to meet with the current resources. In addition, to addressing the current backlog, State Bar staff and Board members proposed to legislators and legislative staff that one time funding be provided to assist the State Bar in reducing the current backlog. Estimated Completion Date: November 30, 2021
9	To reduce its backlog of discipline cases and ensure that it has appropriately allocated resources to all phases of its discipline process, the State Bar should work with the Legislature to establish the backlog measure and goal it develops and recommends, and to revise its reporting requirements accordingly. If necessary, the State Bar should also request the additional resources required to meet the goal.	Pending: On June 21, 2021, the State Bar presented legislative staff with proposed case-processing time standards in lieu of the current static backlog measure that looks at a single point in time. The proposal is derived from the civil case processing standards that apply to trial courts. Conversations will continue regarding this proposal and the statutory changes that would be required to implement it. Further conversations will be held in the coming weeks. Estimated Completion Date: November 30, 2021
10	To ensure that the State Bar's discipline report presents accurate, complete, and consistent information as state law requires, the board should require the designated committee to review, evaluate, and approve the discipline report before submitting it to the board. Additionally, the committee should develop procedures outlining how the State Bar should compile the report in accordance with statutory requirements. The committee should approve these procedures for the State Bar's use before finalizing its 2021 discipline report.	Pending: Statutory amendments that will be discussed with legislative staff surrounding the case processing standards will also address other reporting requirements for the ADR to ensure a common understanding of what is to be reported. Any statutory changes will guide the procedure for how to review the report. Proposed guidelines and procedures for review of the report will be presented to the Board of Trustees in January of next year. Estimated Completion Date: January 2022
11	To ensure that users of the discipline report can compare information from year to year, the State Bar should describe in each discipline report any changes it makes to its approach to calculating metrics and, for that year, provide information calculated under both its old and new methods.	Pending: The Annual Discipline Report is produced only once a year. The next opportunity to implement these changes will not be until April 30, 2022. The State Bar has noted the need to include these changes in the next Annual Discipline Report. Estimated Completion Date: April 2022
12	To ensure that it receives the best value for the money it spends, the State Bar should establish documentation standards and templates for contract managers to follow when using the exam exemption.	Fully Implemented

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