



2022 State Bar of California Board of Trustees Meeting
Strategic Planning Session
January 20-21, 2022

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Executive Summary

The following summary is a high-level overview of key themes from input received in preparation for this strategic planning session via interviews and surveys. The following summary includes responses from the groups listed below. In addition, public input has been sought; results will be shared during the board meeting.

- **Board of Trustees**
- **Judicial Branch Stakeholders**
- **Legislators and Staff**
- **State Bar Licensees**
- **State Bar Sub Entities**
- **Other Stakeholders**
- **Public [Pending]**

State Bar Core Mission Feedback

INVESTIGATES AND PROSECUTES ATTORNEYS FOR MISCONDUCT:

The State Bar does not prosecute all attorneys on an equal basis. Smaller, independent attorneys are more likely to be prosecuted, whereas large firms and more powerful attorneys are not. In recent months, the Girardi case has emphasized this issue on a public scale.

SUGGESTED ACTIVITIES/ACTIONS:

- Proactively investigate large law firms and hold them accountable.
- Consider being more aggressive toward “bad actors” and lawyers that are unethical, including harsher discipline (e.g., disbarment.)
- Ensure that staff at the State Bar do not have clear conflicts of interest with licensees.
- Educate attorneys more thoroughly to prevent misconduct.
- Proactively investigate licensees rather than waiting for a complaint to be filed.
- Investigate and provide support and access to resources for licensees with drug and alcohol addiction/impairment.
- Be more transparent with the public on findings of investigations.

INVESTIGATES NON-ATTORNEYS FOR THE UNAUTHORIZED PRACTICE OF LAW:

Some respondents believe the State Bar handles this issue as well as it can. The problem revolves around who has the power to enforce disciplinary action. Most respondents agreed, however, that the State Bar does not have enough authority to solve this problem and it should be done through the courts, Legislature, etc.

SUGGESTED ACTIVITIES/ACTIONS:

- Collaborate with district attorneys on prosecuting unauthorized practice of law (UPL), particularly by paralegals and notarios.
- Audit law firms to see what duties lawyers and other staff are executing.
- Proactively act on media reports of abuse and online UPL providers/companies instead of waiting for an official complaint.
- Provide education on the consequences of UPL to other professions (e.g., CPA, financial advisors, realtors, paralegals.)
- Be more aggressive in the prosecution of UPL offenders and consider increasing penalties, referring offenders to criminal prosecution, or working with the Legislature to make it a felony to accept payment or provide legal advice without showing proof of being a licensed lawyer.
- Conduct outreach to minority communities and other vulnerable populations to better protect them from UPL situations.
- Publish the outcomes of investigations to protect the public.

OVERSEES THE PROCESS FOR ADMITTING NEW ATTORNEYS INTO THE PROFESSION:

Overall, most respondents agreed that this has been handled well. Most issues brought up surrounding this were due to COVID-19 and being remote. It is important to note that some respondents said they felt the Bar exam should be updated to be more inclusive of modern applicants.

SUGGESTED ACTIVITIES/ACTIONS:

- Revise the Bar Exam to make it more relevant to the practice of law and include information about the business of law and practice management.
- Reduce the perception of favoritism or “watering down” the Bar Exam; apply the same standards to all applicants, publish the standards and be objective.
- Require apprenticeships/internships before admission and create mentorship programs for new admittees.
- Investigate new attorneys and vet their moral character and ethics before admission.
- Evaluate racial disparities of the Bar Exam.
- Keep better track of fingerprinting records.

INCREASES ACCESS TO LEGAL SERVICES:

A recurring theme emerged among residents, as efforts to change the legal services policy was reportedly met with controversy in the Legislature. Any question about the right types of communities to help, as well as efficiency in terms of the work being done, were also reportedly met with animosity. Most respondents said this is another area where the Legislature hinders progress.

SUGGESTED ACTIVITIES/ACTIONS:

- Require firms to offer pro bono services or pay into a fund that supports firms that do.
- Encourage and incentivize more pro bono work from licensees. Example incentives include waived or reduced license fees, student loan forgiveness, or waived continuing education fees.
- Use license fees to fund legal access for low-income communities.
- Polarized opinions on the paraprofessionals program ranging from 1) the State Bar should not authorize unlicensed individuals to practice law to 2) the State Bar should allow a licensed non-attorney to perform simple legal functions.
- Critique and criticism that this is not where the Bar should focus its resources and that it is too politicized.

INCREASES DIVERSITY AND INCLUSION IN THE LEGAL PROFESSION:

Most respondents agreed that the State Bar is aware of this issue. They said there is a lot of discussion on diversity and inclusion but, simply, not enough has been done. Some believe this is a cultural issue while others blame it on the Legislature withholding funds.

SUGGESTED ACTIVITIES/ACTIONS:

- Reduce Barriers: Eliminate the Bar Exam, eliminate license fees, provide alternatives to State Bar Exam (e.g., implement the Uniform Bar Exam and multi-state reciprocity), create and fund scholarship programs.
- Increase DEI without the perception of “lowering standards” of becoming an attorney.
- Intervene early in the pipeline: Conduct outreach to Black, Indigenous, and People of Color (BIPOC) high schools and oversee law school admissions criteria to ensure more diversity.
- Promote diversity in leadership at the State Bar and within the profession, profile BIPOC- and women-identified attorneys to licensees, promote an inclusive workplace culture that normalizes diversity in leadership, parental leave, etc.
- Address school and work-based discrimination against diverse groups.

PROMOTES THE ETHICAL, COMPETENT PRACTICE OF LAW:

SUGGESTED ACTIVITIES/ACTIONS:

- Enforce ethics rules and mandatory reporting of violations and further pursue ethics violation complaints aggressively and publish outcomes.
- Advertise the hotline as a great resource and offer consultations/advice in addition to the rules of professional conduct.
- Offer free MCLE online.
- Monitor the activities of large law firms – not just solo practitioners and small firms.
- Promote Client Trust Account (CTA) handbook and provide free classes on CTA management.

State Bar Operations Feedback

Streamline technological advancements and data management organization-wide: Widespread and robust technological upgrades, systemized data management, and automation of business processes related to:

- routine administrative and financial activities
- admissions processes
- case management
- external facing communications/website

Prioritize consumer-focused strategies: Approach outcomes through the lens of the “end-user,” with protection of the public in mind.

Increase capacity for research and evaluation: There are growing, emerging research priorities related to improving business processes and advancing the mission of the Bar including:

- evaluating changes in the admissions process and Bar exam (with an emphasis on disparities)
- improving case management processes
- preventing attorney misconduct
- reducing barriers to the legal profession for underrepresented minority groups.

Promote a culture of collaboration: Transition to a remote and hybrid work environment requires new strategies for collaboration within teams, removing silos across offices, and meeting participation.

Prioritize employee development and engagement: Staff expressed interest in receiving on-the-job training and having flexible worksite accommodations. Staff members need continuing education and training opportunities with technical skills development and clear pathways to promotion in mind.

Lead with diversity, equity, and inclusion as core values across the organization: Embed and implement a diversity, equity, and inclusion lens throughout all State Bar initiatives.

Feedback on Areas of Excellence and Opportunities for Improvement

AREAS WHERE THE STATE BAR EXCELS

Common Themes

- Awareness of the need for diversity/inclusion
- Willingness to be self-critical
- Commitment to change
- Admitting non-attorneys into the profession
- Commitment and intelligence of the internal staff
- Working within the financial boundaries provided
- Providing information to the public
- Commitment to access to justice

Less Common Themes

- Victim restitution
- Client security fund
- The Bar pays high salaries compared to other state agencies
- Helping attorneys who have substance abuse problems
- Providing more opportunities for low-income families
- Resilience
- Ethics hotline
- Collecting dues
- Admissions to the Bar
- MCLE monitoring and compliance

AREAS WHERE THE STATE BAR HAS AN OPPORTUNITY TO IMPROVE ITS EFFECTIVENESS

Common Themes

- The relationship with the Legislature
- The relationship with the courts
- The deep distrust between the State Bar and the Legislature
- Internal communication between members of the State Bar (some members have yet to meet in person due to the pandemic)
- Proactive work in issue prevention
- Internal effectiveness (achieved through better internal communication)
- Funding
- Acknowledging issues
- Case backlog
- Transparency

- Communication with the public
- Punishment of lawyers for misconduct
- Community outreach
- Diversity
- Support for minority communities
- Civic education
- Prosecuting Unauthorized Practice of Law
- Providing support for licensees with mental health issues
- Handling trust accounts
- Both revising the Bar Exam and maintaining high standards for admission
- There is confusion among respondents on what promoting DEI means versus special treatment for underrepresented groups.