



The State Bar of California

OPEN SESSION

AGENDA ITEM

50-4 JULY 2022

BOARD EXECUTIVE COMMITTEE III.F

DATE: July 21, 2022

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

FROM: Louisa Ayrapetyan, Board Secretary, Office of the Executive Director

SUBJECT: Approval of Annual Appointment of State Bar Delegates to the American Bar Association House of Delegates

EXECUTIVE SUMMARY

Recognizing that participation on the ABA House of Delegates (HOD) aligns more closely with the State Bar's now divested trade association functions, the State Bar transferred the maximum number of allowable seats to the California Lawyer's Association (CLA) in 2018; of the 11 seats originally allocated to the State Bar, the State Bar currently retains four.

The terms of three of the State Bar's four HOD seats will expire in August 2022. These seats are filled by Ms. Donna Hershkowitz, Mr. Gonzalo Torres, and Mr. Toby Rothschild. This agenda item requests that the Board of Trustees reappoint Mr. Rothschild. The other two appointees do not seek additional terms in the HOD role.

The State Bar's executive director has initiated discussions with CLA to transfer its remaining seats to that organization in the near term.

BACKGROUND

The control and administration of the American Bar Association (ABA) is vested in the House of Delegates (HOD). Established in 1936, the HOD meets twice each year, at the ABA Annual Meeting and Midyear Meeting. Actions taken by the HOD on specific issues become official ABA policy. The State Bar delegates are part of the California delegation, which is led by the elected State Delegate, Laura Farber. The California delegation also includes delegates appointed by

local bar associations, ABA sections and divisions, and officers and members of the ABA Board of Governors.

Historically, the Board of Trustees appointed 11 members to the ABA HOD based on the recommendations of State Delegate Laura Farber. On January 1, 2018, as part of the reorganization of the State Bar, the sections, representing the interests of different legal specializations, separated from the State Bar and the State Bar initiated reallocation of delegate seats to CLA. While the State Bar sought to transfer all but one of its seats to CLA, the number of seats that the ABA allowed to be transferred was determined by CLA's overall membership roll. Seven of 11 seats were ultimately transferred to CLA.

DISCUSSION

At its June 2018 meeting, the Board took a first step toward realignment of ABA HOD appointments by appointing Chief of Programs, Donna Hershkowitz, to fill one of the upcoming vacancies. With the appointment of Ms. Hershkowitz, a State Bar leader could begin working with the California delegation and the ABA HOD on issues of common interest and involve the State Bar in national conversations about issues central to the State Bar's mission. The remaining three State Bar delegate seats were filled by individuals with a proven track record serving on State Bar subentities charged with assisting and advising the Board of Trustees in important areas of policy relevant to both the ABA and the State Bar.

Because the HOD is often involved in political activity, which the State Bar is precluded from participating in, the State Bar's participation in HOD work has been limited by legal analyses of HOD agendas to determine which, if any, topics are appropriate for State Bar participation.

Over the years there have been a significant number of items that State Bar appointees have had to abstain from addressing based on this legal analysis. Further, at least in Ms. Hershkowitz's view, the relevance of the HOD's agendas to the State Bar's strategic objectives has been attenuated.

The terms of three of four State Bar appointees are up in August. Ms. Hershkowitz and Mr. Torres do not wish to be reappointed; Mr. Rothschild does seek reappointment. It is therefore recommended that Mr. Rothschild be reappointed to a second two-year term effective August 2022.

State Bar leadership has reinitiated conversations with CLA about transferring the State Bar's remaining four HOD seats to that organization. It is anticipated that these discussions will come to positive fruition before any new HOD appointments are needed.

FISCAL/PERSONNEL IMPACT

The State Bar incurs between \$3,500 and \$4,200 annually per delegate in travel reimbursement expenses. Costs are allocated to both General Fund and restricted funds based on the extent the delegate work touches on distinct areas of State Bar operations.

AMENDMENTS TO RULES

None

AMENDMENTS TO BOARD OF TRUSTEES POLICY MANUAL

None

STRATEGIC PLAN GOALS & IMPLEMENTATION STEPS

Updates are being made to this section of the agenda item template to reflect the 2022–2027 Strategic Plan.

RECOMMENDATIONS

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

RESOLVED, that the Board Executive Committee recommends that the Board of Trustees reappoint Toby Rothschild as a State Bar delegate to the American Bar Association House of Delegates, for a two-year term effective at the conclusion of the 2022 ABA Annual Meeting and expiring at the conclusion of the 2024 ABA Annual Meeting, or until further order of the Board, whichever occurs earlier.

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, reappoints Toby Rothschild as a State Bar delegate to the American Bar Association House of Delegates, for a two-year term effective at the conclusion of the 2022 ABA Annual Meeting and expiring at the conclusion of the 2024 ABA Annual Meeting, or until further order of the Board, whichever occurs earlier.

ATTACHMENT LIST

- A. American Bar Association House of Delegates 2022 State Bar of California Delegation Roster

**State Bar of California Delegation Roster
American Bar Association House of Delegates
2022**

Delegate	Term Expiration
Esther P. Lin	8/8/2023
Donna S. Hershkowitz	8/9/2022
Toby J. Rothschild	8/9/2022 (reappoint to a two-year term expiring at the conclusion of the ABA Annual Meeting)
Gonzalo R. Torres	8/9/2022