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## California State Bar

It Is Not Effectively Managing Its System for Investigating and Disciplining Attorneys Who Abuse the Public Trust

Report Number: 2020-030

Public Letter

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## Summary

Attorneys hold significant responsibility as representatives and advisors of their clients. Their responsibilities include providing clients with an informed understanding of their legal rights and aiding them during certain times of crisis. To ensure that attorneys uphold the trust placed in them, every person admitted and licensed to practice law in California—with limited exceptions—must be a licensee of the State Bar of California (State Bar). The State Bar's core mission is to protect the public from attorneys who would abuse the public's trust. It does so by licensing attorneys, enforcing rules of professional conduct for attorneys, disciplining attorneys when necessary, and supporting greater access to the legal system. The State Bar is also required to issue an Annual Discipline Report (discipline report) that describes the performance and condition of its attorney discipline system. This audit report concludes the following:

### **The State Bar's Changes to Its Discipline System Have Significantly Reduced That System's Efficiency**

Beginning in 2016, the State Bar reorganized the staffing of its discipline system, converting its discipline staff from specialists to generalists and promoting its most senior attorneys to full-time supervisors. These actions neither addressed the recommendations and statutory requirements that originally prompted the State Bar's review of its discipline system nor produced measurably positive results. In fact, from 2015 through 2020, case processing times for attorney discipline cases increased 56 percent and the backlog of unresolved cases increased 87 percent. The State Bar has not effectively monitored the impact of its

reorganization because it does not effectively measure the performance of its discipline system staff.

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## **The State Bar's Discipline Report Does Not Provide All Required Information, and Its Publishing Date Reduces Its Value to Stakeholders .**

State law requires that each year, the State Bar publish a discipline report describing the performance and condition of its discipline system, including the number of cases in its backlog. However, the State Bar did not present complete or consistent information in its 2019 discipline report, thus limiting stakeholders' ability to evaluate its administration of the discipline system. For example, the State Bar omitted some types of cases from its caseload metrics and did not provide certain past data necessary for year-to-year comparisons, as state law requires. The amount of information missing from the discipline report suggests that the current oversight provided by the Board of Trustees of the State Bar (board) and the board committee responsible for overseeing the discipline report is inadequate for producing an accurate description of the State Bar's discipline system. Further, the April 30 statutory deadline for submitting the discipline report limits the amount of time the Legislature has to review it before deliberating on legislation that sets the annual license fees the State Bar may charge attorneys (fee bill).

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## **The State Bar Appropriately Administered the Bar Exam During the COVID-19 Pandemic, but Its Procurement of Exam Software Did Not Comply With Its Policy.**

In response to the COVID-19 pandemic, the State Bar effectively implemented orders from the California Supreme Court to create a temporary supervised licensure program and to remotely administer the state bar examination (bar exam) for a limited time. In doing so, the State Bar contracted with a software vendor to obtain security features to help ensure the bar exam's integrity. Although the State Bar's procurement policy provides its contract managers with discretion when selecting vendors for the bar exam, it does require them to assess and document that the selected vendor provides the best value. The State Bar's contract manager ignored these requirements. Instead, the manager entered into a contract and a contract amendment worth nearly \$4 million related to bar exams without providing evidence that these agreements represented the best value.

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# Summary of Recommendations

## ***Legislature***

To ensure it has sufficient time to consider the discipline report before reviewing the annual fee bill, the Legislature should amend the report's publishing date.

## ***State Bar***

To ensure that it is operating efficiently, the State Bar should assess the impact of its discipline system reorganization, including how the changes have affected its ability to efficiently resolve cases and fulfill its mandate to protect the public.

To ensure that the State Bar's discipline report presents complete and consistent information as state law requires, the board committee responsible for overseeing the discipline report process should review, evaluate, and approve the discipline report before it is issued.

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 selecting vendors for the administration of the bar exam.

## **Agency Comments**

The State Bar generally agreed to implement our recommendations; however, it disagreed with certain report statements and conclusions. In addition, it provided information on principles it plans to use in revising its case processing goals.

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