



*The State Bar of California*

# Review and Approval of Senate Bill 211 Case Processing Standards Proposal

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Board of Trustees, October 24, 2022

**“The case processing standards shall take into account all relevant factors, including but not limited to...”**

**B&P 6094.5(b)(1)**

### **Mechanics of the discipline process**

- Intake, Investigation, Charging

### **Complexity of cases**

- Complex vs Noncomplex

### **Risk to public protection (RPP)**

- Higher-RPP v Lower-RPP
- Including multiple complaints against the same attorney

### **Reasonable expectations of the public for resolution of complaints**

- Public Survey
- Solicit Public Comment



## SB 211: Areas Standards Must Reflect

**“The case processing standards shall be based on and reflect all of the following...”**

**B&P 6094.5(b)(1)**

- Consultation with state and national experts on attorney discipline
- Reports from the Legislative Analyst's Office
- Reports from the California State Auditor
- Review of case processing standards in at least five other states (both large and small)



# Updates on Case Processing Standards Framework

## May

- Review of LAO and Auditor Reports
- Six States' Comparison
- Public Survey Results

## July

- Review of ABA State Comparison Data
- Experts' Opinions
- Focus Group Results

## September

- Case Processing Standards
- Backlog Metrics
- Public Comments
- Questions for RAD

## October (Final)

- Discussions with Legislative Staff, LAO and State Auditor
- Final Proposed Standards and Backlog Metrics
- Staffing Needs Analysis



# Discussions with Legislative Staff, Legislative Analyst's Office, and State Auditor



# What We Presented (1) – Standards and Backlog Metric

**Current Statute:** “It is the goal and policy of the State Bar to...dismiss a complaint, admonish the attorney, or have the OCTC file formal charges..”

- ✓ Noncomplex cases: **within six months**
- ✓ Complex cases: **within 12 months**

## SB 211

“The State Bar shall...develop **proposed case processing standards** that reflect the goal of resolving attorney discipline cases in a timely, effective, and efficient manner **while having small backlogs** of attorney discipline cases and best protecting the public.”

### Current proposal defines:

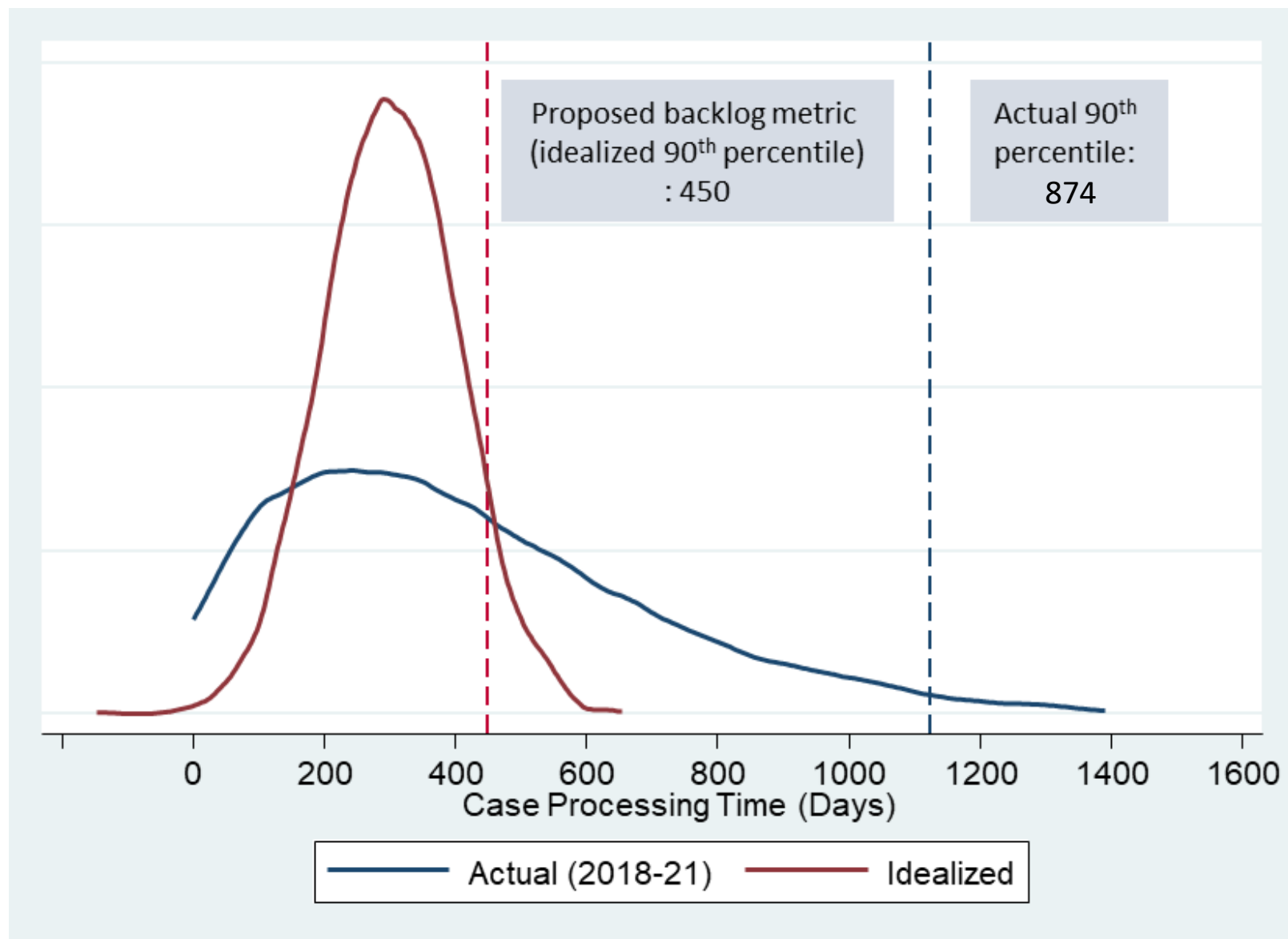
- Case processing standards based on average time to close; **and**
- Backlog metrics based on 150% of these average case time standards (90th percentile of idealized bell curve)





## What We Presented (2) – Backlog Metric: Idealized 90th Percentile

Cases Closed/Filed in Charging



## What We Presented (3) – Three Options

### Hypothetical ADR Reporting

**Option 1:** The average case processing time standard is the only goal. No more than 50% of cases will close beyond the goal.

**Option 2:** The idealized 90th percentile (150% of average time) is the only goal. No more than 10% of cases will close beyond the goal.

**Option 3:** The average case processing time is the standard. The idealized 90th percentile (150% of average time) is the backlog metric (goal). No more than 10% of cases will close beyond the backlog metric (goal).

	Option 1	Options 2 & 3	Cases Meeting Goals (N/%)	Cases <b>Not</b> Meeting Goals (N/%)
1. Intake	30	45	N (%)	N (%)
2. Investigation – Higher RPP Noncomplex	120	180	N (%)	N (%)
3. Investigation – Lower RPP Noncomplex	150	225	N (%)	N (%)
4. Investigation – Higher RPP Complex	180	270	N (%)	N (%)
5. Investigation – Lower RPP Complex	210	310	N (%)	N (%)
6. Charging	300	450	N (%)	N (%)
Total			N (%)	N (%)





# Meeting with Legislative Staff

## September 29, 2022

### Three Options

- Option 3 is preferred. The average standard displays a shorter time frame than the backlog metric and this is in alignment with the public expectation
- Option 3 provides more information than the other two options

### Other Comments

- Clarified that all times are cumulative (time is counted from receipt of complaint)
- Emphasized the standards and the backlog metrics will not change year to year based on percentile; they are fixed numbers

### Defer to Review of LAO and the State Auditor

- Suggested the State Bar meet with both offices



# Meeting with LAO

## September 30, 2022

### Three Options

- Option 3 preferred, as it provides more information than the other two options

### Framework and Standards

- Clarify distinction between complexity and risk
- Clarify that all times are cumulative (time is counted from receipt of complaint)

### Focus on How the State Bar Meets Standards

- Feasibility of the standards
- Factor in process changes and staffing levels
- Factor in quality—quality cannot be sacrificed for speed

### Staffing Needs Analysis

- Statute requires some estimate of staffing needs when proposed standards are submitted
- Preliminary assessment needed to determine whether standards and backlog metrics are realistic



## Meeting with State Auditor: October 4, 2022

- Agreed that option 3 would satisfy State Audit Report 2020–030 (April 2021) recommendation:  
  
“Develop and recommend an appropriate backlog measure and goal as required by state law, including the number of days at which a case should be added to the backlog as well as a goal for the number of cases in the backlog.”
- Clarified that the standards and the backlog metrics will not change from year to year and are fixed.



# Final Case Processing Standards & Backlog Metrics



# Proposed Standards and Backlog Metrics

The standards and the backlog metrics count the days from the receipt of complaints

Case Category	Current Average	Proposed Standard (average)	Current 90th percentile	Proposed Backlog Metric (90th percentile)
1. Intake	42	30	74	45
2. Investigation – Higher RPP Noncomplex	167	120	294	180
3. Investigation – Lower RPP Noncomplex	197	150	384	225
4. Investigation – Higher RPP Complex	248	180	414	270
5. Investigation – Lower RPP Complex	307	210	579	310
6. Charging	449	300	874	450

Note: “current” is based on 2018–2021 data



# Staffing Needs Analysis





# Staffing Needs Analysis

## SB 211

“The analysis shall include staffing requirements for the Office of Chief Trial Counsel to achieve the case processing goals described in this paragraph.”

## Issue

The final staffing needs analysis will not be delivered with the proposal, because:

1. Need legislative guidance on whether proposed case processing standards are realistic before doing a final staffing needs analysis based on those case processing standards; and
2. As a result of most recent State Audit, and information gathered during development of case processing standards, OCTC is making changes in procedures and practices to improve efficiency of case processing.

## Solution

Introduce a preliminary staffing needs analysis in the proposal and develop a plan for a comprehensive staffing needs analysis, including examination of procedures for operational improvement.



# Preliminary Staffing Needs Analysis: Method 1

## Based on 2021 Workload Study

- Conducted to address LAO concerns with 2018 workload study
- Time-study survey in March 2021 (work hours for case processing tasks)
- Delphi focus group sessions (comments are consistent with SB 211 focus groups)

Staff Type	Current Staffing (2021)	Estimated Staff Needed	Additional Staff Needed
Attorney	80	127	47
Investigator	79	104	25
Support Staff	88	128	40
Total Line Staff	247	359	112
Supervisor/Manager	25	32	7
Total Staff	272	391	119

Note: estimated staffing needs based on proposed standards



## Preliminary Staffing Needs Analysis: Method 2

### Based on a linear model

- Compare current and proposed case processing standards
- Assume linear relationship between changes in time and staff resources

Staff Type	Current Staffing (2021)	Estimated Staff Needed	Additional Staff Needed
Attorney	80	103	23
Investigator	79	102	23
Support Staff	88	113	25
Total Line Staff	247	318	71
Supervisor/Manager	25	32	7
Total Staff	272	350	78

Note: estimated staffing needs based on proposed standards



# Fiscal Impact of Rough Estimate Staffing Needs

- 1 Generic OCTC FTE
  - \$136,665 annual salary
  - Not including overhead
- 78 FTE = \$10.65 million
- 119 FTE = \$16.26 million
  
- 195,000 active licensees
  - Between \$54 and \$83 per licensee



# Final Staffing Needs Analysis

- **Will initiate in 2023**
- **Will account for OCTC operational improvements**
  - Generalized v. specialized teams (immigration-related cases, CTA/RA Pilot)
  - Case-stage specific improvements
    - Intake – complaint form modifications
    - Investigation – streamlined procedures for respondents with multiple complaints, speeding time for legal advisor approvals
    - Charging – earlier review and approval of proposed charges
  - Improved interim reports for effective monitoring
- **Will account for the following**
  - Case weighting based on risk and complexity
  - Staff experience, turnover, training time
  - Increased investigator field activity
  - Increased administrative support

