



# The State Bar of California

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## **OPEN SESSION**

### **AGENDA ITEM**

**54-113 NOVEMBER 2021**

### **BOARD EXECUTIVE COMMITTEE II.C**

**DATE:** November 18, 2021

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

**FROM:** Dag MacLeod, Chief of Mission Advancement & Accountability Division

**SUBJECT:** Recommendation to Amend the Charter of the Committee on Regulation and Discipline

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### **EXECUTIVE SUMMARY**

This agenda item proposes amendments to the Charter of the Committee on Regulation and Discipline (RAD) to strengthen oversight of the Chief Trial Counsel. The proposed amendments include the approval of an annual performance plan, the completion of an annual performance evaluation, and quarterly meetings between the chair and vice-chair of the Committee on Regulation and Discipline to review a dashboard of data on the operations of the Office of Chief Trial Counsel (OCTC).

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### **BACKGROUND**

The chief trial counsel (CTC) is one of two positions at the State Bar that does not report to the executive director; the Regulation and Discipline Committee (RAD) is responsible for oversight of the CTC. At the committee's September 23 meeting, State Bar Executive Director Leah Wilson presented an agenda item outlining the need for enhanced oversight of the CTC position and seeking feedback on a proposed oversight structure and draft dashboard for capturing essential information on operations in the OCTC.

This agenda item follows up on the September meeting to propose specific changes to the RAD charter to provide the enhanced oversight of the CTC discussed with RAD in September.

## **DISCUSSION**

Executive Director Wilson's recommendations to RAD included three components.

1. Approval of an annual performance plan for the CTC to reflect operational and leadership goals for the position.
2. Completion of an annual performance evaluation that takes into account performance plan goals, a self-evaluation, and feedback from peers and subordinates, to be completed by an independent consultant.
3. Quarterly meetings between the RAD chair and vice-chair and the CTC to review a dashboard of qualitative and quantitative data prepared by the executive director.

These recommendations have been drafted as proposed changes to the RAD charter and are shown in redline in Attachment A and as clean copy in Attachment B.

## **FISCAL/PERSONNEL IMPACT**

None

## **AMENDMENTS TO RULES**

None

## **AMENDMENTS TO BOARD OF TRUSTEES POLICY MANUAL**

Appendix D, Charter for the Committee on Regulation and Discipline

## **STRATEGIC PLAN GOALS & OBJECTIVES**

Goal: 3. Improve the fiscal and operational management of the State Bar, emphasizing integrity, transparency, accountability, and excellence.

## **RECOMMENDATIONS**

**Should the Board Executive Committee concur in the proposed action, passage of the following resolution is recommended:**

**RESOLVED**, that the Board Executive Committee approves the proposed amendments to the charter of the Committee on Regulation and Discipline to enhance the oversight of the chief trial counsel.

**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 approves the proposed amendments to the charter of the Committee on Regulation and Discipline to enhance the oversight of the chief trial counsel.

**ATTACHMENTS LIST**

- A.** Proposed amendments to the charter of the Committee on Regulation and Discipline (redline)
- B.** Proposed amendments to the charter of the Committee on Regulation and Discipline (clean copy)

## CHARTER FOR REGULATION AND DISCIPLINE COMMITTEE

The Regulation and Discipline Committee is a performance-monitoring and oversight committee. It is accountable for monitoring the operational performance of the State Bar's work related to attorney discipline including the Office of Chief Trial Counsel, Office of Probation, State Bar Court, Client Security Fund, and Office of Professional Competence. Pursuant to California Rule of Court 9.11(a)(2), any Board member appointed and serving on the Supreme Court's Applicant Evaluation and Nomination Committee may not sit on this committee.

The Regulation and Discipline Committee shall:

- Establish the key elements of a programmatic reporting process, including the content, format, and frequency of performance reports to the Board, and oversee implementation of the process.
- Oversee (as directed by Bus. & Prof. Code, § 6079.5), the work of the Chief Trial Counsel (CTC), who reports to and serves under the Regulation and Discipline Committee.
- CTC Evaluation Job Description: Ensure that the CTC position description is updated as necessary to reflect changing State Bar needs and priorities.
- Approve an annual performance plan for the CTC to reflect operational and leadership goals for the position. The performance plan will be provided to the CTC within 90 days of appointment and within 90 days of the anniversary date of appointment thereafter.
- ~~, and c~~Conduct ~~the an~~ annual performance evaluation with the Board Executive Committee. ~~An~~ The annual performance evaluation of the CTC will be completed by an independent consultant and take into account the goals established in the annual performance plan, a self-evaluation, and feedback from peers and subordinates. ~~be conducted by the Regulation and Discipline Committee and Board Executive Committee and~~
- The completed performance evaluation will be presented to the Board for review within 90 days of the anniversary date of the Chief Trial Counsel's appointment. ~~The Regulation and Discipline Committee~~

~~will conduct its evaluation using a performance plan established in conjunction with the Office of Human Resources and executive director. The performance plan will be provided to the CTC within 90 days of appointment. The State Bar may meet in closed session to discuss the annual performance evaluation of the CTC.~~

- The Chair and Vice-Chair of the Regulation and Discipline Committee shall meet at least once every quarter with the CTC to review a dashboard of qualitative and quantitative data prepared by the executive director.
- Approve changes to high-level quality-control policies that apply to the functioning of the State Bar Program Areas under the Regulation and Discipline Committee's performance-monitoring and oversight authority.
- Review performance reports in Regulation and Discipline Committee meetings and report program performance to the full Board.
- Identify and oversee the implementation of needed corrective actions.
- Oversee the preparation of in-depth assessments of program/function effectiveness for presentation at the annual strategic planning session.
- Review internal and external audit reports as they relate to the functions of the State Bar under the Regulation and Discipline Committee's performance-monitoring and oversight authority and oversee implementation of recommendations identified therein.
- Monitor the work of the Special Deputy Trial Counsel Administrator assigned to the management of cases from which the CTC's Office is recused under Rule 2201 of the Rules of Procedure of the State Bar.
- Oversee the Annual Discipline Report process and underlying discipline statistics.
- Develop and adopt a Regulation and Discipline Committee Work Plan for approval by the Board Executive Committee. For each Regulation and Discipline Committee project listed on the Work Plan, the Work Plan shall include a description of the project, the Strategic Plan Goal(s) and Objective(s) that are furthered by the project, and an estimated timeline for completion and presentation to the Regulation and Discipline Committee and/or the Board.

## Attachment A

- Perform such other functions relevant to the Regulation and Discipline Committee's subject area as the Board of Trustees may assign from time to time.

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- **CTC Job Description:** Ensure that the CTC position description is updated as necessary to reflect changing State Bar needs and priorities.
- Approve an annual performance plan for the CTC to reflect operational and leadership goals for the position. The performance plan will be provided to the CTC within 90 days of appointment and within 90 days of the anniversary date of appointment thereafter.
- Conduct an annual performance evaluation with the Board Executive Committee. The annual performance evaluation of the CTC will be completed by an independent consultant and take into account the goals established in the annual performance plan, a self-evaluation, and feedback from peers and subordinates.
- The completed performance evaluation will be presented to the Board for review within 90 days of the anniversary date of the Chief Trial Counsel's appointment.
- The Chair and Vice-Chair of the Regulation and Discipline Committee shall meet at least once every quarter with the CTC to review a dashboard of qualitative and quantitative data prepared by the executive director.

## Attachment B

- Approve changes to high-level quality-control policies that apply to the functioning of the State Bar Program Areas under the Regulation and Discipline Committee's performance-monitoring and oversight authority.
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- Perform such other functions relevant to the Regulation and Discipline Committee's subject area as the Board of Trustees may assign from time to time.