



The State Bar of California

OPEN SESSION AGENDA ITEM 705 SEPTEMBER 2022

DATE: September 22, 2022

TO: Members, Board of Trustees

FROM: Yun Xiang, Chief of Mission Advancement & Accountability Division
Lisa Chavez, Director, Office of Research & Institutional Accountability

SUBJECT: Annual Discipline Report Review and Approval Timeline

EXECUTIVE SUMMARY

Senate Bill 211 changed the State Bar's Annual Discipline Report's (ADR) reporting deadline to October 31. The California State Auditor's 2022 report recommended that the State Bar outline procedures to produce the Annual Discipline Report. This agenda item requests that the Board of Trustees confirm its role in reviewing, evaluating, and approving the ADR and approve procedures the State Bar will follow to produce the ADR due on October 31, 2022.

BACKGROUND

For the past several years, the State Bar has prepared an Annual Discipline Report (ADR) "describing the performance and condition of the State Bar discipline system, including all matters that affect public protection" by April 30 of each year, as outlined in Business and Professions Code section 6086.15. However, Senate Bill 211 (SB211) changed the ADR's reporting deadline to October 31 of each year. SB211 also included several changes to reporting requirements. The ADR due on October 31, 2022, will be the first ADR impacted by these statutory requirements.

The California State Auditor's April 2022 report (State Audit Report 2020-030) also addressed the ADR. It contained the following recommendation:

To ensure that the State Bar's discipline report presents accurate, complete, and consistent information as state law requires, the Board should require the designated committee to review, evaluate, and approve the discipline report before submitting it to the Board. Additionally, the

committee should develop procedures outlining how the State Bar should compile the report in accordance with statutory requirements. The committee should approve these procedures for the State Bar's use before finalizing its 2021 discipline report.

DISCUSSION

Staff has outlined a set of procedures it will follow to produce the ADR, beginning with the production of the ADR due on October 31, 2022. This set of procedures is provided in Attachment A. It will be modified annually in response to changing requirements and ongoing process improvement changes. A report on adherence to these procedures will be submitted to the Board at the same time staff submits the ADR to the Board for review.

FISCAL/PERSONNEL IMPACT

None

AMENDMENTS TO RULES

None

AMENDMENTS TO BOARD OF TRUSTEES POLICY MANUAL

None

STRATEGIC PLAN GOALS & IMPLEMENTATION STEPS

None – compliance

RECOMMENDATIONS

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

RESOLVED, that the Board of Trustees will review, evaluate, and approve the Annual Discipline Report due annually on October 31; and it is

FURTHER RESOLVED, that the Board of Trustees approves the procedures the State Bar will follow in its production of the Annual Discipline Report due October 31, 2022.

ATTACHMENT LIST

- A.** State Bar Procedures to Produce the Annual Discipline Report

**State Bar Procedures to Produce the Annual Discipline Report (ADR)
due on October 31, 2022**

The State Bar's Division of Mission Advancement and Accountability (MAAD) produces the Annual Discipline Report (ADR) as required by Business and Professions Code 6086.15 and other statutes and rules.¹ MAAD will follow the following procedures to compile and produce the ADR due on October 31, 2022. This list will be modified annually in response to changing statutory requirements and ongoing internal process improvements.

Project Launch

- Confirm reporting requirement changes to Business and Professions Code 6086.15 and other relevant statutes.
- Confirm overarching goals of the project to include addressing State Audit recommendations, lessons learned from previous ADR iterations, and State Bar's emphasis on transparency.
- Develop project plan and timeline.
- Set ADR team meeting schedule.
- Convene ADR project kickoff meeting.

Produce data tables required by Business and Professions Code section 6086.15 and other statutes and rules.

- Identify specific data sources and elements to be used to satisfy each statutory reporting requirement; identify any areas of ambiguity and note any policy decisions made regarding data sources and elements.
- Where available, generate data from Odyssey, the case management system used by the Office of Chief Trial Counsel (OCTC) and the State Bar Court.
- Work with offices across the organization to provide data not generated using Odyssey.
- Review, replicate, and validate the accuracy of data generated using Odyssey.
- Identify anomalies in data, and request clarification/explanation/corrections from offices, including OCTC and the State Bar Court.

Review appendices in previous ADR to update, modify, or augment.

- Appendices include methodology, glossary, and background information.

Update methodology appendix

- Summarize any changes in calculating metrics and provide information calculated under both old and new methods.

¹ While Business and Professions Code section 6086.15 in its various sections define the bulk of ADR statistics across multiple tables, a few additional statutes require reporting on specific matters and different aspects of the discipline system, including: Business and Professions Code section 6095(b) on felony convictions; Civil Code 55.32(f)(1) on construction-related demand letters; Insurance Code 1872.95(a) related to insurance fraud cases; and Business and Professions Code section 6177 regarding complaints of financial services provided by lawyers.

Write narrative that summarizes report structure and changes in reporting requirements pursuant to Senate Bill 211

- Examples include changing the reporting period from the calendar to fiscal years, with the specific requirement to report both in this year's report, report deadline, and new reporting requirements.

Compile report and circulate internally among senior management for feedback

- Update report based on feedback received.

Produce report for Board of Trustee review, evaluation, and approval

- Schedule a special meeting of Board of Trustees in October 2022.
- Focus Board presentation on changes from prior year ADRs and related rationale and any policy decisions reflected in report analysis or narrative.

Produce final report for Chief Justice of California, the Governor, Speaker of the Assembly, the President pro Tempore of the Senate, Assembly and Senate Judiciary Committees