



The State Bar of California

OPEN SESSION AGENDA ITEM 706 MAY 2022

DATE: May 19, 2022

TO: Members, Board of Trustees

FROM: Donna S. Hershkowitz, Chief of Programs/Legislative Director
Bridget Fogarty Gramme, Deputy Chief of Programs

SUBJECT: Approval of Revised Guiding Principles for the State Bar Legislative Program;
Recommended Positions on Legislation and Budget Items

EXECUTIVE SUMMARY

At the March 2022 Board meeting, the Board adopted initial legislative priorities for the 2022 legislative session. As part of that agenda item, staff included a document adopted in January 2018 entitled “State Bar Legislative Program: Purpose and Guiding Principles.” The Board directed staff to bring to the May Board meeting an update to that document. The present agenda item seeks Board adoption of the updated Purpose and Guiding Principles for the State Bar’s legislative program as set forth in Attachments A (redline) and B (clean version). This document is intended to guide staff and the Board in their recommendations and decision-making as to what affirmative legislative proposals the State Bar should pursue and on what types of legislation it is appropriate for the State Bar to take positions. This agenda item also seeks Board approval of positions in support of budget proposals designed to increase access to legal services, consistent with the State Bar’s mission.

BACKGROUND

In January 2018, the Board adopted a statement of purpose and guiding principles for the State Bar’s legislative program. The guiding principles were intended to signal both internally and externally the types of matters on which the State Bar engages with the legislative and executive branches in light of the separation of the sections and the emergency of the State Bar

primarily as a regulatory entity. The guiding principles for the type of legislation on which the State Bar will engage are derived from the State Bar's strategic plan.

At the March 25, 2022, meeting, the Board adopted the 2022–2027 Strategic Plan, which revised and recast the strategic plan goals described in the 2018 legislative guiding principles document. At the same meeting, the Board adopted legislative priorities for 2022 and directed staff to return at the May meeting with update guiding principles.

DISCUSSION

GUIDING PRINCIPLES FOR THE STATE BAR'S LEGISLATIVE PROGRAM

Attachment A is a redline of the 2018 legislative program guiding principles. The revised language reflects the new strategic plan, and adds an emphasis on diversity, equity, and inclusion that was not described in the strategic plan as it read in 2018. In addition, staff has making efforts to further professionalize the State Bar's legislative program, and as such, is identifying and engaging with legislation that impacts the State Bar as a state agency, as an employer, as a contracting entity, etc., and not simply as a regulatory agency responsible for the discipline, admission, and regulation of attorneys. As a result, staff recommend adding language authorizing the State Bar executive director, in consultation with Board leadership, to establish legislative priorities and take positions on legislation that relates to the internal operations of the State Bar, reserving for the Board legislative priorities and positions that relate to the State Bar's role vis-à-vis attorney admission, regulation, and discipline; promoting the ethical practice of law; and support for access to the legal system and diversity, equity, and inclusion in the profession.

POSITIONS ON PENDING BUDGET ITEMS

On May 3, 2022, Senate Budget Subcommittee No. 5 heard proposals to increase funding through the Equal Access Fund generally, as well to provide new funding specifically for eviction and consumer debt matters. In explanation of the need for the funding, the subcommittee agenda included the following:

According to the National Equity Atlas, over 700,000 households in California are behind on an estimated \$3.1 billion in rent. Of the households behind on rent, 80 percent are low-income, 78 percent are people of color, and 50 percent are families with children. In addition to the EAF funding mentioned above, the 2021-22 Budget included \$80 million over three years [of federal] ARPA funds to provide legal aid services for renters and homeowners.

In addition, according to the Justice Gap Study, 'One-half (50%) of low-income households experienced a problem related to consumer issues. Common problems in this area include difficulties with medical debt (affecting 26% of all low-income households), having utilities disconnected (18%), dealing with harassment from creditors (16%), and falling victim to a scam (15%).' In addition, debt collection lawsuits doubled nationwide from 1993 to 2013 and have

continued to grow in both number and share of civil dockets, and less than 10 percent of defendants have counsel. More than 70 percent of debt collection lawsuits are resolved with default judgements for the plaintiff.

No vote was taken on the proposal May 3; the matter was held open for further consideration. Staff understands that the amount under consideration may include:

- A \$30 million one-time increase to the Equal Access Fund, which would continue for another year the increase provided in the 2021 Budget Act;
- \$15 million for consumer debt legal services; and
- \$150 million for housing and eviction defense as well as tenant education and outreach (this is an expansion of homelessness prevention funding provided for the last three fiscal years).

The Equal Access Fund is administered by the State Bar’s Legal Services Trust Fund Commission, which is responsible for the allocation of funding. The Legal Aid Association of California and the California Access to Justice Commission both supported this request for additional funding. This proposal is directly in line with Goal 2 of the State Bar’s 2022–2027 Strategic Plan: “Protect the public by enhancing access to and inclusion in the legal system: Increase access to the legal system through public outreach and education, improved access to legal advice and services, and a legal profession that reflects the diversity of California.” By increasing the available funding for legal aid organizations that assist the most vulnerable Californians, this proposal will increase and improve access to legal services and the legal system. Staff recommend that the Board support these funding requests.

In addition, the Senate Budget Subcommittee discussed funding for a Loan Repayment Assistance Program (LRAP) along the lines of that adopted in March as one of the State Bar’s legislative priorities. State Bar staff, in collaboration with the California Access to Justice Commission and the Legal Aid Association of California is working with Assembly and Senate Budget Subcommittee staff to advance a proposal for \$10 million in funding for an LRAP.

FISCAL/PERSONNEL IMPACT

None

AMENDMENTS TO RULES

None

AMENDMENTS TO BOARD OF TRUSTEES POLICY MANUAL

None

STRATEGIC PLAN GOALS & OBJECTIVES

Goal: 2. Protect the Public by Enhancing Access to and Inclusion in the Legal System.

RECOMMENDATIONS

Should the Board of Trustees concur in the proposed action, passage of the following resolution is recommended:

RESOLVED, that the Board of Trustees adopts the Revised Guiding Principles for the State Bar Legislative Program set forth in Attachments A (redline) and B (clean version); and it is

FURTHER RESOLVED, that the Board of Trustees directs staff to communicate the State Bar's support for budget proposals to increase access to legal services by increasing funding for homelessness prevention, consumer debt, and the Equal Access Fund, generally, and to adopt a Loan Repayment Assistance Program to support increased recruitment and retention of legal aid lawyers.

ATTACHMENTS LIST

- A.** Revised Guiding Principles for the State Bar Legislative Program (Redline Version)
- B.** Revised Guiding Principles for the State Bar Legislative Program (Clean Version)



The State Bar of California

ATTACHMENT A

State Bar Legislative Program: Purpose and Guiding Principles

(As Adopted ~~January 27, 2018~~ May 19, 2022)

The State Bar's legislative program is guided by the mission of the State Bar. As set forth in the Strategic Plan for 2022~~17-2022~~2027, the State Bar of California's mission is to protect the public and includes the primary functions of licensing, regulation, and discipline of attorneys; the advancement of the ethical and competent practice of law; and support of efforts for greater access to, and inclusion in, the legal system.

Guiding Principles:

The purpose of the legislative program is to pursue legislation in furtherance of the State Bar mission, monitor legislative activity, and represent and advocate for the State Bar on legislative, policy, and budget matters before the Legislature and ~~G~~-governor. The State Bar seeks to ensure that laws are in place that enhance the ethical and competent practice of law, the ability to effectively license and regulate lawyers in a manner that protects the public, and provide an effective, fair, just, and appropriate, system for the discipline of attorneys who commit misconduct and pose a risk of harm to the public. The State Bar seeks to promote-ensure that laws to enhance access to the profession and the justice system. The State Bar strives to promote greater diversity, equity, and inclusion in the legal profession. The State Bar seeks to promote laws that identify effective new tools and appropriate funding for, or eliminate unnecessary obstacles to, ~~the carrying out of the State~~ Bar's public protection mission.

The State Bar's legislative program seeks to advance the following ~~five~~four goals of the State Bar's Strategic Plan:

Goal 1: Protect the public by strengthening the Attorney Discipline System: Administer an attorney discipline system that is efficient, accountable, and transparent. Successfully transition to the "new State Bar"—an agency focused on public protection, regulating the legal profession, and promoting access to justice.

Goal 2: Protect the public by enhancing access to and inclusion in the legal system: Increase access to the legal system through public outreach and education, improved access to legal advice and services, and a legal profession that reflects the diversity of California. Ensure a timely, fair, and appropriately resourced admissions, discipline, and regulatory system for the more than 250,000 lawyers licensed in California.

Goal 3: Protect the public by regulating the legal profession: Promote the ethical and competent practice of law and prevent misconduct by providing education, resources, and

support for the legal profession. Improve the fiscal and operational management of the State Bar, emphasizing integrity, transparency, accountability, and excellence.

Goal 4: Protect the public by engaging partners: Engage partners and stakeholders to enhance public protection and restore the State Bar's credibility, reputation, and impact. Support access to justice for all California residents and improvements to the state's justice system.

Goal 5: Proactively inform and educate all stakeholders, but particularly the public, about the State Bar's responsibilities, initiatives, and resources.

With regard to all of the above, the Board of Trustees, or its designee, shall establish legislative priorities and direct positions on legislation.

In addition, as a state agency, the State Bar monitors and takes positions on legislation that affects the internal operations of the State Bar, such as legislation that impacts the State Bar as an employer, as an owner of commercial property, as a state agency subject to contracting requirements, open meeting requirements, and open records requirements. With regard to such matters, the Executive Director of the State Bar shall establish legislative priorities and direct positions on legislation in consultation with the Board Chair and Vice Chair.



The State Bar of California

ATTACHMENT B

State Bar Legislative Program: Purpose and Guiding Principles

(As Adopted May 19, 2022)

The State Bar's legislative program is guided by the mission of the State Bar. As set forth in the Strategic Plan for 2022–2027, the State Bar of California's mission is to protect the public and includes the primary functions of licensing, regulation, and discipline of attorneys; the advancement of the ethical and competent practice of law; and support of efforts for greater access to, and inclusion in, the legal system.

Guiding Principles:

The purpose of the legislative program is to pursue legislation in furtherance of the State Bar mission, monitor legislative activity, and represent and advocate for the State Bar on legislative, policy, and budget matters before the Legislature and governor. The State Bar seeks to ensure that laws are in place that enhance the ethical and competent practice of law, the ability to effectively license and regulate lawyers in a manner that protects the public, and provide an effective, fair, just, and appropriate system for the discipline of attorneys who commit misconduct and pose a risk of harm to the public. The State Bar seeks to promote laws to enhance access to the profession and the justice system. The State Bar strives to promote greater diversity, equity, and inclusion in the legal profession. The State Bar seeks to promote laws that identify effective new tools and appropriate funding for, or eliminate unnecessary obstacles to, carrying out the State Bar's public protection mission.

The State Bar's legislative program seeks to advance the following four goals of the State Bar's Strategic Plan:

Goal 1: Protect the public by strengthening the Attorney Discipline System: Administer an attorney discipline system that is efficient, accountable, and transparent.

Goal 2: Protect the public by enhancing access to and inclusion in the legal system: Increase access to the legal system through public outreach and education, improved access to legal advice and services, and a legal profession that reflects the diversity of California.

Goal 3: Protect the public by regulating the legal profession: Promote the ethical and competent practice of law and prevent misconduct by providing education, resources, and support for the legal profession.

Goal 4: Protect the public by engaging partners: Engage partners and stakeholders to enhance public protection and restore the State Bar's credibility, reputation, and impact.

With regard to all of the above, the Board of Trustees, or its designee, shall establish legislative

priorities and direct positions on legislation.

In addition, as a state agency, the State Bar monitors and takes positions on legislation that affect the internal operations of the State Bar, such as legislation that impacts the State Bar as an employer, as an owner of commercial property, as a state agency subject to contracting requirements, open meeting requirements, and open records requirements. With regard to such matters, the executive director of the State Bar shall establish legislative priorities and direct positions on legislation in consultation with the Board chair and vice-chair.