



The State Bar of California

January 2024 Strategic Planning Session

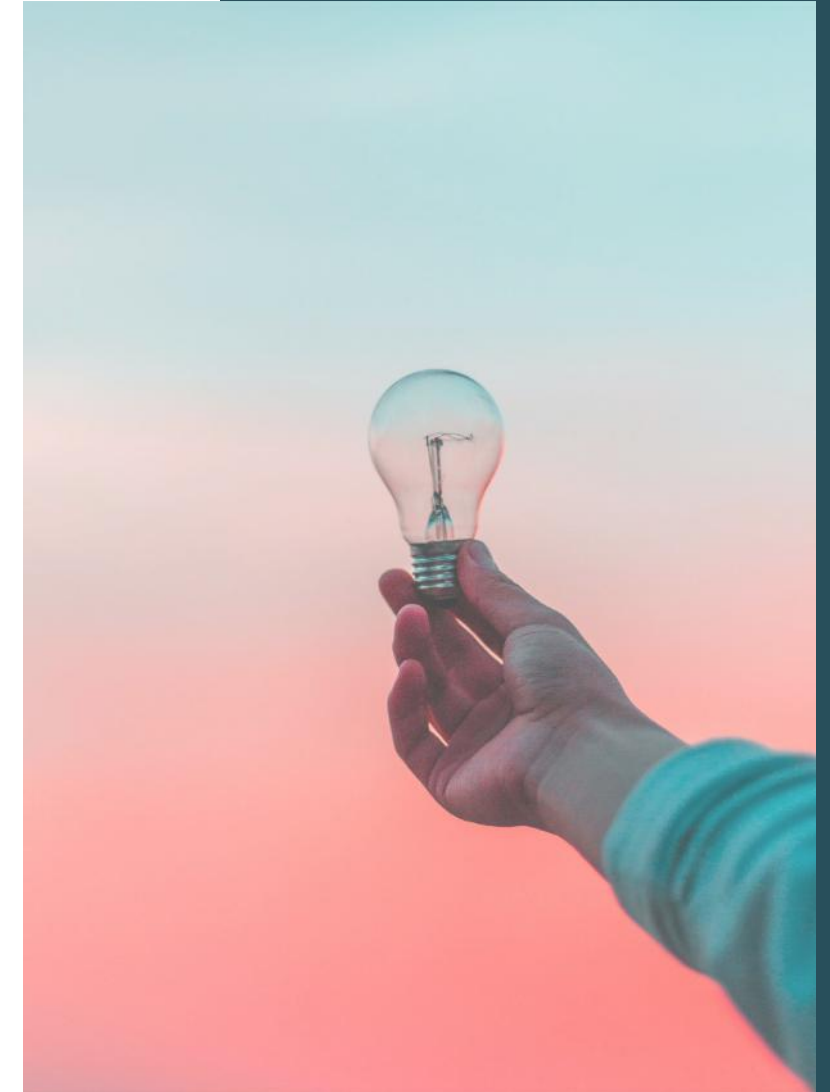
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THE PUBLIC



Agenda/Topics

- 1** April Legislative Reports:
Securing Needed Fee Increase
- 2** Governance, Conflicts, and
Other Reforms
- 3** Strategic Plan Review and
Modification





Securing Needed Fee Increase



Securing Needed Fee Increase: the April Reports

Fee Increase

- "Sustaining Core Operations" — to maintain existing operations and service levels
- "Expanding Impact" — to improve operations, increase efficiency, and improve service levels

Discipline System Improvements

- Changes in processes and performance and operational efficiencies
- Comparison against SB 211 case processing standards + SBC hearing data

Diversion Program for Minor Violations

Formal diversion program in alignment with directive to cease private discipline effective 1/1/25



SEE HERE FOR SPECIFIC STATUTORY REQUIREMENTS



Sustaining Core Operations

June 2023, the State Bar identified a core operations funding need of

\$77 per active licensee

Core Operating Needs

- ✓ **\$26** Address contractual obligations for State Bar staff; discontinue hiring freezes and forced vacancy rates
- ✓ **\$24** Address structural underfunding as identified by the State Auditor
- ✓ **\$21** Pay lease after SF building sale
- ✓ **\$3** Appropriately staff Complaint Review Unit
- ✓ **\$2** Fund DEI programs to fulfill statutory mission
- ✓ **\$1** Supplement funding to support JNE Commission, absent changes by Governor or Legislature

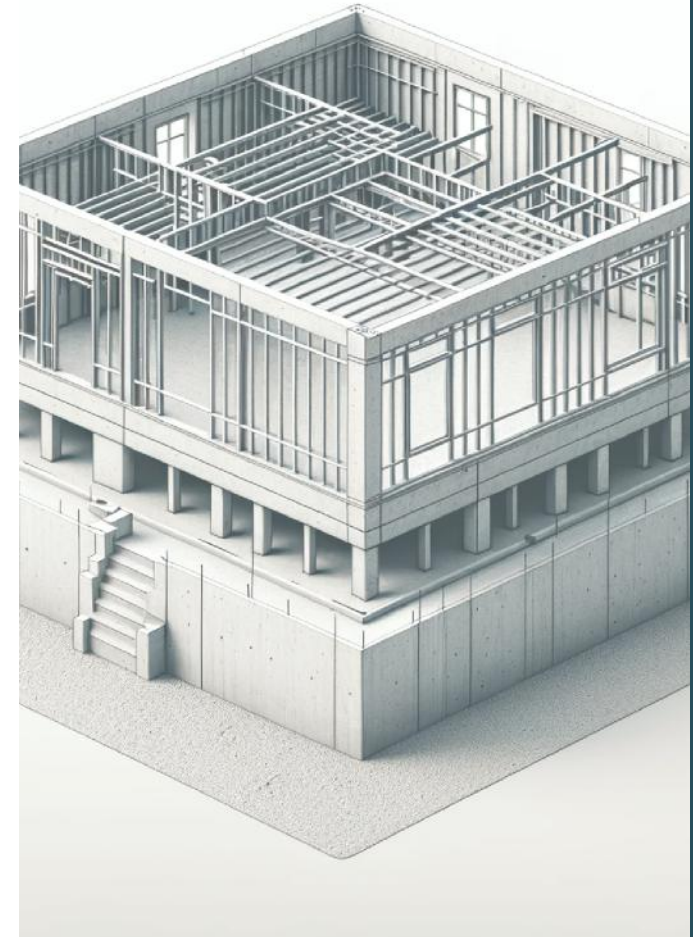


Sustaining Core Operations

August 2023, the State Bar identified a core operations funding need of **\$82** per active licensee based on a projected deficit of **\$17 million**:

CRU, DEI, JNE not included

Core Operating Needs	June 2023	Updated	Comment
✓ Address contractual obligations for State Bar staff; discontinue hiring freezes and forced vacancy rates	\$26	\$27	Updated benefits and headcount
✓ Address structural underfunding as identified by the State Auditor	\$24	\$29	CSA assumed \$1.1M in General Fund revenue that is not available. \$5 adjustment to correct.
✓ Pay lease after SF building sale	\$21	\$15	2024 budget now assumes ongoing costs of building ownership versus lease.
✓ PTO and sick leave accruals	\$0	\$11	Not historically accounted for in budget but booked as an expense annually; given General Fund financial position accruals must be formally budgeted.
Total	\$77	\$82	



2024 Budget Forms Basis for 2025 Needs

Revenue: \$97M, up \$3.3M from Aug 2023 Projection of \$93.7M

Revenue growth due to:

- \$1.8M moved into GF from Legal Specialization fund
- \$1.4M of increased investment income

Expenses: \$119M, up \$8M from Aug 2023 of \$111M

Ongoing cost increases:

- Personnel costs (\$2.1M) due to 4 new positions, 1 position conversion, increase in healthcare benefit costs
- Lease payments versus cost of ownership (\$3.2M)
- IT-related expenses (\$3M)
- Reduced by one-time OPEB Deferral (\$2.8M)

Deficit: \$22M, up \$5M from Aug 2023 Projection of \$17M



General Fund Preliminary Budget Overview

\$22M includes one-time investments totaling \$7.1M



Digitization project to support smaller physical SF footprint



LA office elevator upgrade



SF office restack architectural and construction services



Redesign and security improvements for State Bar website



Five-year racial disparities study in attorney discipline



One-Time Investments

\$0.4M

Five-year update to California Justice Gap Study

\$0.5M

Phone system upgrade for Contact Center

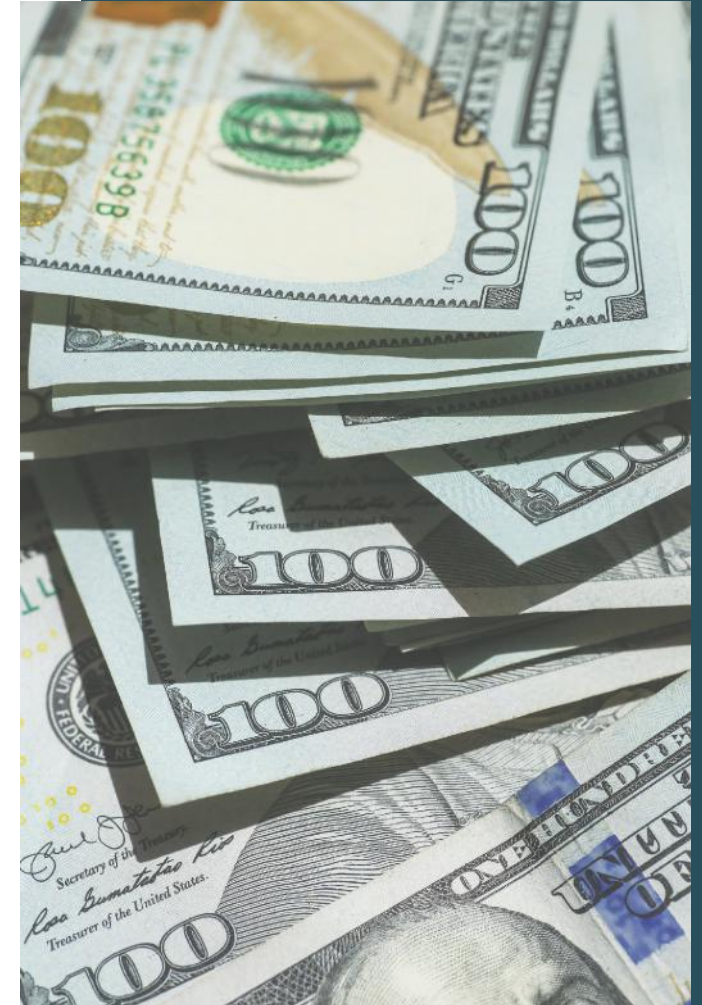
\$0.5M

Agaton litigation

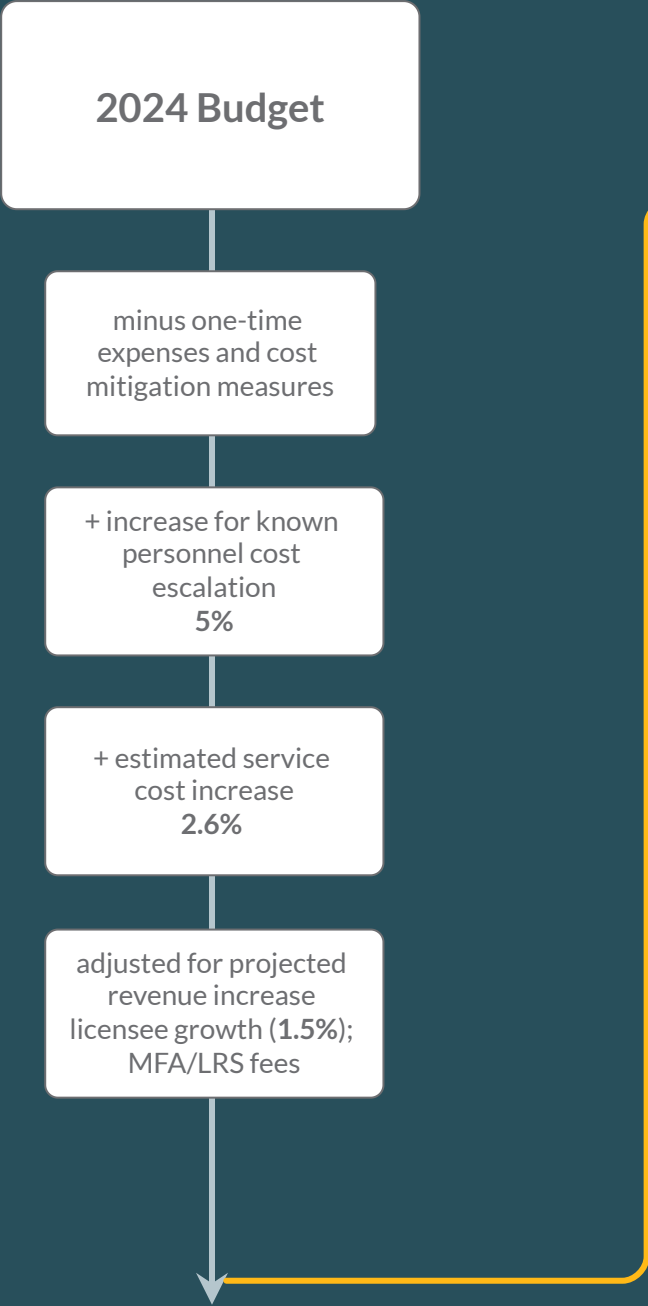
\$1M

of 2024 lease costs considered one-time expense as lease payments will decline effective 2025 due to downsize of SF office space

Expenditures above are offset by one-time deferral of OPEB contribution payment (\$2.8M)



2025 Projection



	2024 ADJUSTED BUDGET	2025 PROJECTION
Revenue	\$97M	\$98M
Expenses	\$114.6M	\$120M
Deficit	(\$17.6M)	(\$22M)

Projected 2025 core operations funding need of **\$103** per active licensee based on a projected structural deficit of **\$22 million**

- \$77 June 2023
- \$82 August 2023

Expanding Impact

June 2023, the State Bar identified an expanding impact funding need of **\$30** per active licensee

Legislative Priorities and Client Trust Account (CTA) Protection

- ✓ **\$12** Fund new permanent positions for CTA complaints
- ✓ **\$7** Implement CTA compliance reviews & audits
- ✓ **\$6** Establish diversion program for low-level violations
- ✓ **\$3** Integrate State Bar into state budget
- ✓ **\$2** Establish Inspector General for discipline system





Expanding Impact: Building the 2025 Request, Staff Recommendations

JUNE 2023 REQUEST, ADJUSTED

Remove positions for CTA
team in OCTC

Remove state budget
inclusion

Remove funding for
Inspector General

WHY?

Addressed in case processing
standards staffing analysis

WHY?

Not currently on the table

WHY?

Not currently on the table



Expanding Impact: Building the 2025 Request, Staff Recommendations

PREVIOUSLY IDENTIFIED ADDITIONAL AREAS FOR INVESTMENT

DEI work

WHY?

Structural underfunding of statutorily mandated activity; included in previous iterations of requests

Complaint Review Unit

WHY?

Growing backlog = poor customer service; included in previous iterations of requests

JNE Commission?

WHY?

Unfunded mandate included in previous iterations of requests



Expanding Impact: Building the 2025 Request, Staff Recommendations

ADDITIONAL AREAS FOR INVESTMENT, NEW



See what

STAFF HAD TO SAY

Information Technology
#1 priority for State Bar staff

OCTC staff to implement case
processing standards (will include
staffing for dedicated CTA team)

Attorney Representation Pilot

WHY?

Inadequate infrastructure, security, data governance, project management and delivery, and application support tools and processes lead to inefficiencies, security risks, negative user experiences, and ultimately more expense

WHY?

April reports include assessment of variance between actual and proposed case processing times

WHY?

Lack of representation found key to racial disparities in discipline system

Policy Considerations



Divergence from what we have asked for in the past

- Is this ok?
- How much is too much?



Accounting for future growth

- Personnel costs grow annually
 - Step increases
 - COLAs
 - Health care benefits
- Service costs increase annually



Amount of fee increase

- Will be significant
- Is it time to consider a new fee structure?
 - Income-based fees
 - Fees assessed to firms
 - Years in practice-based fees



Governance, Conflicts, and Other Reforms



Ad Hoc Committee on Oversight & Accountability Reforms

Established by the Board of Trustees on December 3, 2022, to:

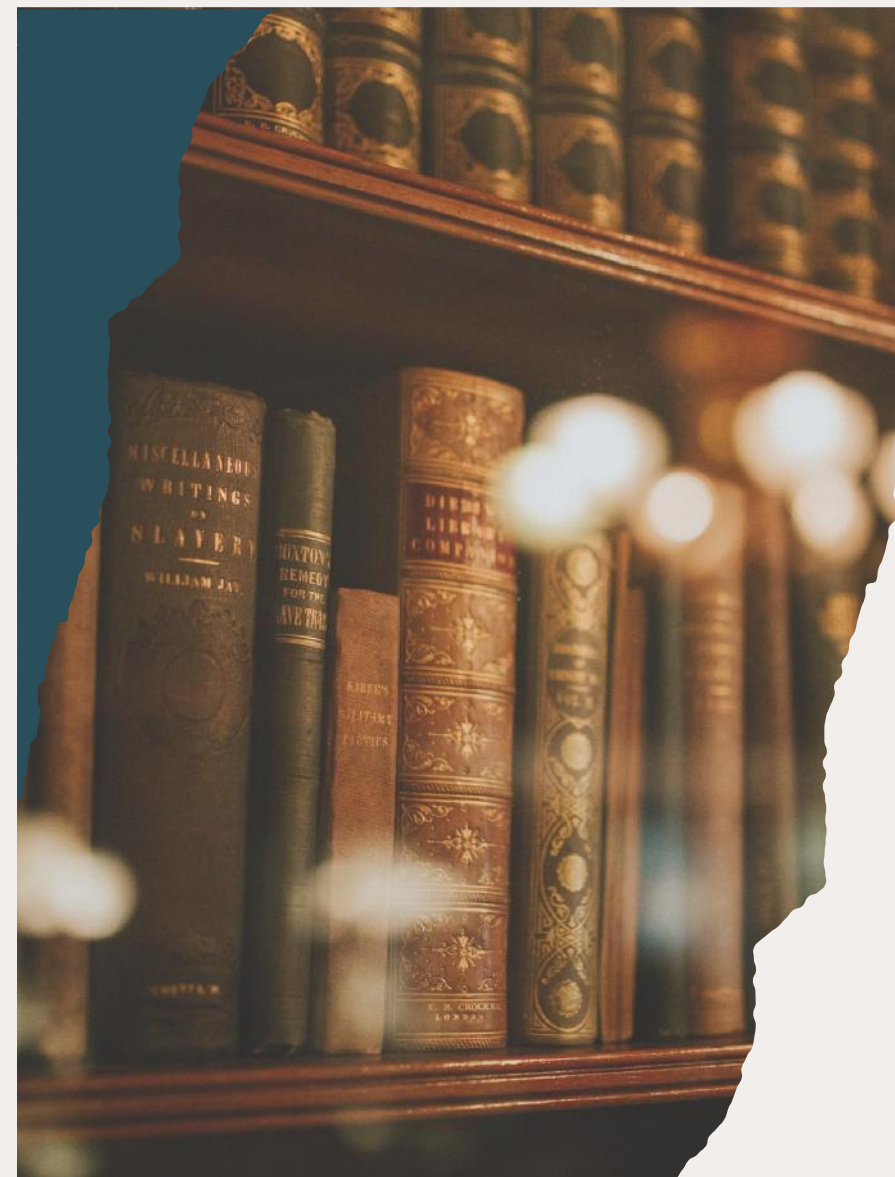
- Develop and recommend structural, operational, or other appropriate reforms to address and improve oversight and accountability of the discipline system
- Recommend actions in response to the findings in the report of the independent May investigation

Approximately 30 reforms recommended

Majority have been implemented



[SEE ALL AD HOC COMMITTEE RECOMMENDATIONS HERE](#)





Governance, Conflicts, and Other Reforms

KEY FINDING

No External Reporting & Investigation of Wrongdoing What's Been Done?

[State Bar-specific whistleblower policy](#). A more robust whistleblower complaint and investigation process was established with the Department of Justice serving as the independent investigating agency of whistleblower complaints by employees (current or former) or members of the public.

The complaint form is available both internally and on the State Bar website.

To date, more than 60 complaints have been filed.



Governance, Conflicts, and Other Reforms

KEY FINDING

Weak Safeguards for Impartial Decision Making What's Been Done?

Board, Volunteers, & State Bar Staff

- Extended the Gov.Code 1090 conflicts rules to the State Bar **(implemented)**
- Expanded circumstances creating personal interest disqualifying conflict of interest **(implemented)**
- Enhanced ethical obligations for Trustees **(implemented)**
- Mechanisms to enforce conflicts of interest rules, including sanction and censure **(implemented)**
- Board Training on COI **(implemented)**
 - Refresher COI training completed by Board members in April 2023
 - Updated training on conflicts by OGC to follow after this discussion



Governance, Conflicts, and Other Reforms

KEY FINDING

Weak Safeguards for Impartial Decision Making What's Been Done?

2201 Program

- 2201 directives implemented to mirror OCTC COI/ethics protocols **(implemented)**
- Enhancement to the 2201 questionnaire and improved integration with case management system **(implemented)**
- Process for 2201 policies and directives (including update to BPM) **(implemented)**
- Process for oversight relating to attorney complaints against member of the Board, staff directly reporting to Trustees **(in process for finalizing in 2024)**

Complaint Review Unit

- COI/ethics directives mirroring OCTC **(implemented)**

State Bar Court

- Review of State Bar Court policies on COI/ethics **(planned for 2024)**



Governance, Conflicts, and Other Reforms

KEY FINDING Minimal Reporting on Form 700 What's Been Done?

- Comprehensive update to COI Code for Board, incorporating FPPC Model Code and enhancing the reporting requirements for the Trustees (**implemented**)
- Extending Form 700 reporting to additional subentity volunteers (**Jan 2024 Board meeting**)
- Substantive updates to internal State Bar Form 700 processes, notices, and other documents (**completion planned by end of Jan**)
- Board training on Form 700 reporting
 - Comprehensive training by FPPC and OGC staff to follow after this discussion
- Updates to COI Code for designated staff (**Jan 2024 Board meeting**)
 - 2201 Program/SDTC reporting enhanced



Governance, Conflicts, and Other Reforms

KEY FINDING

Brief Stint in Board Leadership Positions Impacts Full Potential for Oversight
What's Been Done?

- Consistent Board Leadership
 - Two-year term for chair and vice-chair of the Board **(implemented)**
- Consistent Discipline Liaison Assignments
 - Two-year staggered terms **(implemented)**



Governance, Conflicts, and Other Reforms

KEY FINDING

Gaps in Checks and Balances What's Been Done?

- Statutory process for removal of Board members
(proposed for inclusion in 2024 legislative priorities)
- Policy for approval of State Bar presentations
(not addressed)
- IT safeguards
(pending)

KEY FINDING

Need for Additional Resources for Board's Oversight What's Been Done?

- Discipline Monitor
 - Support for Board's discipline system oversight – proposed during the 2023 legislative cycle (tabled)
- Independent Board Secretary (not addressed)

Recommended Focus for Today's Discussion

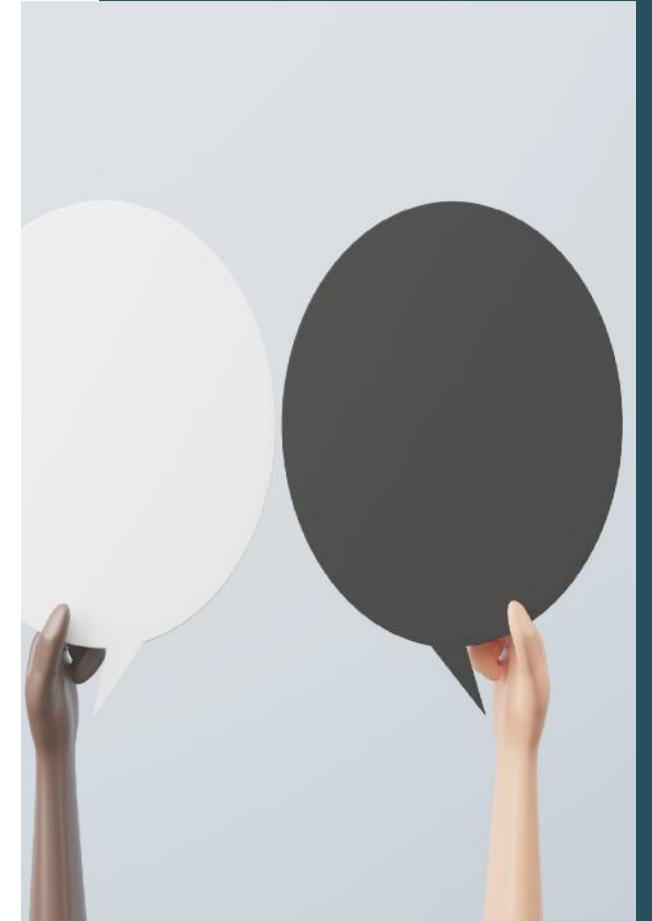
Tabled or Not Addressed Items



**Discipline
Monitor**



**Independent
Board Secretary**





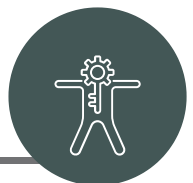
Discipline Monitor



Provides relevant, timely, independent, and objective monitoring and advisory services to the Board in relation to the attorney discipline system



Assess identified risks and evaluates management's response to mitigating those risks



Supports the development and implementation of processes, procedures, and systems that promote compliance and effectiveness



Originally conceived as an Inspector General type position



Independent from the State Bar



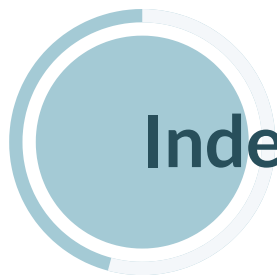
Legislature did not adopt

- Should the Board continue to pursue or restructure so that function is housed internally?



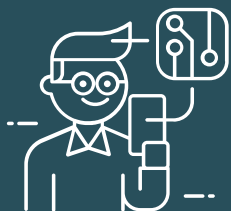
SEE HERE FOR THE DRAFT POSITION DESCRIPTION





Independent Board Secretary

Considered as
additional support for
Board



Strengthen oversight
capacity



Ad Hoc Committee
directed discussion
with former secretary
UC Regents



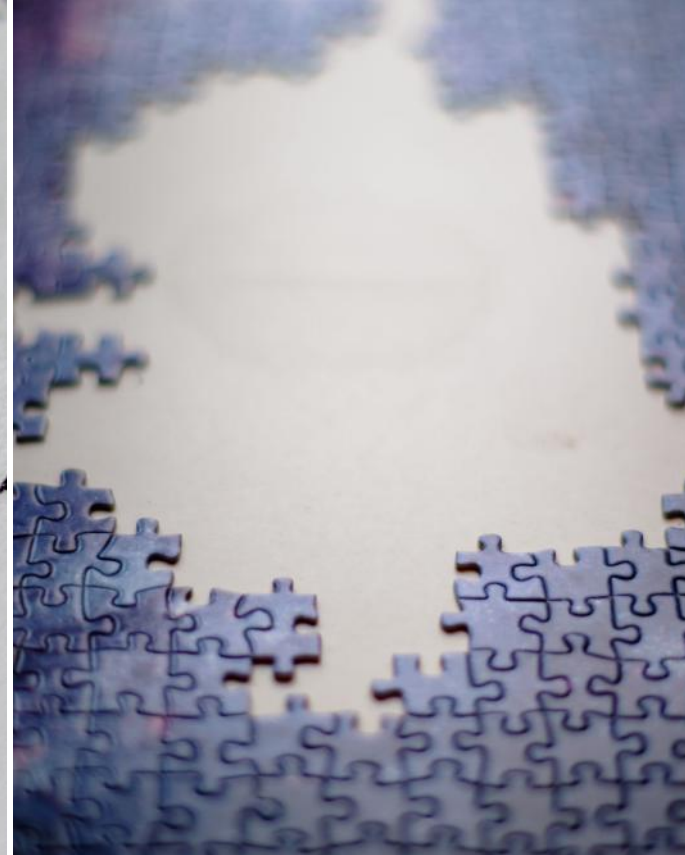
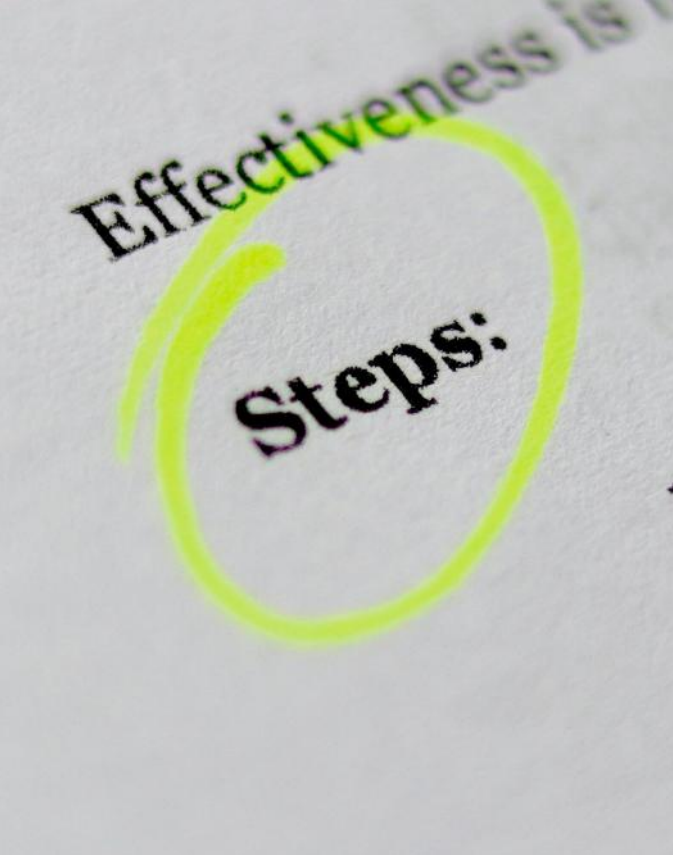
Key staff takeaways

- Can serve as "eyes and ears" of a governing body
- May not apply to State Bar context
- Some aspects of model warrant consideration
 - Board participation in agenda setting
 - Independent Board staffing for complex/sensitive issues



Strategic Plan Accomplishment and Modifications





17 Implementation Steps due within
the first 2 years
10 are complete (59%)

17 Steps = 82 operational projects
70% are complete

Board to consider Strategic
Plan amendments

Projects in progress and not yet
started will be reassessed
following the planning session
to ensure on-track completion



Strategic Plan Progress



**PUBLIC TRUST
LIAISON**
The State Bar of California



- ✓ Developed new discipline case processing standards
- ✓ Board action on Ad Hoc Commission recommendations
- ✓ Reduced time to payout, Client Security Fund

- ✓ Launched the Office of the Public Trust Liaison
- ✓ Launched the Client Trust Account Protection Program
- ✓ Launched the DEI Leadership Seal initiative

- ✓ Submitted recommendations of the Blue Ribbon Commission
- ✓ Published comprehensive report on performance of all three types of California law schools

- ✓ Adopted new public comment guidelines and approach
- ✓ Increased TA and training resources for licensees
- ✓ Increased collection of outstanding debt

Strategic Plan, Major Accomplishments



Strategic Plan Modifications, Staff Recommendations

- Reduce total number of implementation steps from 50 to 45
- Nonsubstantive language edits for clarity
 - Grouped similar implementation steps together to better reflect shared work



Strategic Plan Modifications

Propose condensing 7 implementation steps

GOAL	STRATEGY	IMPLEMENTATION STEPS
Goal 3	Consumer Focus	Implement the Office of Professional Competence's 5-year plan for preventative education e-learning and self-assessment modules. [Basis for change: Condense; activities fit under current Goal 3, Consumer Focus Implementation Step 2] Position the State Bar as a trusted resource; and increase proactive interactions with licensees beyond admitting attorneys into the profession, collecting fees, and monitoring MCLE compliance ensure that licensees are aware of how the work of the Bar supports the competent and ethical practice of law. [Basis for change: Incorporate language from three merged implementation steps under Goal 3] Create a licensee resource page on the State Bar website to provide information and tools on emerging topics and issues including mental health, financial literacy, and navigating imposter syndrome in the workplace. [Basis for change: Condense; activities fit under current Goal 3, Consumer Focus Implementation Step 2]
	Diversity, Equity, and Inclusion	Support attorneys from disenfranchised and underserved communities who may experience unique practice management and other challenges. [Basis for change: Condense; activities fit under current Goal 3, Consumer Focus Implementation Step 2]
Goal 4	Effectiveness	Ensure that licensees are aware of the work of the State Bar and how the bar supports competent and ethical practice. [Basis for change: Condense; activities fit under Goal 3, Consumer Focus Implementation Step 1]
	Consumer Focus	Create and sustain partnerships with other organizations, entities, and stakeholder groups. Build a robust, diverse, and mission-oriented network of partners. [Basis for change: Merged with Goal 4, Diversity, Equity, and Inclusion Implementation Step 2; condense language]
	Diversity, Equity, and Inclusion	Increase the number and variety of stakeholders to include affinity bar associations and a broad range of organizations invested in the mission of the State Bar. [Basis for change: Merged with Goal 4, Consumer Focus implementation step 1; improve language clarity]

Strategic Plan Modifications

Substantive Language Edits

GOAL	STRATEGY	IMPLEMENTATION STEPS
Goal 1	Diversity, Equity, and Inclusion	Identify and implement strategies to address other disparities in discipline rates and outcomes, including those related to solo and small firm practitioners. [Basis for change: Limit the scope of the implementation step to research; implementation is covered under Goal 2, Diversity, Equity, and Inclusion, Implementation Step 3]
Goal 2	Effectiveness	Update and modernize Revise the bar admissions requirements to be more relevant to the practice of law, in alignment with the recommendations of the Blue Ribbon Commission on the Future of the Bar Exam: <u>to eliminate unnecessary barriers to admission, or to implement changes to the bar examination or other pathway to licensure approved by the Supreme Court.</u> [Basis for change: Clarify updated authority to approve changes; minor wording edits]
	Consumer Focus	Continue to analyze data points to identify the root potential causes of inequities in accessing legal services to <u>inform policy recommendations to</u> and reduce the access to legal services gap. [Basis for change: Clarified the implementation step is related to research and informing policy]
	Diversity, Equity, and Inclusion	Identify data-supported practices that promote retention and advancement of a diverse and inclusive legal profession, <u>including strategies that support solo and small-firm practitioners</u> , and share those practices through toolkits and other resources. [Basis for change: Clarify focus of activities]

Strategic Plan Modifications

Minor Language Edits

GOAL	STRATEGY	IMPLEMENTATION STEPS
Goal 2	Diversity, Equity, and Inclusion	Increase the numbers of diverse attorneys in the legal profession by encouraging through diversity pipeline programs that support aspiring attorneys in graduating from law school and passing the bar exam. [Basis for change: Minor wording edit]
		Engage DEI leaders and other stakeholders to encourage legal employers to set and publicly commit to measurable diversity, equity, and inclusion goals through the State Bar DEI- Diversity Leadership Seal Program. [Basis for change: Minor wording edit]
Goal 4	Effectiveness	Enhance visibility of and accessibility to State Bar public meetings. [Basis for change: Minor wording edit]



Strategic Plan Modifications

Other Changes?

