



The State Bar of California

OPEN SESSION AGENDA ITEM 50-3 JANUARY 2023

DATE: January 19, 2023

TO: Members, Board of Trustees

FROM: Steve Mazer, Chief Administrative Officer

SUBJECT: Approval of Revisions to Rules and Regulations Pertaining to the Employment of Executive, Management, and Confidential Staff

EXECUTIVE SUMMARY

This agenda item requests the Board of Trustees to approve revisions to the Rules and Regulations Pertaining to the Employment of Executive and Management Staff Employees (Executive Staff Rules) and the Rules and Regulations Pertaining to the Employment of Confidential Employees (Confidential Staff Rules), following the approval of new Memoranda of Understanding (MOUs) with the State Bar's represented rank-and-file staff. The proposed revisions align certain benefits in the Executive and Confidential rules with those in the new MOUs; more closely align the definitions of "executive" and "management" in the rules with those used by other public agencies; and make other minor technical changes.

BACKGROUND

On December 22, 2022, the Board of Trustees approved new MOUs between the State Bar and its employees' union, Service Employees International Union, Local 1000. The new MOUs made changes to various benefits provided to represented rank-and-file staff, and changes to various terms and conditions of their employment. No similar changes were made to the rules affecting Executive and Confidential staff.

DISCUSSION

The adoption of the MOUs for Bargaining Unit Staff included added benefits or clarifications to existing benefits. To ensure fairness and equity, comparable or related changes for Executive, Management, and Confidential staff are needed. The proposed changes, with references to the section numbers in the in the attached proposed rules, are as follows:

Holidays: Establishes Juneteenth as a new paid holiday. Changes name of existing Columbus Day holiday to Indigenous Peoples' Day. (Executive Section 15/Confidential Section 18)

Vacation: Increases vacation cash-out option from three weeks to four weeks per year. (Executive Section 14/Confidential Section 19)

Paid Personal Leave: Removes restrictions on the use of Paid Personal Days, allowing them to be used for any purpose. Increases number of Paid Personal Days from four to six after 10 years of service. (Executive Section 11/ Confidential Section 20)

Bereavement Leave: Provides clarification that use of bereavement leave is not restricted to time required to attend a funeral. (Executive Section 16/ Confidential Section 22)

Paid Child Bonding Leave: Clarifies that Paid Child Bonding Leave runs concurrently with other leaves of absence. (Executive Section 20/Confidential Section 27)

Catastrophic Leave Bank: Provides greater flexibility in employees' ability to donate time to the Catastrophic Leave Bank. (Executive Section *Not Applicable*/ Confidential Section 22)

Leaves of Absence: Clarifies the compelling reasons for leaves of absence. (Executive Section 19/ Confidential Section 26)

Staff also recommends changing the terminology describing "executives" and "management" in the rules and renaming the Executive Staff Rules the Executive and Management Staff Rules. At least since 1982, when the Executive Staff Rules were first adopted in their current format, the State Bar has used the term "executive" broadly, to refer to its entire management staff. In contrast, most public agencies, including the State of California and the Judicial Council of California, designate such employees broadly as "management," and reserve the specific designation of "executive" for senior management positions. Because the State Bar's terminology has sometimes led to misunderstandings with stakeholders, the proposed revisions to the rules rename them to reflect a distinction between executive and management personnel; and modify Section 4 (Definitions) to more closely align the State Bar's definitions of "executive" and "management" with other public agencies, by (1) referring to all management staff as "management" instead of "executive" and (2) defining "executive" as the Executive Director and those management positions at the Director-, Deputy Chief- and Chief-level. Other references to "executive" throughout the document have been updated accordingly.

Finally, the proposed revisions make a number of minor technical updates, such as deleting obsolete references and updating the State Bar's goals to reflect the new five-year strategic plan.

FISCAL/PERSONNEL IMPACT

The proposed changes do not have any material fiscal impact.

AMENDMENTS TO RULES

Amendments are sought to the Executive and Management Staff Rules and Confidential Staff Rules, as described above.

AMENDMENTS TO BOARD OF TRUSTEES POLICY MANUAL

None

STRATEGIC PLAN GOALS & IMPLEMENTATION STEPS

None – core business operations

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 Rules and Regulations Pertaining to the Employment of Executive and Management Staff Employees and the revised Rules and Regulations Pertaining to the Employment of Confidential Employees, as set forth above and in Attachments A and B.

ATTACHMENTS LIST

- A.** Proposed Executive and Management Staff Rules, as Revised
- B.** Proposed Confidential Staff Rules, as Revised

THE STATE BAR OF CALIFORNIA

RULES AND REGULATIONS PERTAINING TO THE EMPLOYMENT OF EXECUTIVE-~~AND~~ MANAGEMENT STAFF EMPLOYEES

Adopted February 5, 1982

Amended

July 27, 1984

July 19, 1986

April 21, 1988

July 1, 1992

January 1, 2004

January 1, 2005

June 17, 2006

August 19, 2006

November 17, 2006

January 1, 2012

January 1, 2014

January 26, 2017

April 10, 2017

July 17, 2017

May 14, 2020

July 16, 2020

January 20, 2023

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~~RULES AND REGULATIONS PERTAINING-
TO THE EMPLOYMENT OF
EXECUTIVE STAFF EMPLOYEES~~

SECTION 1. GENERAL PROVISIONS

A. The following Rules and Regulations Pertaining to the Employment of Executive and Management Staff Employees (~~Executive Staff~~ Rules) are hereby adopted and shall govern the terms and conditions of employment of all employees, other than the Executive Director, of The State Bar of California (the State Bar) who are designated as Executive or Management Staff Employees. These ~~Executive Staff~~ Rules embody the terms and conditions of employment of the State Bar's Executive and Management Staff Employees and nothing shall confer any additional right or benefit upon any Executive or Management Staff Employee. Any term or condition of employment of an Executive or Management Staff Employee, other than the Executive Director, which is inconsistent with the provisions of these ~~Executive Staff~~ Rules, is hereby extinguished.

B. These ~~Executive Staff~~ Rules are adopted in recognition of the special relationship that exists between the State Bar and its Executive and Management Staff who have significant responsibility for representing the institutional interests of the State Bar in the formulation, determination and effectuation of policies and programs.

C. The State Bar's primary mission is public protection. The State Bar's ability to meet its mission depends upon Executive and Management Staff taking personal and professional leadership responsibility for providing high quality service in the regulation of the legal profession. The changing demands upon the legal system and upon the State Bar make it imperative that Executive and Management Staff commit themselves to assuring high quality service that meets the needs of the public. Accordingly, Executive and Management Staff Employees undertake a special commitment to provide high quality leadership to the organization in its efforts to regulate the legal profession and serve the public in a prompt, courteous, and efficient manner thereby furthering the Mission of the State Bar which states:

The Mission of the State Bar:

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.

Goals of the State Bar:

~~Successfully transition to the "new State Bar"—an agency focused on public protection, regulating the legal profession, and promoting access to justice.~~

~~Ensure a timely, fair, and appropriately resourced admissions, discipline, and regulatory system for the more than 250,000 lawyers licensed in California.~~

~~Improve the fiscal and operational management of the State Bar, emphasizing integrity, transparency, accountability, and excellence.~~

~~Support access to justice for all California residents and improvements to the state's justice system.~~

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

Protect the Public by Strengthening the Attorney Discipline System: Administer an attorney discipline system that is efficient, accountable, and transparent.

- 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's communities.

- 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.

- Protect the Public by Engaging Partners: Engage partners and stakeholders to enhance public protection and restore the State Bar's credibility, reputation, and impact.

D. The Executive Director may issue Administrative Advisories and policies consistent with these Executive Staff Rules. These Executive Staff Rules, as amended from time to time by the Board of Trustees of the State Bar (Board), supersede all prior Executive Staff Rules and other terms and conditions of employment, agreements, representations, and understandings, whether oral or written, express or implied, by and between the State Bar and any Executive or Management Staff Employee.

SECTION 2. STATEMENT OF INTENT

In adopting these Executive Staff Rules, the Board recognizes that the employment and retention of qualified, competent Executive and Management Staff Employees is an essential ingredient for the effective organization, management, and administration of the State Bar and for the achievement of the State Bar's public protection mission.

SECTION 3. AUTHORITY FOR ADMINISTRATION

The Executive Director, within budgetary guidelines determined by the Board, is responsible for the day-to-day administration, interpretation, enforcement, and operation of these Executive Staff Rules. The Executive Director or their designee is the authorized agent to resolve any issues concerning the interpretation and operation of

these ~~Executive Staff~~ Rules and may do so through the issuance of Administrative Advisories and policies consistent with these Rules.

SECTION 4. DEFINITIONS

- A. "Board" is the Board of Trustees of the State Bar.
- B. "Chief Trial Counsel" is the Chief Trial Counsel appointed pursuant to Business & Professions Code section 6079.5.
- C. "Days" are Calendar days, unless otherwise specifically stated.
- D. "Employee" or "Employees" are Executive and Management Staff Employees, unless otherwise specifically stated.
- E. "Executive Director" is the Executive Director of the State Bar appointed by the Board of Trustees.
- F. "~~Executive-Management~~ Staff" ~~is-are~~ those positions designated from time to time by the Executive Director, ~~in accordance with section 3.7 of the Rules and Regulations for the Administration of Employer-Employee Relations,~~ to manage the State Bar. In so designating the Executive-Management Staff, the Executive Director shall be guided by section 3513 of the Government Code. The Executive Director shall maintain a roster of current Management~~Executive~~ Staff positions.
- G. "Executive Staff-~~Employee~~" ~~is the Executive Director and the subset of Management Staff at the Director-, Deputy Chief- or Chief-level. The Executive Director shall maintain a roster of current Executive Staff positions, or "Executive Staff Employees" are those employees of the State Bar in positions designated as Executive Staff including Senior Executive Staff Employees. An Executive Staff Employee remains such an employee until his or her position ceases to be so designated.~~ is the Executive Director and the subset of Management Staff at the Director-, Deputy Chief- or Chief-level. The Executive Director shall maintain a roster of current Executive Staff positions, or "Executive Staff Employees" are those employees of the State Bar in positions designated as Executive Staff including Senior Executive Staff Employees. An Executive Staff Employee remains such an employee until his or her position ceases to be so designated.
- H. "General Counsel" is the General Counsel of the State Bar.
- I. "Leadership Team" shall mean the Executive Director and the following positions: Chief Trial Counsel, General Counsel (Chief Legal Officer), Chief Programs Officer, Chief Financial Officer-, Chief Administrative Officer and Chief Mission Officer.
- J. "Office Director" shall mean a Director-level Executive Staff Employee that reports directly to a member of the Leadership Team and oversees an Office.
- K. "Secretary" is the Secretary of the State Bar selected Pursuant to Business & Professions Code section 6022.
- L. ~~"Senior Executive Staff Employee" shall mean a member of the Leadership Team, a Deputy Chief reporting to a member of the Leadership Team, an Office Director, and the~~

~~Clerk of the State Bar Court.~~

~~M.L.~~ "State Bar" is The State Bar of California as defined in Business & Professions Code sections 6001 et seq.

SECTION 5. TERMINATION AND DEMOTION

A. All employment with the State Bar as an Employee is terminable at will, with or without cause, by either the State Bar or the Employee. Unless the Board has retained to itself the discretion to appoint or terminate an Employee, an Employee serves at the pleasure of the State Bar and may be terminated, disciplined, or demoted at will by the Executive Director.

B. No member of the Board, the Executive Director, any Employee, or other employee or agent of the State Bar shall have the authority to make any agreement different from these Rules.

C. In the event that an Employee is demoted, their salary shall be adjusted in an appropriate amount as determined by the Executive Director.

SECTION 6. SEVERANCE PAY

A. This section is adopted in recognition that an Employee serves at the pleasure of the State Bar and can be terminated for any reason whatsoever.

B. This section shall not apply to an Employee whose involuntary termination or resignation is by reason of their commission of an act involving moral turpitude, dishonesty, corruption, or similar act of gross misconduct, whether the act is committed in the course of their employment or otherwise. This section shall also not apply where an Employee is terminated pursuant to the long-term disability provisions of section 12.E, of these Executive Staff Rules. This section shall also conform to the requirements of California Government Code §53260 when an Employee's term of employment is defined by contract or statute.

C. Upon involuntary termination or upon involuntary resignation, the State Bar shall pay severance pay to the Employee. The amount of such severance pay shall be calculated on the basis of the Employee's position, length of employment with the State Bar as an Executive Staff Employee, and length of continuous service in the position, as follows:

A member of the Leadership Team

Six (6) months of salary, regardless of the length of their employment with the State Bar.

~~An Senior~~ Executive Staff Employee Other Than a Member of Leadership Team

Less than one (1) year of continuous service as an <u>Senior-Executive</u>	Two (2) months
At least one (1) year but less than two (2) years of continuous service as an <u>Senior-Executive</u>	Three (3) months
At least two (2) years but less than three (3) years of continuous service as an <u>Senior-Executive</u>	Four (4) months
Three (3) years or more of continuous service as an <u>Senior-Executive</u>	Six (6) months

An Senior-Executive who promoted from a Management Executive-Staff position shall receive the severance entitlement of an Senior-Executive or Executive-Management Staff employee, whichever is greater, based on their length of employment.

All other ~~Executive-Management~~ Staff Employees

Less than one (1) year of continuous service as an <u>Executive-Management Staff Employee</u>	One (1) month
One (1) year or more of continuous service as an <u>Executive-Management Staff Employee</u>	One (1) month for each completed year of continuous service, up to a maximum of six (6) months

D. The term "length of employment" means the length of continuous regular full-time State Bar service from the actual date of initial employment as an Employee to the actual date of involuntary termination or involuntary resignation as an Employee.

E. Severance pay shall be calculated on the basis of the salary which the Employee is receiving at the time of their involuntary termination or involuntary resignation.

F. Severance pay shall be paid as a lump sum on the next regular pay date following the Employee's date of separation.

SECTION 7. HOURS OF EMPLOYMENT

A. Hours of employment will typically be a forty (40) hour workweek, however, inasmuch as the compensation of Employees is based upon the duties that they are required to perform, the hours of employment of Employees are those necessary to reasonably and competently discharge such responsibilities. Accordingly, and consistent

with the governing terms of the Fair Labor Standards Act, Employees are not eligible for either overtime compensation or compensatory time off. Nothing in this paragraph shall be interpreted as a limitation on the Executive Director's authority to direct the work and manage the workflow of the State Bar.

B. Although Employees are not entitled to compensatory time off, it is acknowledged that the hours of employment necessary to reasonably and competently discharge the Employee's responsibilities may from time to time necessitate the Employee's absence from the State Bar during normal working hours in order to attend to personal or legal obligations, emergencies, or other pressing business that could not otherwise be accomplished outside of working hours, provided, however, that this provision shall not be abused.

SECTION 8. EQUAL EMPLOYMENT OPPORTUNITY

The State Bar shall encourage and support equal employment opportunity for all employees and applicants for employment without regard to race, creed, religion, color, national origin, age, sex, physical handicap, physical or mental impairment, marital status, political affiliation, sexual orientation, gender, or gender identity. The State Bar shall not discriminate or retaliate against Employees based on these factors in violation of state or federal law. Administrative Advisories and policies issued periodically by the Executive Director set forth the State Bar's policies on this subject.

SECTION 9. PLACEMENT, HIRING, AND SALARY RATES

A. Employees shall be appointed by the Executive Director and serve at the pleasure of the Executive Director except as set forth in these Executive Staff Rules and in the Policy Manual of the Board of Trustees.

B. The Executive Director shall be subject to those terms and conditions of employment established by the Board of Trustees for that position independently of these Rules.

C. Subject to the above, the Executive Director shall determine the placement, hiring, and salary rates of Employees ~~Executive Staff positions~~ and shall be guided by the nature of the duties required to be performed, the level of difficulty of such duties, and the level of responsibility required to be assumed. ~~Executive Staff~~ Employee salaries may be adjusted by the Executive Director from time to time consistent with budgetary constraints set by the Board and with annual performance evaluations as set forth in these Rules.

D. Subject to budgetary constraints set by the Board and annual performance evaluations as set forth in these Rules, the Executive Director may also provide to Employees performance-based incentives.

SECTION 10. EVALUATIONS

The performance of Employees shall be evaluated annually. A copy of each evaluation shall be provided to and discussed with the affected Employee.

SECTION 11. PAID SICK LEAVE AND PAID PERSONAL DAYS

- A. Sick leave is defined as absence from work due to illness, medical care, dental care, or eye care of the Employee or a member of the Employee's immediate family, including a domestic partner, that cannot be accommodated at times other than during normal State Bar work hours.
- B. Employees accrue paid sick leave credit at the rate of one (1) workday per month (12 working days per year).
- C. An Employee shall not accrue more than two hundred forty (240) days of paid sick leave.
- D. Upon retirement, an Employee may obtain service credit for accrued and unused sick leave to the extent allowed by the California Public Employee Retirement System (CalPERS). In the alternative, upon retirement, voluntary resignation, or layoff from employment with the State Bar, an Employee who has completed one full year of continuous service with the State Bar may request to be paid for up to a maximum of thirty (30) days of their accrued but unused Paid Sick Leave. Payment for such accrued but unused Paid Sick Leave shall be made by the State Bar at the rate of twenty-five percent (25%) of the Employee's daily salary at the time of their retirement, voluntary resignation, or layoff.
- E. Employees with less than ten (10) years of service may take a maximum of four (4) Paid Personal days per calendar year. An Employee with ten (10) or more years of service may take a maximum of six (6) Paid Personal days per calendar year. Paid Personal Days can be used for absences for any personal reason. ~~are generally approved only for absences due to family emergencies, legal proceedings to which the Employee is a party, religious holidays, school-related functions of minor children, or unexpected problems that cannot be accommodated at times other than during normal State Bar working hours.~~ Employees will not be paid for Paid Personal Days not taken and Personal Days will not accumulate or carry over from year to year. Employees who receive an "Exceeds Expectations" rating on their annual performance evaluation shall be awarded one additional Paid Personal Day to be used within one year of receiving the qualifying performance evaluation.

SECTION 12. DISABILITY LEAVE

- A. Employees who become disabled, as defined in the long-term disability policy maintained in accordance with this Section, shall, during the elimination period provided for in the long-term disability policy, utilize their previously accrued paid sick leave, provided

that, if their accrued paid sick leave is exhausted prior to the end of the elimination period, the Employee shall thereafter be granted leave at fifty-five percent (55%) of their gross pay up to a maximum amount of \$50,000, for the remainder of the elimination period, but in no event for a period in excess of six (6) months. In the alternative, an Employee may integrate accrued sick leave with the disability pay provided here subject to the limitations set forth.

B. An Employee who must care for a seriously ill child, spouse, parent, or qualified domestic partner, or who seeks to “bond” with a newborn child, shall utilize their accrued paid sick leave. If accrued paid sick leave is exhausted, the Employee shall thereafter be granted paid Family Disability Leave at fifty-five percent (55%) of their pre-disability gross pay rate, for a period not to exceed six (6) weeks. In the alternative, an Employee may integrate accrued sick leave, or if applicable Paid Child Bonding Leave, with the disability pay provided here subject to the limitations set forth.

C. At the end of the elimination period, an Employee who is disabled and qualifies for receipt of benefits pursuant to the long-term disability policy shall receive such benefits and shall not be permitted to take further accrued paid sick leave until such time as they may return from such absence.

D. Because Employees are not covered by the California State Disability Insurance Program, the State Bar shall provide to Employees at State Bar expense a long-term disability policy, providing total disability insurance benefits, including the following provisions:

1. An elimination period of one hundred eighty (180) calendar days;
2. A maximum benefit period to age sixty-five (65);
3. Percentage of insured earnings of sixty-six and two-thirds percent (66 2/3%);
4. Maximum insurable earnings of fifteen thousand dollars (\$15,000.00) per month;
5. Maximum benefit amount of ten thousand dollars (\$10,000.00) per month;
6. Minimum benefit amount of fifty dollars (\$50.00) per month;
7. Benefits renewable to age seventy (70) plus;
8. A definition of "total disability" applied during the first twenty-four (24) months to mean disabled from performing the material duties of the insured's own occupation. Rehabilitation provision to apply for disabilities exceeding twenty-four (24) months;
9. Coverage features including:
 - a. Rehabilitation benefit;
 - b. Partial disability benefit;
 - c. Pregnancy;
 - d. Waiver of premium;
 - e. Recurrent disability clause;
 - f. Cost of living adjustment;

- g. Survivor income benefit;
- h. Mental/nervous/emotional disability benefits;
- i. Alcoholism/drug addiction disability benefits;
- j. Pre-existing conditions.

E. During the applicable elimination period for the long-term disability policy, an Employee shall be entitled to return to their previous position, consistent with medical clearances. During the applicable elimination period, the State Bar shall pay the applicable premium and make appropriate contributions for the Employee's medical, dental, and life insurance benefits.

F. At the end of the elimination period for the long-term disability policy and periodically thereafter as necessary, the State Bar shall determine, on a case-by-case basis, whether to continue the Employee's employment with the State Bar and/or whether to continue the State Bar's payment of medical/hospital, vision care, dental, and life insurance coverage. This provision shall have no effect upon the Employee's right to retire from State Bar service and, if qualified, receive medical insurance coverage pursuant to section 27.D of these Executive Staff Rules.

G. An Employee who is absent from work due to illness or disability for a period in excess of thirty (30) consecutive calendar days shall not accrue paid sick leave or vacation during the period of absence that is in excess of thirty (30) calendar days.

SECTION 13. INSURANCE BENEFITS

A. The State Bar shall provide health insurance benefits to Employees through medical plans negotiated and administered by CalPERS under the authority of the Public Employees' Medical & Hospital Care Act ~~(PERS Medical)~~. Dental and Vision insurance benefits offered to Employees will continue to be negotiated for directly by the State Bar. Dependent care coverage shall be extended to qualified domestic partners.

B. Employees will contribute to the cost of medical health insurance and dental insurance coverage as follows: Twenty percent (20%) of the total monthly premium cost for the coverage selected by the Employee. The premium cost will vary among three levels of coverage: 1) single party; 2) two-party; and 3) family coverage.

C. Employees who provide the State Bar evidence of alternative medical insurance coverage may elect to "opt-out" of State Bar-provided insurance benefits and will receive \$130 in additional taxable income per month in lieu of State Bar-provided insurance benefits.

D. The State Bar will maintain an Employee Assistance Program (EAP) in which Employees may participate.

SECTION 14. VACATIONS

A. Employees shall accrue vacation at the following rates:

Less than ten (10) years of service	1.25 days per month (15 working days per year)
At least ten (10) years but less than fifteen (15) years of service	1.67 days per month (20 working days per year)
Fifteen (15) or more years of service	2.08 days per month (25 working days per year)

B. The term "years of service" for purposes of vacation accrual shall mean the number of years of regular full time employment with the State Bar, irrespective of classification or position title.

C. Employees are encouraged to take at least ten (10) days of vacation time per year.

D. Notwithstanding any other provision of this section, vacation accrual shall cap at eighty (80) days.

E. Upon termination, an Employee shall be paid for all unused, accrued vacation time.

F. Employees may, at the discretion of the Executive Director, cash in accrued and unused vacation in increments of one week, not to exceed a total of ~~three~~ four (4) weeks per calendar year.

SECTION 15. HOLIDAYS

A. The following are recognized as paid holidays for all Employees: New Year's Day; Martin Luther King's Birthday; Presidents' Day; Caesar Chavez Day, Memorial Day; Juneteenth; Independence Day; Labor Day; Columbus-Indigenous Peoples' Day; Veteran's Day; Thanksgiving Day; the day following Thanksgiving Day; Christmas Eve; Christmas Day; New Year's Eve.

B. Holidays shall be celebrated on the day designated by the State Bar.

C. Employees not on paid status will not receive holiday time off or holiday pay.

SECTION 16. BEREAVEMENT LEAVE

In the event of a death in the immediate family (i.e., spouse, including domestic partner;

child, including foster, step or adopted; parent; brother; sister; father-in-law, including father of domestic partner; mother-in-law, including mother of domestic partner; grandparent; grandchild; aunt; uncle; niece; or nephew), Employees shall be entitled to bereavement leave of five (5) days with pay ~~to attend a funeral~~. Such leave shall not be charged to vacation, paid personal leave or paid sick leave.

SECTION 17. JURY/WITNESS DUTY

In the event that an Employee is called for jury duty or is subpoenaed to appear as a witness in a state or federal court proceeding in which the Employee is not a party nor has an economic interest, the Employee will receive their salary less that amount to which the Employee is entitled as "juror's compensation" or "witness fees." In no instance will the Employee realize less salary than they would have otherwise received, had the Employee not been called for jury duty or subpoenaed to appear as a witness.

SECTION 18. MILITARY LEAVE

Military leave and accompanying rights will be granted as provided by law.

SECTION 19. LEAVES OF ABSENCE/SERVICE LEAVE

A. A leave of absence shall be defined as an approved absence from work for an extended time in excess of two weeks without pay requested by an Employee.

B. Except where required by law, a leave of absence shall not exceed a period of twenty-six (26) Individual Workweeks.

C. Except as set forth in Section D below, Leaves of Absence will be approved ~~only~~ for compelling reasons including when the Employee is unable to work because of their own serious health condition (which might include, but is not limited to, pregnancy and infertility); when the Employee is unable to work because they are recovering from surgery or injury; the birth and care of a newborn child of the Employee; and the placement of a child in the Employee's family for adoption or foster care. such as- prolonged illness, recovery from surgery or accidental injury, maternity/paternity following the birth or adoption of a child, Leaves of absence may be approved for other compelling reasons, including family or personal emergencies, or other similar instances/circumstances. Leaves of Absence shall not be unreasonably denied.

D. Employees shall be entitled to a Service Leave of three (3) months after each five (5) years of continuous full-time service with the State Bar as an Employee. ~~An eligible~~ Employee may elect, however, to take a Service Leave of less than three (3) months, but in no event less than one (1) month.

1. Services Leaves shall be unpaid. However, an Executive Staff Employee may use accrued and unused vacation during the service leave.

2. All Service Leaves shall be scheduled at a time mutually agreeable to the State Bar and the Employee.

E. Any request for a leave of absence must be submitted in writing by the Employee to the Office of Human Resources. The request shall state the reason the leave of absence is being requested and the maximum length of time off the Employee desires. Except where the circumstances do not reasonably permit, requests for leaves of absence shall be made at least one (1) month in advance. Approval is discretionary with the Chief Administrative Officer (CAO) or the CAO's designee.

F. There shall be no accrual of vacation during a leave of absence of thirty (30) days or more. Except where required by law, the State Bar need not continue to provide other Employee benefits during a leave of absence of thirty (30) days or more. A leave of absence shall not be deemed to interrupt an Employee's continuous employment.

G. An Employee returning from a leave of absence shall be entitled to return to the position they held at the time the leave was granted if the position is vacant upon the Employee's return; or if the CAO or designee, in approving the leave of absence, agreed to permit such return to that position; or as required by law.

H. Accrued vacation time may be applied by the Employee to a leave period. Accrued Paid Sick Leave may be applied to a medically verified leave of absence for medical purposes.

SECTION 20. PAID CHILD BONDING LEAVE

Employees who have been employed with the State Bar for at least one calendar year and who have worked at least 1,250 hours in the preceding twelve (12) months, shall be eligible to receive, in a lump sum amount, one hundred sixty (160) hours of paid leave to be used after the birth, adoption, or foster care placement of a child of the Employee, and/or being unable to work due to pregnancy or childbirth (paid bonding leave). Employees eligible for paid bonding leave need not exhaust any of their other accrued paid leave balances before accessing or using the 160 hours of paid bonding leave. Employees remain eligible to use available paid sick leave, paid vacation, and paid personal days for child bonding purposes or not, at their option. While Employees may coordinate the use of paid bonding leave to supplement their salaries while receiving Long Term Disability Insurance benefits, there is no requirement that they do so. Eligible Employees may use the 160 hours of paid bonding leave intermittently, although not in increments of less than a full eight (8) hour workday. Eligible Employees must use the 160 hours of paid bonding leave within twelve (12) months of either the day of birth, adoption or foster-placement of the child, or the day Employees take leave from work due to a pregnancy or childbirth related condition. Paid bonding leave not used at the end of this twelve month period will expire and be lost. Any remaining paid bonding leave

that an Employee may have will not be paid upon termination of employment, but will be lost.

Employees shall also be permitted to use paid sick leave, vacation leave, and personal days to cover leave taken for the same reasons the paid bonding leave may be taken, either to supplement Long Term Disability Insurance benefits or to take additional time for bonding with a new child.

The 160 hours of Paid Child Bonding Leave provided for in this section runs concurrently with leaves of absence under Section 32 and shall not extend a leave of absence under Section 32 beyond 26 weeks.

SECTION 21. COMPULSORY LEAVE OF ABSENCE

The State Bar may place Employees on compulsory leave, with or without pay, pending investigation of misconduct when it is deemed to be in the best interests of the State Bar.

SECTION 22. PROFESSIONAL LICENSES, DUES AND FEES

A. The State Bar shall pay annual State Bar licensing fees as set forth in the Business & Professions Code for Employees who have been admitted to practice law in the State of California.

B. For Employees who are not admitted to practice law in the State of California, the State Bar shall pay annual membership fees in job-related professional associations, but not in excess of the highest amount of annual fees paid pursuant to Subsection A of this Section.

SECTION 23. OUTSIDE EMPLOYMENT

A. An Employee may engage in outside employment or pro bono legal assistance only if prior written approval is given by the State Bar, and such employment neither conflicts with the performance of the Employee's duties nor presents an actual or substantial potential conflict of interest for the Employee or the State Bar.

B. Outside employment which constitutes the practice of law is discouraged.

SECTION 24. PERSONNEL FILES

A. The State Bar shall, at reasonable times, upon the request of an Employee, permit the Employee to inspect their personnel file and any material referred to in such personnel file. The term "personnel file" refers to the file under the Employee's name regularly maintained on behalf of the State Bar by the Office of Human Resources. Nothing in this

Subsection shall apply to the records of an investigation or a possible attorney disciplinary offense or to letters of reference.

B. Material or information not contained or referred to in such personnel file may not be used to determine the Employee's qualifications for promotion or transfer unless the Employee is first provided with a reasonable opportunity to review such material or information and a reasonable opportunity to respond.

C. Information of a complimentary nature received by the State Bar pertaining to the work performance of any Employee shall be placed in the Employee's personnel file upon the Employee's request.

D. An Employee may respond in writing to any material in their personnel file and such response shall be placed in said file.

SECTION 25. TRAVEL AND BUSINESS EXPENSE REIMBURSEMENT

A. Employees shall be reimbursed for travel and related expenses in the course of performing their duties in accordance with the travel and business expense reimbursement policies adopted by the State Bar.

B. A commute reimbursement program may be adopted for Employees by the Executive Director consistent with Internal Revenue Service standards.

SECTION 26. RELOCATION

Reimbursement for out-of-pocket expenses resulting from geographic relocation upon initial employment, or a transfer at the direction of the State Bar, may be permitted by the Executive Director for Executive Staff. The guidelines used for the interim housing allowance will be the same as those applied by the State of California under the California Code of Regulations. An interim housing allowance resulting from geographic relocation upon initial employment or a transfer at the direction of the State Bar may be permitted by the Executive Director for Executive Staff. The guidelines used for the interim housing allowance will be the same as those applied by the State of California under the California Code of Regulations. The Board of Trustees or the Executive Director may approve exceptions to these guidelines based on unique circumstances or requirements imposed by the Board on ~~Senior~~ Executive Staff.

SECTION 27. RETIREMENT

A. The State Bar shall pay to the California Public Employees' Retirement System (CalPERS) the full amount of the State Bar Employer pension contribution for each Employee who is or becomes a member of CalPERS.

B. Effective with the payday completing the first full payroll period in January 2014, for each Employee who is or becomes a member of CalPERS, the Employee contribution to CalPERS shall be deducted from the Employee's salary and paid to CalPERS on behalf of the Employee.

C. Employees shall be entitled to participate in an Internal Revenue Code (IRC) Section 457(b) deferred compensation plan.

D. The State Bar will offer Employees a medical insurance benefit and a vision insurance benefit in retirement pursuant to the terms of (a) the Public Employees' Medical and Hospital Care Act, and (b) The State Bar of California Post-Retirement Welfare Benefits Plan. A copy of the State Bar of California Post-Retirement Welfare Benefits Plan is available from the Office of Human Resources upon request.

SECTION 28. SEVERABILITY

If any provision, or portion thereof, contained in these ~~Executive Staff~~ Rules, or the application thereof, to any person or circumstance is held to be unconstitutional, invalid, or unenforceable, the remainder of these ~~Executive Staff~~ Rules and the application of such provision, or portion thereof, to other persons or circumstances shall be deemed severable, shall not be affected, and shall remain in full force and effect.

SECTION 29. EFFECTIVE DATE

These ~~Executive Staff~~ Rules are effective when adopted and apply to all ~~Executive Staff~~ Employees employed by the State Bar on or after the effective date of these ~~Executive Staff~~ Rules.

THE STATE BAR OF CALIFORNIA

RULES AND REGULATIONS PERTAINING TO THE EMPLOYMENT OF CONFIDENTIAL EMPLOYEES

Adopted January 16, 1982

Amended

August 25, 1984

July 19, 1986

June 16, 1990

February 1991

January 1, 1993

February 26, 1994

January 30, 1999

December 8, 2001

December 5, 2003

October 6, 2004

January 1, 2009

January 1, 2012

January 1, 2014

January 1, 2015

April 10, 2017

July 17, 2017

May 14, 2020

July 16, 2020

[January 20, 2023](#)

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SECTION 1. GENERAL PROVISIONS

A. The following Rules and Regulations Pertaining to the Employment of Confidential Employees (Confidential Staff Rules) are hereby adopted and shall govern the terms and conditions of employment of all employees of The State Bar of California (State Bar) who are designated as Confidential Employees. These Confidential Staff Rules embody the terms and conditions of employment of the State Bar's Confidential Employees, and nothing shall confer any additional right or benefit upon any Confidential Employee. Any term or condition of employment of a Confidential Employee that is inconsistent with the provisions of these Confidential Staff Rules is hereby extinguished.

B. These Confidential Staff Rules are adopted in recognition of the special relationship that exists between the State Bar and the Confidential Employees who represent the institutional interests of the State Bar in the formulation, determination, and effectuation of management policies in the field of Employer-Employee Relations or who assist in such in a confidential capacity, or whose duties normally require access to confidential information contributing significantly to the development of management positions. Special duties of loyalty, fidelity and confidentiality apply to the relationship between State Bar management and Confidential Employees distinguishing them from other non-~~executive~~ management employees.

C. The State Bar's primary mission is public protection. The State Bar's ability to meet its mission depends upon Confidential Employees and State Bar management jointly undertaking a commitment to regulate the legal profession and serve the public in a prompt, courteous, and efficient manner thereby furthering the Mission of the State Bar, which states:

The Mission of the State Bar:

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.

Goals of the State Bar:

~~Successfully transition to the "new State Bar" — an agency focused on public protection, regulating the legal profession, and promoting access to justice.~~

~~Ensure a timely, fair, and appropriately resourced admissions, discipline, and regulatory system for the more than 250,000 lawyers licensed in California.~~

~~Improve the fiscal and operational management of the State Bar, emphasizing integrity, transparency, accountability, and excellence.~~

~~Support access to justice for all California residents and improvements to the state's justice system.~~

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

Protect the Public by Strengthening the Attorney Discipline System: Administer an attorney discipline system that is efficient, accountable, and transparent.

- 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's communities.

- 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.

- Protect the Public by Engaging Partners: Engage partners and stakeholders to enhance public protection and restore the State Bar's credibility, reputation, and impact.

D. The Executive Director may issue Administrative Advisories and policies consistent with these Confidential Staff Rules. These Confidential Staff Rules, as amended from time to time by the Board of Trustees of the State Bar, supersede all prior terms and conditions of employment, agreements, representations, and understandings, whether oral or written, express or implied, by and between the State Bar and any Confidential Employee. Any term or condition of employment of a Confidential Employee which is inconsistent with the provisions of these Confidential Staff Rules is hereby extinguished.

SECTION 2. STATEMENT OF INTENT

In adopting these Confidential Staff Rules, the Board recognizes that the employment and retention of qualified, competent Confidential Employees is an essential ingredient for effective labor relations, employee-employer management, and ultimately the effective operation and administration of the State Bar, which are necessary to the achievement of its public protection mission.

SECTION 3. AUTHORITY FOR ADMINISTRATION

The Executive Director is responsible, within budgetary guidelines as determined by the Board, for the day-to-day administration of the Confidential Staff Rules. The Executive Director or their designee may resolve issues concerning the interpretation and operation of these Confidential Staff Rules.

SECTION 4. DEFINITIONS

- A. "State Bar" shall mean The State Bar of California.
- B. "Board" shall mean the Board of Trustees of the State Bar.
- C. "Calendar Week" shall mean the period of one hundred sixty-eight (168) hours beginning on Monday at 12:01 a.m. and ending at 12:00 midnight the following Sunday.
- D. "Executive Director" shall mean the chief executive officer of the State Bar appointed by the Board of Trustees.
- E. "Confidential Employee" shall mean an employee who acts in the formulation, determination, and effectuation of management policies in the field of Employer-Employee Relations or who assists such a person in a confidential capacity, or whose duties normally require access to confidential information contributing significantly to the development of management positions.
- F. "Employer-Employee Relations" shall mean the relationship between the State Bar and its employees and applicable employee organizations, if any.
- G. "Chief Administrative Officer" is a member of the Leadership Team who is generally delegated by the Executive Director with administering employer-employee relations. The Chief Administrative Officer (CAO) may delegate all or part of their duties and responsibilities to other members of the Executive Staff and/or to the Director, Human Resources.
- G.H. "Management Staff" shall mean those employees of the State Bar in positions designated as Management Staff and governed by the "Rules and Regulations Pertaining to the Employment of Management Staff Employees."
- H.I. "Executive Staff" shall mean the subset of Management Staff ~~those~~ employees of the State Bar in positions designated as Executive Staff and governed by the "Rules and Regulations Pertaining to the Employment of Executive Staff Employees."
- H.J. "Days" shall mean calendar days unless otherwise stated. A calendar day is a twenty-four (24) hour period beginning at 12:01 a.m. and ending the following evening at 12:00 midnight.
- J.K. "Domestic Partner" shall mean a person assuming the role of spouse to a Confidential Employee and does not require satisfaction of California's statutory domestic partner registration standards.
- K.L. "Individual Workday" shall mean that minimum period of time a Confidential Employee works during the calendar day, normally a period of at least eight (8) hours.

~~L.M.~~ "Individual Workweek" is defined as those five Individual Workdays that a Confidential Employee is scheduled to work during the Calendar Week, normally a period of at least forty (40) hours.

~~M. Except as otherwise specifically provided herein, the terms used in these Confidential Staff Rules shall be defined in the same way as such terms are defined in the Rules and Regulations for the Administration of Employer-Employee Relations.~~

SECTION 5. TERMINATION AND DEMOTION

A. Employment with the State Bar as a Confidential Employee is terminable at will, with or without cause, by either the State Bar or the Confidential Employee. Confidential Employees serve at the pleasure of the State Bar and may be terminated, disciplined and/or demoted at will. The Office of General Counsel shall review the termination of any Confidential Employee prior to the termination being finalized.

B. No section, subsection, or provision of these Confidential Staff Rules shall be construed as creating a contract of employment between the State Bar and its Confidential Employees other than as set forth herein, and no member of the Board, Executive or Management Staff member, or other agent or employee of the State Bar shall have the authority to make any agreement or promise to the contrary.

C. In the event that a Confidential Employee is demoted, their salary shall be reduced in an appropriate amount as determined by the Executive Director or their designee.

SECTION 6. SEVERANCE PAY

A. This Section is in recognition that a Confidential Employee serves at the pleasure of the State Bar and can be terminated for any reason whatsoever.

B. This Section shall not apply to a Confidential Employee whose involuntary termination or resignation is by reason of their commission of an act involving moral turpitude, dishonesty, corruption, or gross misconduct, whether the act is committed in the course of their employment or otherwise. This Section shall also not apply when a Confidential Employee is terminated following the elimination period for long-term disability coverage as set forth in Section 21.F.

C. Upon layoff, involuntary termination or involuntary resignation, other than as set forth above, the State Bar shall pay severance pay to the Confidential Employee. The amount of such severance pay shall be calculated on the basis of the Confidential Employee's total continuous length of employment with the State Bar, as a Confidential Employee, as follows:

Less than one (1) year of continuous service	One (1) month
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One (1) year or more of continuous service	One (1) month for each completed year of continuous service, up to a maximum of four (4) months
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D. Severance pay shall be calculated on the basis of the salary which the Confidential Employee is receiving at the time of their layoff, involuntary termination, or involuntary resignation.

E. ~~Severance~~ pay shall be paid as a lump sum on the next regular pay date following the Confidential Employee's date of separation

SECTION 7. EQUAL EMPLOYMENT OPPORTUNITY

The State Bar shall encourage and support equal employment opportunity for all employees and applicants for employment without regard to race, creed, religion, color, national origin, age, sex, physical handicap, physical or mental impairment, marital status, political affiliation, sexual orientation, gender, or gender identity. The State Bar shall not discriminate against Confidential Employees based on these factors in violation of state or federal law.

SECTION 8. EVALUATIONS

The performance of Confidential Employees shall be evaluated in writing on their anniversary dates each year by their Executive or Management Staff managers. A copy of each evaluation shall be provided to and discussed with the affected Confidential Employee by their ~~Executive~~ Staff manager.

SECTION 9. PERSONNEL FILES

A. The State Bar shall, at reasonable times, upon the request of a Confidential Employee, permit the Confidential Employee to inspect their personnel file and any material referred to in such personnel file. The term "personnel file" refers to the file under the Confidential Employee's name regularly maintained by the Office of Human Resources. Nothing in this Section shall apply to the records of an investigation or a possible attorney disciplinary offense, nor to employment references and background checks.

B. Material or information not contained or referred to in such personnel file may not be used to determine the Confidential Employee's qualifications for promotion or transfer unless the Confidential Employee is first provided with a reasonable opportunity to review such material or information and a reasonable opportunity to respond.

C. Information of a complimentary nature received by the State Bar pertaining to the work performance of any Confidential Employee shall be placed in the Confidential Employee's personnel file upon the Confidential Employee's request.

D. A Confidential Employee may respond in writing to any material in their personnel file

and such response shall be placed in said file.

SECTION 10. SALARY RATES AND CLASSIFICATIONS

- A. The Executive Director shall determine the classifications, salary rates, salary increases, and other rewards for Confidential Employees.
- B. Confidential Employees shall be eligible, upon their annual anniversary date, and assuming a “Meets Requirements” or better performance evaluation rating, for annual wage and salary increases within the salary ranges. Confidential Employees at the maximum of the range shall receive no further increases based on performance ratings.
- C. Confidential Employees shall, in addition, be eligible for other salary adjustments determined at the discretion of the Executive Director.
- D. A Confidential Employee who is promoted shall be placed in the range for the classification to which they have been promoted at a salary which will result in an increase which most closely will approximate five percent (5%). In no event shall a Confidential Employee be placed at salary range to which they have been promoted which will result in a salary increase of less than five percent (5%).
- E. A Confidential Employee who is appointed to temporarily fill a position in a higher pay classification shall be paid a differential equal to the starting salary of that higher classification, or five percent (5%) in excess of their current State Bar salary, whichever is greater, during the period of time that they are temporarily filling such position, provided that they are performing all of the major tasks and responsibilities of the position in the higher classification. This Subsection shall not apply to a Confidential Employee who is appointed to temporarily fill a vacant position in the same or a lower pay classification than their current position.
- F. Every Confidential Employee who expressly has and routinely exercises supervisory authority over subordinate employees shall earn at least a 5% wage differential over their highest paid subordinate employee.
- G. Once a Confidential Employee has passed the certification requirements designated by Human Resources demonstrating ability in a language in addition to English, they will be placed on the State Bar’s Bilingual List. Confidential Employees on this list will be eligible for rotational bilingual assignments. If a Confidential Employee has passed the verbal certification requirement, they will be eligible for a \$45 differential for each biweekly pay period they are approved to receive rotational bilingual assignments. If a Confidential Employee has passed the verbal and written certification requirements, they will be eligible for a \$90 differential for each biweekly pay period they are approved to receive rotational bilingual assignments. Confidential Employees receiving bilingual pay must perform translations or interpreting services upon the request of their managers.

SECTION 11. LAYOFF

Confidential Employees shall be subject to layoff for lack of work and/or job elimination in accordance with Section 6 [Severance Pay].

SECTION 12. GRIEVANCES

If a Confidential Employee has a grievance concerning the interpretation, application, or enforcement of the terms of the Confidential Staff Rules, said grievance shall be first taken up with their ~~Executive Staff~~ managers and ultimately the Executive Director or their designee.

SECTION 13. EMPLOYMENT STATUS

A. A Confidential Employee's employment status shall be categorized as follows:

1. Regular full-time; or
2. Regular part-time; or
3. Casual.

B. Regular full-time status designates a Confidential Employee on a continuous, full-time basis, i.e., at least forty (40) hours per calendar week.

C. Regular part-time status designates a Confidential Employee who is employed on a regular and continuous basis but whose actual work schedule is less than full-time.

D. Casual status designates a Confidential Employee who is employed on a temporary or intermittent basis. Such person may be employed for a specific period or may be employed intermittently, as their services are required. Casual status is terminable at will, with or without cause. The terms and conditions of employment for casual employees are not governed by these Confidential Staff Rules but are set at the pleasure and discretion of the Executive Director.

SECTION 14. HOURS OF EMPLOYMENT

A. The normal working hours for the State Bar shall extend from 7:00 a.m. until 7:00 p.m. However, the hours of employment of Confidential Employees are those deemed necessary by the State Bar to reasonably and competently discharge their responsibilities.

B. It is the intent and the policy of the State Bar that overtime be kept to a minimum and that personnel planning and staffing be handled in such a way as to reflect this intent. However, in the conduct of the State Bar's business, it is reasonable to expect that overtime will be required from time to time. When required, overtime is mandatory. Therefore, when a Confidential Employee must necessarily work beyond the Individual Workday and/or

Workweek, the provisions outlined below will apply.

C. Exempt Confidential Employees

1. An Exempt Confidential Employee is an individual who has been designated by the State Bar as a Confidential Employee and who, in addition, is employed by the State Bar in a bona-fide executive, professional, or administrative capacity as those terms are defined by the Fair Labor Standards Act. The hours of employment of Confidential Employees are those necessary to reasonably and competently discharge their responsibilities to the State Bar.

D. The wages and salaries of full-time Confidential Employees at the State Bar are based upon an Individual Workday of at least eight (8) hours and the individual Workweek of at least forty (40) hours.

E. Non-Exempt Confidential Employees

1. A Non-Exempt Confidential Employee is any individual who has been designated by the State Bar as a Confidential Employee but who is not employed by the State Bar in a bona-fide executive, professional, or administrative capacity as those terms are defined by the Fair Labor Standards Act.

2. Non-Exempt Confidential Employees are eligible for overtime pay as follows:

a. Time and One-Half Overtime: Chargeable time worked in excess of eight (8) hours during the calendar day or forty (40) hours during the Calendar Week will be paid at one and one-half (1-1/2) times the Non-Exempt Confidential Employee's regular rate of pay.

b. Double Time: Chargeable time worked on the seventh (7th) consecutive day of a Calendar Week will be paid at two (2) times the Non-Exempt Confidential Employee's regular rate of pay.

c. Chargeable Time is defined as (1) all hours actually worked during the Calendar Week; (2) paid holidays; (3) jury duty; (4) military leave; and (5) paid Sick Leave which is taken because of the Non-Exempt Confidential Employee's own illness.

d. Non-Chargeable Time is defined as Paid time off during a calendar week not included in calculating the forty (40) hour requirement for overtime payment. Non-chargeable time includes, but is not limited to, paid sick leave which is taken for purposes other than the Non-Exempt Confidential Employee's illness; vacation; paid personal leave; and bereavement leave.

e. Authorization of Overtime: A Non-Exempt Confidential Employee must obtain the authorization of their immediate supervisor/manager prior to working any time in excess of the Individual Workweek or the Individual Workday. Thereafter, in order to attest to the accuracy and validity of such overtime, the immediate supervisor/manager must approve the Non-Exempt Confidential Employee's time card.

f. Unauthorized Overtime: There shall be no unauthorized overtime permitted under any circumstances.

g. With the advance approval of their immediate supervisor/manager, a Non-Exempt Confidential Employee may make up, up to four (4) hours for occasional absences from work. The time must be made up within the same Individual Week as the absence. Supervisor/manager approval must be obtained prior to the scheduling or working of make-up time. Approval of such requests shall not be unreasonably denied by supervisors/managers.

Confidential Employees will not make such requests excessively. Time made up under this provision shall not constitute overtime under this Section.

3. Non-Exempt Confidential Employees shall be entitled to a fifteen (15) minute paid rest period during each half-day and shall have the option of selecting either a thirty (30) minute, forty-five (45) minute or one (1) hour lunch break as part of their regular work schedule. Non-Exempt Confidential Employees shall choose the length of their lunch period ~~by either July 1, 2020, or on~~ their first day of employment, ~~whichever is later~~. Lunch periods shall not be taken at the beginning or end of an Individual Workday.

SECTION 15. OUTSIDE EMPLOYMENT

A. A Confidential Employee may engage in outside employment only if prior written approval is given by the Confidential Employee's Executive Staff manager, in consultation with the Office of Human Resources, and such employment neither conflicts with the performance of the Confidential Employee's duties nor presents an actual or substantial potential conflict of interest for the Confidential Employee or the State Bar.

B. Outside employment which constitutes the practice of law is discouraged. Outside legal practice will be considered only consistent with the State Bar's Incompatible Activities Policy and following assurances that there are no actual or potential conflicts of interest and that the regular work of the Confidential Employee for the State Bar will not be impaired or diminished to any extent.

SECTION 16. WORKING CONDITIONS

A. The State Bar shall comply with all applicable state and federal laws regarding

the health and safety of Confidential Employees.

B. Work assignments and the distribution of work are solely the State Bar's prerogative.

C. The delivery of State Bar services in an efficient, effective, and courteous manner is important to the State Bar and its Confidential Employees. Such achievement is recognized to be a mutual obligation of the State Bar and Confidential Employees within their respective roles and responsibilities.

SECTION 17. PROFESSIONAL LICENSES, DUES, AND FEES

A. The State Bar shall pay annual State Bar licensing fees as set forth in the Business & Professions Code for Confidential Employees who have been admitted to practice law in the State of California.

B. For Confidential Employees who are not admitted to practice law in the State of California, the State Bar shall pay annual membership fees in job-related professional associations, but not in excess of the highest amount of annual fees paid pursuant to Subsection A of this Section.

SECTION 18. HOLIDAYS

A. The following are recognized as paid holidays for all Confidential Employees: New Year's Day; Martin Luther King's Birthday; Presidents' Day; Cesar Chavez Day; Memorial Day; [Juneteenth](#), Independence Day; Labor Day; [Indigenous Peoples' Columbus](#) Day; Veterans' Day; Thanksgiving Day; the day following Thanksgiving Day; Christmas Eve; Christmas Day; New Year's Eve.

B. Holidays shall be celebrated on the day designated by the State Bar.

C. Confidential Employees not on paid status will not receive holiday time off or holiday pay.

D. An Exempt Confidential Employee required to work on a paid holiday will be given a day off with pay in lieu thereof within thirty (30) days of that paid holiday.

E. Any Non-Exempt Confidential Employee required to work on a paid holiday, and not choosing a day off in lieu thereof, shall be paid at one-and-one-half (1-1/2) times the Non-Exempt Confidential Employee's regular rate of pay for each hour actually worked on the paid holiday, in addition to a day's pay computed at the Non-Exempt Confidential [employee's-Employee's](#) straight time hourly rate.

SECTION 19. VACATIONS

A. Confidential Employees shall accrue vacation at the following rates:

Less than ten (10) years of service	1.25 days per month (15 working days per year)
At least ten (10) years but less than fifteen (15) years of service	1.67 days per month (20 working days per year)
Fifteen (15) or more years of service	2.08 days per month (25 working days per year)

B. The term "years of service" for purposes of vacation accrual shall mean the number of years of regular full-time continuous employment with the State Bar, irrespective of classification or position title.

C. Confidential Employees are encouraged to take at least ten (10) days of vacation per year.

D. Notwithstanding any other provision of this Section, vacation accrual shall be capped at eighty (80) days.

E. Upon termination, a Confidential Employee shall be paid for all unused, accrued vacation time.

F. If a paid holiday falls during a Confidential Employee's vacation, that day shall not be charged as a day of vacation.

G. Vacations shall be scheduled at a time mutually agreeable to the State Bar and the Confidential Employee.

H. Vacations shall not be taken in segments of less than one-half ($\frac{1}{2}$) workday.

I. Accrued vacation days may be used in place of Paid Sick Leave days when the latter are exhausted.

J. Confidential Employees may, at the discretion of the Executive Director, cash in accrued and unused vacation in increments of one week, not to exceed a total of ~~three-four~~ (4) weeks per calendar year.

SECTION 20. PAID SICK LEAVE AND PAID PERSONAL DAYS

A. Sick leave is defined as absence from work due to illness, medical care, dental care, or eye care of the Confidential Employee or a member of the Confidential Employee's immediate family, including a domestic partner, that cannot be accommodated at a time other than during normal State Bar work hours.

B. It is, in all cases, the obligation of the Confidential Employee to notify their immediate supervisor or manager when the Confidential Employee will be absent from work for any of the reasons set forth above. Such notification should be made in advance of the absence if at all possible. In general, such notification shall be made by 9:30 a.m. of the working day upon which the absence occurs.

C. Regular full-time and regular part-time Confidential Employees are eligible for Paid Sick Leave.

D. Regular full-time Confidential Employees accrue Paid Sick Leave credit at the rate of one (1) workday per month (12 workdays per year). Part-time Confidential Employees accrue Paid Sick Leave on a pro-rata basis.

E. Medical proof of illness may be required if the Confidential Employee has a pattern of absences or a history of sick leave abuse or if there is other reasonable basis for doubt as to the legitimacy of the Confidential Employee's sick leave claim.

F. A Confidential Employee shall not accrue more than 240 days of sick leave.

G. Upon retirement, a Confidential Employee may obtain service credit for accrued and unused sick leave to the extent allowed by the California Public Employee Retirement System (CalPERS). In the alternative, upon retirement, voluntary resignation, or Layoff from employment with the State Bar, a Confidential Employee who has completed one (1) full year of continuous employment with the State Bar may request to be paid for up to a maximum of thirty (30) days of their accrued but unused Paid Sick Leave. Payment for such accrued but unused Paid Sick Leave shall be made by the State Bar at the rate of twenty-five percent (25%) of the Confidential Employee's daily salary at the time of their retirement, voluntary resignation, or layoff.

H. A Confidential Employee who is absent from work due to illness for a period in excess of thirty (30) consecutive calendar days shall not accrue paid sick leave or vacation during the period of absence in excess of thirty (30) calendar days.

I. A Confidential Employee with less than ten (10) years of service may take a maximum of four (4) Paid Personal days per calendar year. A Confidential Employee with ten (10) or more years of service may take a maximum of six (6) Paid Personal days per calendar year. Paid Personal Days can be used for absences for any personal reason. ~~are generally approved only for absences due to family emergencies, legal proceedings to which the Confidential~~

~~Employee is a party, religious holidays, school-related functions of minor children or unexpected problems that cannot be accommodated at times other than during normal State Bar working hours.~~ Confidential Employees will not be paid for Paid Personal Days not taken and Personal Days will not accumulate or carry over from year to year. Confidential Employees who receive an “Exceeds Expectations” rating on their annual performance evaluation shall be awarded one additional Paid Personal Day to be used within one year of receiving the qualifying performance evaluation.

SECTION 21. DISABILITY LEAVE

- A. The State Bar shall provide for long-term disability benefits identical to those given to Executive and Management Staff Employees.
- B. A Confidential Employee who becomes disabled, as defined in the long-term disability policy maintained in accordance with this Section, shall, during the elimination period provided for in the long-term disability policy, utilize their previously accrued paid sick leave, provided that if their accrued paid sick leave is exhausted prior to the end of the elimination period, the Confidential Employee shall thereafter be granted fifty-five percent (55%) of their pre-disability gross pay rate up to a maximum amount of \$55,000, for the remainder of the elimination period, but in no event in excess of six (6) months. In the alternative, a Confidential Employee may integrate accrued sick leave with the disability pay provided here subject to the limitations set forth.
- C. A Confidential Employee who must care for a seriously ill child, spouse, parent or qualified domestic partner, or who seeks to “bond” with a newborn child, shall utilize their accrued paid sick leave. If their accrued paid sick leave is exhausted, the Confidential Employee shall thereafter be granted paid Family Disability Leave at fifty-five percent (55%) of their pre-disability gross pay rate, for a period not to exceed six (6) weeks. In the alternative, a Confidential Employee may integrate accrued sick leave, or if applicable Paid Child Bonding Leave, with the disability pay provided here subject to the limitations set forth.
- D. At the end of the elimination period, a Confidential Employee who is sick or disabled and qualifies for receipt of benefits pursuant to the long-term disability policy shall receive such benefits and shall not be permitted to take further accrued paid sick leave until such time as they may return from such absence.
- E. During the applicable elimination period of the long-term disability policy, a Confidential Employee shall be entitled to return to their previous position. During this period, the State Bar shall pay the applicable premium for the Confidential Employee's medical, dental, vision, and basic life insurance benefits.
- F. At the end of the elimination period of the long-term disability policy and periodically thereafter as necessary, the State Bar shall determine, on a case-by-case basis,

whether to continue the Confidential Employee's employment with the State Bar and/or whether to continue the State Bar's payment of medical/hospital, vision care, dental, and life insurance coverage.

G. A Confidential Employee who is absent from work due to disability for a period in excess of thirty (30) consecutive calendar days shall not accrue paid sick leave or vacation during the period of absence in excess of thirty (30) calendar days, unless the Confidential Employee remains on paid vacation or sick leave status.

H. A Confidential Employee who is eligible for short-term disability benefits and who is absent from work pursuant to this Section, may elect to integrate accrued vacation pay with short-term disability payments in order to receive total compensation of no more than their pre-disability income.

SECTION 22. CATASTROPHIC LEAVE BANK

Each calendar year a Confidential Employee may elect to donate the value of up to a combined total of five (5) days' sick leave or vacation time to the catastrophic leave bank. This bank will be available to State Bar Employees-employees suffering a non-work related catastrophic injury or illness.

A. The following definitions shall be used in the application of this provision.

1. Catastrophic illness or injury is defined as a (1) non-work related illness or injury, (2) medically certified by a physician to be serious, debilitating, and disabling and which in the opinion of the certifying physician is expected to incapacitate the Employee on a long-term basis (no fewer than thirty (30) calendar days) precluding the Confidential Employee from working for that period, and (3) which creates a financial hardship because the Confidential Employee has exhausted all of their sick bank and other paid time off.

2. The value of the donation shall be based upon the donor's current daily base salary rate or current base hourly rate.

B. ~~Any~~ Confidential Employee who elects to donate the value of ~~a~~ paid time-off ~~day~~ to the bank may do so at any time during the calendar year through the Oracle self-service system. If a Confidential Employee would like to donate to a specific recipient, they must e-mail the Office of Human Resources and indicate to whom they would like to donate. If no specific recipient is identified, the donation will be applied to the general Catastrophic Leave bank. If donations exceed need for a specific recipient, funds will roll over into the general Catastrophic Leave Bank. ~~shall provide written notice to the Chief Administrative Officer or designee in December of each year. Such~~ donations shall be deducted from ~~an~~ the Confidential Employee's accumulated sick leave or vacation.

- C. If available, payments from the bank may be made:
1. upon the request of the ill or injured Confidential Employee; and
 2. upon determination by the Chief Administrative Officer that the Confidential Employee is unable to work due to a verified non-work related catastrophic illness or injury; and after
 3. the [Confidential](#) Employee has exhausted all paid and other time off.
- D. Upon receipt of a request for catastrophic leave payments, the Chief Administrative Officer or designee will ensure that the applicant meets the criteria set forth above. Distributions from the catastrophic leave bank will be used solely to:
1. Maintain in effect the ill or injured Confidential Employee's State Bar health insurance in effect at the time the Confidential Employee became incapacitated;
 2. Replenish the ill or injured Confidential Employee's exhausted sick leave bank with paid sick leave up to an amount not to exceed the twelve(12) weeks an employee is on approved (FMLA) medical leave due to the catastrophic illness or injury;
 3. Distributions to any Confidential Employee from the bank shall not be for a period in excess of eighteen (18) continuous months for any one catastrophic illness.
- E. The State Bar will make distribution from the catastrophic leave bank equally to all who apply and are eligible to receive. Should the demand be greater than funds in the bank, the bank will not make further distributions until either the leave bank is replenished or demand can be accommodated.
- F. The State Bar will provide all Confidential Employees seeking any long-term leave of absence, including FMLA qualified and ADA/FEHA leaves, with written notice that Catastrophic Leave is available and that they may apply for such leave.

SECTION 23. BEREAVEMENT LEAVE

In the event of a death in the immediate family (i.e., spouse, including domestic partner; child, including foster, step or adopted; parent; brother; sister; father-in-law, including father of domestic partner; mother-in-law, including mother of domestic partner; grandparent; grandchild; aunt; uncle; niece; or nephew), [Confidential](#) Employees shall be entitled to bereavement leave of five (5) days with pay ~~to attend a funeral~~. Such leave shall not be charged to vacation, paid personal leave or paid sick leave.

SECTION 24. JURY DUTY/WITNESS LEAVE

In the event that a Confidential Employee is called for Jury Duty or is subpoenaed to appear as a witness in a state or federal court proceeding in which the Confidential Employee is not a party nor has an economic interest, the Confidential Employee will receive their salary, less that amount to which the Confidential Employee is entitled as "juror's compensation" or "witness fees." In no instance will the Confidential Employee realize less salary than they would have otherwise received, had the Confidential Employee not been called for jury duty or subpoenaed to appear as a witness.

SECTION 25. MILITARY LEAVE

Military leave and accompanying rights will be granted as provided by law.

SECTION 26. LEAVE OF ABSENCE/SERVICE LEAVE

A. A leave of absence shall be defined as an approved absence from work for an extended time in excess of two weeks without pay requested by a Confidential Employee.

B. Except where required by law, a leave of absence shall not exceed a period of twenty-six (26) Individual Workweeks.

C. Except as set forth in Subsection D below, Leaves of Absence will be approved ~~only~~ for compelling reasons including when the Employee is unable to work because of their own serious health condition (which might include, but is not limited to, pregnancy and infertility); when the Employee is unable to work because they are recovering from surgery or injury; the birth and care of a newborn child of the Employee; and the placement of a child in the Employee's family for adoption or foster care. ~~such as prolonged illness, recovery from surgery or accidental injury, maternity/paternity following the birth or adoption of a child,~~ Leaves of absence may be approved for other compelling reasons, including family or personal emergencies, ~~or other similar~~ circumstances ~~instances~~. Leaves of Absence shall not be unreasonably denied.

D. Confidential Employees shall be entitled to a Service Leave of three (3) months after each five (5) years of continuous full-time service with the State Bar. An eligible Confidential Employee may elect to take a Service Leave of less than three (3) months, but in no event less than one (1) month.

1. Service Leaves shall be unpaid. However, a Confidential Employee may use accrued and unused vacation during the service leave.

2. All Service Leaves shall be scheduled at a time mutually agreeable to the State Bar and the Confidential Employee.

E. Any request for a Leave of Absence or a Service Leave must be submitted in writing by the Confidential Employee to their first level manager. The request shall state the reason the Leave of Absence or the Service Leave is being requested and the maximum length of time off the Confidential Employee desires. Except where the circumstances do not reasonably permit, requests for Leaves of Absence or Service Leaves shall be made at least one (1) month in advance. Approval is discretionary with the CAO or the CAO's designee.

F. There shall be no accrual of vacation or paid sick leave during the period of the Leave of Absence in excess of 30 days.

G. A Confidential Employee returning from a Leave of Absence or Service Leave shall be entitled to return to the position they held at the time that the leave was granted, if such position still exists and is vacant upon the Confidential Employee's return, or if the CAO or the CAO's designee, in approving the leave of absence, agreed to permit such return to that position, or as required by law.

SECTION 27. PAID CHILD BONDING LEAVE

Confidential Employees who have been employed with the State Bar for at least one calendar year and who have worked at least 1,250 hours in the preceding twelve (12) months, shall be eligible to receive, in a lump sum amount, one hundred sixty (160) hours of paid leave to be used after the birth, adoption, or foster care placement of a child of the Confidential Employee, and/or being unable to work due to pregnancy or child birth (paid bonding leave). Confidential Employees eligible for paid bonding leave need not exhaust any of their other accrued paid leave balances before accessing or using the 160 hours of paid bonding leave. Confidential Employees remain eligible to use available paid sick leave, paid vacation, and paid personal days for child bonding purposes or not, at their option. While Confidential Employees may coordinate the use of paid bonding leave to supplement their salaries while receiving Long Term Disability Insurance benefits, there is no requirement that they do so. Eligible Confidential Employees may use the 160 hours of paid bonding leave intermittently, although not in increments of less than a full eight (8) hour workday. Eligible Confidential Employees must use the 160 hours of paid bonding leave within twelve (12) months of either the day of birth, adoption or foster-placement of the child, or the day Confidential Employees take leave from work due to a pregnancy or childbirth-related condition. Paid bonding leave not used at the end of this twelve month period will expire and be lost. Any remaining paid bonding leave that a Confidential Employee may have will not be paid upon termination of employment, but will be lost.

Confidential Employees shall also be permitted to use paid sick leave, vacation leave, and personal days to cover leave taken for the same reasons the paid bonding leave may be taken, either to supplement Long Term Disability Insurance benefits or to take additional time for bonding with a new child.

The 160 hours of Paid Child Bonding Leave provided for in this section runs concurrently with leaves of absence under Section 32 and shall not extend a leave of absence under Section 32 beyond 26 weeks.

SECTION 28. COMPULSORY LEAVE OF ABSENCE

The State Bar may place a Confidential Employee on compulsory leave, with or without pay, pending investigation into misconduct when it is deemed to be in the best interests of the State Bar.

SECTION 29. TRAVEL REIMBURSEMENT

Confidential Employees shall be reimbursed for travel and related expenses in the course of performing their duties in accordance with the travel reimbursement policies adopted by the Board. In no case shall such reimbursements be less than the reimbursements for other State Bar employees.

SECTION 30. INSURANCE BENEFITS

A. Insurance benefits (medical, dental, vision, life, and long-term disability coverage), including dependent coverage benefits, shall be provided for regular full-time and regular part-time Confidential Employees on the same terms as those benefits are provided for Executive and Management Staff.

B. The State Bar will maintain an Employee Assistance Program (EAP) in which Confidential Employees may participate.

C. The State Bar will offer Confidential Employees a medical insurance benefit and a vision insurance benefit in retirement pursuant to the terms of (a) the Public Employees' Medical and Hospital Care Act, and (b) The State Bar of California Post-Retirement Welfare Benefits Plan. A copy of the State Bar of California Post-Retirement Welfare Benefits Plan is available from the Office of Human Resources upon request.

SECTION 31. RETIREMENT

A. The State Bar shall pay to the California Public Employees' Retirement System (CalPERS) the full amount of the State Bar Employer contribution for each Confidential Employee who is or becomes a member of CalPERS.

B. ~~Effective with the payday completing the first full payroll period in January 2014, f~~For each Confidential Employee who is or becomes a member of CalPERS, the Confidential Employee contribution to CalPERS shall be deducted from the Confidential Employee's salary and paid to CalPERS on behalf of the Confidential Employee.

C. Confidential Employees shall be entitled to participate in an Internal Revenue Code (IRC) Section 457 deferred compensation plan.

SECTION 32. SEVERABILITY

If any provision, or portion thereof, contained in these Confidential Staff Rules, or the application thereof, to any person or circumstance is held to be unconstitutional, invalid, or unenforceable, the remainder of these Confidential Staff Rules and the application of such provision, or portion thereof, to other persons or circumstances shall be deemed severable, shall not be affected, and shall remain in full force and effect.

SECTION 33. EFFECTIVE DATE

These Confidential Staff Rules are effective when adopted and apply to those Confidential Employees employed by the State Bar on or after the effective date of these Confidential Staff Rules.