



The State Bar of California

AGENDA ITEM

JANUARY 10 – Minutes Approval – November 18–19, 2021, Meeting, Open Session

Regular Meeting of the Board of Trustees

Teleconference

Open Session Minutes

Thursday, November 18, 2021

1:22 p.m.–4:00 pm.

Time meeting Commenced: The Board meeting commenced in open session at 1:22 p.m. The Board moved to closed session at 2:56 p.m. The Board returned to open session at 4:10 p.m.

Time meeting Adjourned: 4:11 p.m.

Chair: Sean SeLegue

Secretary: Louisa Ayrapetyan

Members Present: Mark Broughton, José Cisneros, Ruben Duran, Christine Gonong, Melanie Shelby, Arnold Sowell, Brandon Stallings, Mark Toney

Members Absent: Hailyn Chen, Juan De La Cruz, Sonia Delen, Joshua Perttula

OPEN SESSION

ROLL CALL

The Board of Trustees meeting was called to order by Chair Duran. Roll call was taken and a quorum was established.

PUBLIC COMMENT

Chair Duran called for public comment, inquiring as to whether there were person(s) who wished to comment on any agenda item. There were no members of the public who wished to speak on any agenda item.

10 MINUTES

Open Session Minutes – September 23–24, 2021

Moved by Cisneros, seconded by Shelby.

Ayes – (8) Broughton, Cisneros, Gonong, SeLegue, Shelby, Sowell, Stallings, Toney

Noes – (0)

Abstain – (0)

Absent – (4) Chen, De La Cruz, Delen, Perttula

Minutes adopted.

30 CHAIR'S REPORT

Chair Duran provided an oral report.

30-1 Appreciation of Outgoing Presiding Judge Catherine Purcell – oral presentation and recognition of Judge Purcell

30-2 Appreciation of Interim Chief Trial Counsel Melanie Lawrence

RESOLVED, that the Board of Trustees adopt the following resolution of appreciation to Melanie Lawrence:

WHEREAS, Melanie Lawrence served the State Bar of California with devotion and distinction, and exercised impeccable leadership; and

FURTHER RESOLVED, that the Board of Trustees hereby expresses to Melanie Lawrence its sincere appreciation for her admirable accomplishments and efforts expended on behalf of the State Bar.

Moved by Stallings, seconded by SeLeague.

Ayes – (8) Broughton, Cisneros, Gonong, SeLeague, Shelby, Sowell, Stallings, Toney

Noes – (0)

Abstain – (0)

Absent – (4) Chen, De La Cruz, Delen, Perttula

Motion carries.

40 STAFF REPORTS

41 Executive Director

41-1 Report from Executive Director

Executive Director Leah Wilson provided an oral report.

50 CONSENT AGENDA

50-1 Approval of Specified Contracts Pursuant to Business and Professions Code Section 6008.6

1. For February 2022 Bar Exam Testing Site, with: Pasadena Convention Center
2. For February 2022 Bar Exam Testing Site, with: Town & Country Resort
3. For February 2022 Bar Exam Testing Site, with: SAFE Credit Union Convention Center
4. For February 2022 Bar Exam Testing Site, with: Hilton Los Angeles, Culver City
5. For February 2022 Bar Exam Testing Site, with: Hilton Sacramento Arden West
6. For February 2022 Bar Exam Testing Site, with: Crowne Plaza SF Airport Hotel

7. For Psychometric and Statistical Analytic Services Related to the Bar Exam, with: Research Solutions Group
8. For Calculation of Data and Production of Reports Relative to Grading of the Bar Exam, with: Research Solutions Group
9. For Additional 2021 Testing Accommodation Consulting Services, with: MD Psychiatric Forensics
10. For 2022 Testing Accommodation Consulting Services, with: MD Psychiatric Forensics
11. For 2022 Testing Accommodation Consulting Services, with: Michael Shore, PhD
12. Bar Exam Proctoring Management and Reengineering and Facilities Services for 2022 Bar Exams, with: PSI Online
13. For Online Legal Research Services, with: Thomson Reuters
14. For Cloud-Based Electronic Filing Platform, with: File & ServeXpress, LLC
15. For Oracle Cloud Application Support, with: AST, LLC
16. For System Analysis and Requirements Documentation Project, with: Slalom, LLC

RESOLVED, that the Board of Trustees approves execution of the contracts listed herein.

50-2 Proposed Changes to Conflict of Interest Code for Designated Employees: Request for Approval

RESOLVED, that the Board of Trustees Board of Trustees hereby adopts the proposed Conflict of Interest Code for Designated Employees of the State Bar of California as set forth in Attachment A.

50-3 Annual Recommendation to the Supreme Court for Expungement of Suspensions of Licensees Delinquent in Payment of License Fees, Penalties, and Charges

RESOLVED, that the Board of Trustees directs staff to submit the annual recommendation to the California Supreme Court that licensees who meet the criteria for expungement of suspensions for failure to pay fees have their suspensions expunged as set forth in California Rule of Court 9.8; and it is

FURTHER RESOLVED, that upon the Court's order of expungement, staff is directed to immediately expunge the suspensions from the licensed attorneys' records and notify each attorney of the Court's order and the expungement.

50-4 Annual Recommendation for Expungement of Administrative Inactive Status for Minimum Continuing Legal Education (MCLE) Noncompliance in Accordance with Rule 9.31

RESOLVED, that the Board of Trustees directs staff to determine which records of inactive enrollment for failure to comply with MCLE requirements qualify for the annual expungement pursuant to California Rule of Court 9.31(f); and it is

FURTHER RESOLVED, that staff then expunge the eligible inactive enrollments from the licensed attorneys' records and notify each attorney of the expungement.

**50-5 Amendment to Rule of Procedure 2201 (Appointment and Authority: Return from Public Comment and Request for Approval)
Updated 2017-2022 Strategic Plan Rev. 3: 2.b.**

RESOLVED, that the Regulation and Discipline Committee recommends that the Board of Trustees approve and adopt proposed State Bar Rule of Procedure 2201, attached hereto as Attachment B.

RESOLVED, that the Board of Trustees, upon recommendation of the Regulation and Discipline Committee, hereby approve and adopt proposed State Bar Rule of Procedure 2201, attached hereto as Attachment B.

50-6 Agenda items 50-6: Proposed Amendments to State Bar Rule 7.61 Regarding Voting Procedures of the Commission on Judicial Nominees Evaluation: Return from Public Comment and Request for Approval

This agenda item was pulled from the consent agenda for a separate discussion.

RESOLVED, that the Board of Trustees approves the proposed amendments to State Bar rule 7.61 effective immediately.

Moved by Broughton, seconded by Duran.

Ayes – (3) Broughton, Cisneros, Stallings

Noes – (1) Toney

Abstain – (4) Gonong, SeLegue, Shelby, Sowell

Absent – (4) Chen, De La Cruz, Delen, Perttula

Motion carries.

50-7 Proposed Amendments to New Accredited Law School Rule 4.160(D)6 Regarding Minimum Cumulative Bar Pass Rate: Return from Public Comment and Request for Approval

RESOLVED, that the Board of Trustees approves the amendments to rule 4.160(D)(6) of the new Rules for Accredited Law Schools as set forth in Attachment C to take effect on January 1, 2022.

50-8 Proposed Amendment to Consumer Alert Policy to Clarify That It Applies to Felony Charges in All Courts: Request for Adoption

This agenda item was pulled from the consent agenda for a separate discussion.

RESOLVED, that the Board of Trustees, upon recommendation of the Regulation and Discipline Committee, adopts the proposed amendments to the Board Policy regarding posting of a

consumer alert upon the filing of felony charges against an attorney as set forth in Attachment A; and it is

FURTHER RESOLVED, that the proposed amendments to the Board Consumer Alerts policy become effective immediately.

Moved by Cisneros, seconded by SeLeague.

Ayes – (6) Cisneros, Gonong, SeLeague, Sowell, Stallings, Toney

Noes – (0)

Abstain – (2) Broughton, Shelby

Absent – (4) Chen, De La Cruz, Delen, Perttula

Motion carries.

**54-111 Annual Recommendation for Appointment and Reappointment of Fee Arbitrators:
Appointment of Presiding Arbitrator and Assistant Presiding Arbitrator**

RESOLVED, that the Board of Trustees, upon recommendation of the Board Executive Committee, approve the reappointment of the fee arbitrators whose names appear on list attached here as Attachment A to the State Bar Mandatory Fee Arbitration program, each for a one-year term commencing January 1, 2022, and expiring December 31, 2022; and it is

FURTHER RESOLVED, that the Board of Trustees, upon recommendation of the Board Executive Committee, approve the appointment of the fee arbitrator applicants whose names appear on the list attached here as Attachment B to the State Bar Mandatory Fee Arbitration program, each for a term commencing November 18, 2021, and expiring December 31, 2022; and it is

FURTHER RESOLVED, that the Board of Trustees, upon recommendation of the Board Executive Committee, approve the appointment of Clark Stone as the State Bar's presiding arbitrator, effective January 1, 2022, and expiring December 31, 2022; and it is

FURTHER RESOLVED, that the Board of Trustees, upon recommendation of the Board Executive Committee, approve the appointment of Summer Nastich and the reappointment of Lee Straus as the State Bar's assistant presiding arbitrators, effective January 1, 2022, and expiring December 31, 2022; and it is

FURTHER RESOLVED, that the Board of Trustees, upon recommendation of the Board Executive Committee, approve the appointment of Mark Schreiber, Robert Sall, and Nicola Migliaccio as alternates, effective January 1, 2022, and expiring December 31, 2022; and it is

FURTHER RESOLVED, that the Board of Trustees, upon recommendation of the Board Executive Committee, approve staff's recommended procedure for filling vacant presiding arbitrator and assistant presiding arbitrator positions.

54-113 Recommendation to Amend the Charter of the Committee on Regulation and Discipline

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.

54-141 Approval of Financial Statements Report, Investment Report, and Client Security Fund Report for Six Months Ended June 30, 2021

RESOLVED, that upon recommendation of the Finance Committee, the Board of Trustees approve the Financial Reports in the form presented this day before the Board, for the six months ended June 30, 2021, as certified by the chief financial officer and filed with the San Francisco office of the State Bar.

54-142 Office of Finance Midyear Budget Variance Report, Projection, and Proposed Budget Amendment

RESOLVED, that upon recommendation of the Finance Committee, the Board of Trustees approves the 2021 Midyear Budget Variance Report, Projection, and Proposed Budget Amendment in the form presented this day before the Board, for the six months ended June 30, 2021, as certified by the chief financial officer and filed with the San Francisco office of the State Bar.

54-181 Approval of 2021 Q3 Board and Management Travel Expenses

RESOLVED, that the Board of Trustees approve the third quarter of 2021 Board and Management Travel Expenses in the form presented this day before the Board, for the three months ended September 30, 2021, as certified by the chief financial officer, and on file with the San Francisco office of the State Bar.

Above consent agenda items moved by Stallings, seconded by Cisneros.

Ayes – (8) Broughton, Cisneros, Gonong, SeLegue, Shelby, Sowell, Stallings, Toney

Noes – (0)

Abstain – (0)

Absent – (4) Chen, De La Cruz, Delen, Perttula

Motion carries.

700 MISCELLANEOUS

701 Discussion Regarding the Final Report and Recommendations from the Committee on Special Discipline Case Audit for the Development of a California Trust Account Program; Request for Extension on Deadline for Public Comment Issuance

Presenters: José Cisneros, Board of Trustees
Leah T. Wilson, Executive Director

Steve Moawad, Special Assistant Chief Trial Counsel, Office of Chief Trial Counsel

RESOLVED, that the Board of Trustees, upon recommendation of the Committee on Special Discipline Case Audit, directs staff to finalize CTAPP design and effectuating rule proposals for consideration at the Board of Trustees' January or March 2022 meeting; and it is

FURTHER RESOLVED, that the Board of Trustees, upon recommendation of the Committee on Special Discipline Case Audit, refers proposed changes to rule 1.15 to COPRAC for finalization; and it is

FURTHER RESOLVED, that the Board of Trustees, upon recommendation of the Committee on Special Discipline Case Audit, refers proposed changes to rule 1.4 to COPRAC for finalization; and it is

FURTHER RESOLVED, that the Board of Trustees, upon recommendation of the Committee on Special Discipline Case Audit, directs staff to study the potential role of bonds and insurance in CTA protection; and it is

FURTHER RESOLVED, that the Board of Trustees, upon recommendation of the Committee on Special Discipline Case Audit, approves to an extension of the deadline for public comment period on all recommendations stemming from the committee's work to June 30, 2022.

Moved by SeLegue, seconded by Toney.

Ayes – (8) Broughton, Cisneros, Gonong, SeLegue, Shelby, Sowell, Stallings, Toney

Noes – (0)

Absent – (4) Chen, De La Cruz, Delen, Perttula

Motion carries.

702 Proposed Amendments to the Schedule of Charges and Deadlines Related to Accredited Law School Fees: Request for Adoption

Presenters: Audrey Ching, Assistant Director, Office of Admissions
Natalie Leonard, Principal Program Analyst, Office of Admissions

RESOLVED, that the Board of Trustees, approves the amendments to the Schedule of Charges and Deadlines for Title 4, Division 2, as set forth in Attachment B, effective January 1, 2022.

Moved by Stallings, seconded by Gonong.

Ayes – (8) Broughton, Cisneros, Gonong, SeLegue, Shelby, Sowell, Stallings, Toney

Noes – (0)

Abstain – (0)

Absent – (4) Chen, De La Cruz, Delen, Perttula

Motion carries.

703 Proposed New and Amended Rules of Procedure to Conduct State Bar Court Proceedings Remotely: Request for Interim Adoption and Request to Circulate for Public Comment

Presenter: Erika Doherty, Projects Attorney, State Bar Court

1. Interim Rules 5.17, 5.18, and 5.154 of the Rules of Procedure of the State Bar of California

RESOLVED, that the Board of Trustees, determines pursuant to rule 1.10(C) of the Rules of the State Bar of California that the end of the applicability of Emergency Rule 3 to State Bar Court proceedings requires authorization of Interim Rules of Procedure to continue to permit the court to conduct proceedings remotely without prior public comment; and it is 5

FURTHER RESOLVED, that the Board of Trustees, having determined pursuant to rule 1.10(C) of the Rules of the State Bar of California that an emergency justifies the Board of Trustees to adopt these rules on an interim basis without public comment, hereby adopts Interim Rules 5.17, 5.18, and 5.154 of the Rules of Procedure of the State Bar of California as set forth in Attachment A (clean copy) and Attachment B (redline copy) effective on the date that amended Emergency Rule 3 of the Rules of Court excluding civil proceedings goes into effect and effective for 120 days thereafter.

2. Public Comment Period for Proposed Rules 5.17, 5.18, and 5.154 of the Rules of Procedure of the State Bar of California

RESOLVED, that the Board of Trustees authorizes staff to make available for a 45-day public comment period proposed rules 5.17, 5.18, and 5.154 of the Rules of Procedure of the State Bar of California as set forth in Attachment A (clean copy) and Attachment B (redline copy).

Moved by Stallings, seconded by Sowell.

Ayes – (8) Broughton, Cisneros, Gonong, SeLegue, Shelby, Sowell, Stallings, Toney

Noes – (0)

Abstain – (0)

Absent – (4) Chen, De La Cruz, Delen, Perttula

Motion carries.

Chair Duran stated that pursuant to Business and Professions Code section 6026.7(c), Government Code section 11126(e)(1), Government Code section 11126(a)(1) and 11126(c)(2) the Board will move into closed session to discuss the closed session agenda.

CLOSED SESSION

1000 MINUTES

Closed Session Minutes: September 23–24, 2021

5000 CLOSED CONSENT

5001 Approval for Contract Relating to the Preparation, Approval, Grading, or Administration of the California Bar Examination or the First-Year Law Students' Examination

1. For printing of February 2022 and July 2022 Bar Exam and Related Materials

**Closed pursuant to Business and Professions Code § 6026.7(c)(3).*

7000 MISCELLANEOUS

7001 Discussion Regarding Potential Litigation Concerning the July 2021 California Bar Examination

**Closed pursuant to Government Code § 11126(e)(1).*

7002 Update on Threatened Litigation Concerning Bar Examination Testing Accommodation Requests - Withdrawn

**Closed pursuant to Government Code § 11126(e)(1).*

7003 Discussion Regarding Audit of Closed Office of Chief Trial Counsel Files

**Closed pursuant to Government Code §§ 11126(a)(1) and 11126(c)(2).*

OPEN SESSION

The Board returned to open session and reported that there is no action to report from closed session. No further discussion took place in open session.

ADJOURN

Open Session Minutes
Friday, November 19, 2021
10:05 a.m.–11:57 a.m.

Time meeting Commenced: The Board meeting commenced in open session at 10:05 am. The Board moved to closed session at 10:13 a.m. The Board returned to open session at 11:56 p.m.

Time meeting Adjourned: 11:57 a.m.

Chair: Ruben Duran

Secretary: Louisa Ayrapetyan

Members Present: Mark Broughton, Hailyn Chen, José Cisneros, Sonia Delen, Christine Gonong, Sean SeLegue, Melanie Shelby, Arnold Sowell, Brandon Stallings, Mark Toney

Members Absent: Juan De La Cruz, Joshua Perttula

OPEN SESSION

ROLL CALL

The Board of Trustees was called to order by Chair Duran. Roll call was taken and a quorum was established.

PUBLIC COMMENT

Chair Duran called for public comment, inquiring as to whether there were person(s) who wished to comment on any agenda item. There were no members of the public who wished to speak on any agenda item.

Chair Duran stated that pursuant to Government Code section 11126(c)(7) the Board will move into closed session to discuss the sale price and terms and leasing price and terms for 180 Howard Street, San Francisco.

CLOSED SESSION

3141 Discussion Regarding Sale Price and Terms and Leasing Price and Terms for 180 Howard Street, San Francisco

**Closed pursuant to Government Code § 11126(c)(7).*

OPEN SESSION

The Board returned to open session and reported a unanimous vote on the following amended resolution:

RESOLVED, that the Board of Trustees, upon recommendation of the Finance Committee, agrees that 180 Howard Street should be listed for sale in 2022; and it is

FURTHER RESOLVED, that the Board of Trustees direct staff to return to the Board at the January 2022 meeting with an updated analysis and/or recommendations for 1) the timing of

the sale and 2) the consideration of new occupancy scenarios, including leasing or purchasing a smaller building, and the timing of a lease or purchase.

No further discussion took place in open session.

ADJOURN