

DISCUSSION DRAFT
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State Bar of California Long Range Strategy



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Introduction

This Document

This document, the *Long Range Strategy of the State Bar of California*, upon adoption by the Board of Governors, supercedes and replaces its predecessor, entitled *State Bar of California Long-Range Strategic Plan*, which was adopted in September of 2004.

This document is organized into the following sections:

- **Introduction:** describes the legal basis for the State Bar as well as key legal constraints and mandates under which the Bar operates; and describes the strategic planning activities of the State Bar and the related documents.
- **Mission, Vision & Values:** identifies, at the highest level, the broad purposes and aspirations of the State Bar, along with the values the Bar upholds in carrying out its mission.
- **State Bar Goals by Functional Area:** identifies the functions the State Bar will perform in order to perform its role as regulator and leader of the legal profession in the State of California. This section characterizes the functions to be performed in broad, goal-oriented terms. The Executive Director's *Implementation Plan* (see below) fills in the management-level detail required to successfully carry out the specified functions.

Establishment & Mandates of the State Bar

Establishment of the State Bar

The State Bar of California is a public corporation in the judicial branch of government (Article VI, section 9 the California State Constitution). The purposes and powers of the State Bar are further defined in the State Bar Act (codified as Chapter 4 of the California Business and Professions Code).

Specifically, the State Bar Act charges the Bar with “the enforcement of the provisions of [the Act],” (B&P Code Section 6030) and authorizes the Bar to “aid in all matters pertaining to the advancement of the science of jurisprudence or to the improvement of the administration of justice, including, but not by way of limitation, all matters that may advance the professional interest of the members of the State Bar and such matters as concern the relations of the bar with the public.” (B&P Code Section 6031). Thus, the Act identifies three broad “pillars” of the Bar’s mission:

1. A mandate to enforce statutory provisions governing the practice of law;
2. Permissive authority to contribute to the science of jurisprudence and the administration of justice, in such manner as the Board of Governors may deem appropriate; and
3. Permissive authority to advance the professional interests of Bar members, in such manner as the Board of Governors may deem appropriate.

The State Bar Act grants the Bar powers generally associated with public corporate bodies, such as perpetual succession, the ability to enter into contracts, and the ability to incur debts, as well as the authority to raise revenues for its purposes by any lawful means.

Constitutional Issues

The State Bar of California is an integrated bar, meaning that membership is mandatory for the practice of law in the State of California. In *Keller vs. State Bar of California* (1990), the U.S. Supreme Court held that the imposition of mandatory membership dues implicates members' First Amendment right of free speech, in much the same manner as the imposition of mandatory union dues.

The U.S. Supreme Court found that – notwithstanding the broad permissive authority granted by State law – mandatory dues could be expended solely for the purposes of “regulating the legal profession and improving the quality of legal services,” which a California Superior Court subsequently called the “*core purposes* of the integrated bar.” (Emphasis added.)

Further Mandates

In addition to the mandate to enforce judicial and legislative rules and statutes, the Legislature and the California Supreme Court have, on occasion, assigned additional specific tasks to the State Bar. For example, in 1981 the Legislature designated the State Bar as the entity which was to receive interest on certain lawyer trust accounts (IOLTA) and distribute it to programs providing legal services to indigent persons. In 2001, the Attorney Diversion and Assistance Act directed the State Bar to “seek ways and means to identify and rehabilitate attorneys with impairment due to abuse of drugs or alcohol, or due to mental illness, affecting competency so that attorneys so afflicted may be treated and returned to the practice of law in a manner that will not endanger the public health and safety.”

Strategic Planning in the State Bar of California

The State Bar performs a variety of planning and management activities under the general label of “strategic planning.” Strategic planning encompasses both a set of documents – “the plan” – and a number of ongoing processes that aim to ensure that the organization executes its strategy effectively and efficiently. In a sense, strategic planning is both a product and a process.

Products: Strategic Planning Documents

The following are the key documents in the State Bar’s strategic planning efforts:

- **Long Range Strategy** (this document): The *Long Range Strategy of the State Bar of California* sets out the mission and principal goals by functional areas of the State Bar. The *Long Range Strategy* is formally adopted by the Bar’s Board of Governors, and is updated on an as-needed basis. Because the mission and main functions of the State Bar are generally stable from year to year, updates to the *Long Range Strategy* are relatively infrequent, coinciding with major changes in the Bar’s functions or its legal mandates.
- **Implementation Plan**: The State Bar’s *Implementation Plan* is devised by the Executive Director, and it defines the internal organizational and programmatic structure of the Bar and assigns the Bar’s functions (as defined in the *Long Range Strategy*) to specific offices and divisions. The *Implementation Plan* also identifies statistical measures of the State Bar’s workloads and, where possible, its results (“performance measures”). Broadly, the *Implementation Plan* lays out the Executive Director’s plans for efficiently and effectively carrying out the functions called for in the Board of Governors’ *Long Range Strategy*. The *Implementation Plan* is revised on an as-needed basis, to reflect significant changes in organizational structure or priorities.
- **Annual Budget**: The State Bar’s annual budget identifies the resources allocated to each of the Bar’s service areas and offices, as recommended by the Executive Director and adopted by the Board of Governors. The budget reports on initiatives undertaken by the Bar’s service areas, and it includes annually updated workload and performance data. The budget is prepared annually, with guidance and oversight from the Planning, Program Development and Budget Committee of the Board of Governors, and is adopted by the full Board of Governors typically at the last business meeting of the Board year (July - August).

- **Annual Report:** The *Annual Report of the State Bar of California* summarizes the activities and accomplishments of the State Bar during the preceding year. The report also includes key performance measures from the Bar’s major service areas. The Office of the Executive Director issues the report annually.

Processes: Strategic Planning Activities

- **BOG Long-Range Strategy Setting:** The Board of Governors has the fundamental fiduciary responsibility for the health and success of the State Bar of California, with a focused *attention on the governing responsibilities* for this organization. The governing functions are those that provide the essential direction, resources and structure needed to meet specific needs of our core constituencies: the public, the judiciary, and our lawyer-members. The Board sets the strategic direction for the State Bar of California that reflects the needs of our constituencies and the mandate provided by the State of California.

One way in which the Board of Governors exercises its leadership of the Bar is by setting the Bar’s long range strategy – that is, by consideration and adoption of the *Long Range Strategy* document. Because the long range strategy is intended to guide the organization consistently over a long time horizon, the document is reconsidered relatively infrequently, when circumstances dictate a substantial change in the Bar’s approach to carrying out its mission.

- **BOG Annual Strategy and Planning Session:** While the *Long Range Strategy* is revisited only infrequently, the Board of Governors remains actively engaged in the Bar’s strategic planning. The Board’s annual strategy and planning session, held each January, is the primary forum for this ongoing engagement. The agenda of the strategy and planning session varies from year to year based on direction from the State Bar President and the Chair of the Planning, Program Development and Budget Committee, and previously identified Board priorities, but the session typically includes:
 - Presentation of Member Survey Data
 - Presentation of Additional Stakeholder Input
 - Review of Changes in the Bar’s Environment
 - Review of the Efforts and Progress of Advisory Committees
 - Identification of “Special Focus Areas” for the Upcoming Board Year

- **BOG Special Focus Areas:** Another way in which the Board of Governors leads the Bar is by identifying areas of special focus – topics of special concern or interest to the profession. Areas of special focus may be identified in the Annual Strategy and Planning Session, or they may emerge from other Board or Committee meetings. How the Bar addresses special focus areas varies on a case-by-case basis. Common approaches include:
 - Investigation of a topic or proposal by staff, with follow-up in the form of an agenda memo to the Board
 - More extensive staff study of a topic or proposal, resulting in a full-length report to the Board
 - Appointment of a task-force or advisory committee to study the topic and advise the Board

- **Annual Budget Process:** The Bar’s annual budget development process is a key strategic planning activity. As part of the process, the Bar’s offices provide updated data on their workload and performance measures, and identifies their principal initiatives for better carrying out the Bar’s mission. And, of course, the Bar’s budget also identifies the allocation of the organization’s resources to its service areas. Staff develops the budget with guidance from the Planning, Program Development and Budget Committee of the Board of Governors. The annual budget is considered and adopted by the full Board of Governors, usually at the last business meeting of the Board year (July - August).

- **Annual Report:** Staff of the State Bar prepares an Annual Report, which provides a high-level overview of the Bar’s accomplishments for the past year, along with performance indicators for its major service areas. The Annual Report provides accountability from the Bar to the Board of Governors, the membership, other stakeholders and the public.

MISSION, VISION AND VALUES

Mission of the State Bar

Formulating a simple “mission statement” which smoothly harmonizes all of the purposes, which have been articulated by various authorities at various points in time, is challenging. The following is intended to capture the spirit and intent of those declarations, as well as the professional values of the Bar’s members:

The purpose of the State Bar of California is to ensure that the people of California are served by the legal profession in a manner consistent with the highest standards of professional competence, care, and ethical conduct; to carry out such additional programs as may be required by law or by rule of court; and to contribute generally to the science of jurisprudence and the administration of justice to the extent and in a manner consistent with the First Amendment rights of its members.

The remainder of this document outlines the vision and values of the Board of Governors as well as the specific functions that the Board deems to be necessary and appropriate to carrying out this mission.

Vision of the State Bar

From the successful execution of its mission, the Bar envisions a variety of beneficial results for the public and the profession:

- A legal profession respected for serving the public in accordance with the highest standards of professional competence, care and ethical conduct
- Adequate access to the justice system for all, regardless of economic means
- A justice system reflective of the diversity of the State it serves
- A legal profession which conducts itself with civility and comity
- A State Bar with productive working relationships with its stakeholders, including the State Supreme Court, the Judicial Council of California, the Legislature, the Governor, members of the legal profession and of the public, and all parties with an interest in the legal profession and the administration of justice in the State of California

Values of the State Bar

The Bar's efforts to execute its mission and bring about its vision are motivated and guided by the values of its members, as articulated by the Board of Governors. Among these values are the following:

1. Economy, Efficiency & Effectiveness

As a part of the judicial branch, the State Bar recognizes an obligation to handle the resources entrusted to it with care and professionalism. The Bar values prudent stewardship: economical use of resources, efficient organization of its activities, and effectiveness in its undertakings.

2. Equal Access to Justice

One of the core principles of our democracy is access to justice for all people. Seeking equal access to justice for all people in California is a cornerstone of the continued vibrancy and efficacy of the judicial branch of government in the State. The State Bar values the efforts of the Chief Justice of California, the Legislature, the Governor, local bar associations, and local courts to expand funding available for this purpose, including enactment of the Equal Access Fund appropriation, legislation on IOLTA comparability, and the new Justice Gap Fund. The Bar also values the continued willingness of attorneys throughout the State to voluntarily provide low-cost and no-cost representation to individuals in need, in keeping with longstanding traditions of the profession and the duty of a lawyer to never reject the cause of the defenseless or the oppressed.

3. Self-Regulation of the Legal Profession

The State Bar of California is entrusted with one of the most important aspects of ensuring the effective and efficient operation of the justice system: self-regulation of the legal profession. The purpose of self-regulation is to ensure that the public is protected by receiving legal services from individuals who abide by the highest levels of competence and ethical standards. Historically, self-regulation has included setting standards for admission to practice law, developing and recommending adoption of Rules of Professional Conduct, regulating the unauthorized practice of law, and disciplining attorneys to protect the public from persons who are unfit to practice law. In addition, self-regulation encompasses the development of voluntary guidelines in such areas as indigent defense services systems, civility and professionalism.

4. Services to Members

In addition to its regulatory functions, the State Bar of California also functions as a professional association of its members, and to actively support their professional development. The Bar strives to deliver membership benefits that encourage a positive identification with the Bar on the part of its members, much as a voluntary association might. Moreover, in all of its functions, the Bar believes in providing the best possible customer service, to members and the public alike.

5. Stakeholder Relations & Accountability

The State Bar values strong collaborative working relationships with its wide variety of stakeholders. Among the key stakeholders are the State Legislature and Governor, who control the Bar's ability to levy the mandatory membership dues which constitute its primary source of funding. Also crucial, as a part of the judicial branch of government, are working relationships with the State Supreme Court and the Judicial Council of California. Finally, the Bar places a high value on relationships with its members, and with professional groups, such as the legal practice sections, local bar associations, specialty bars, and bench-bar groups. The Bar approaches all of these working relationships in a spirit of mutual respect, integrity and collegiality.

State Bar Goals by Functional Areas

- GOAL 1. PUBLIC PROTECTION** - The public is protected and served by attorneys and other legal service providers that meet the highest standards of competency and ethics.

Admission to Practice

Pursuant to its mission to ensure that the public is served by the legal profession in a manner consistent with the highest standards of professional competence, care and ethical conduct, the State Bar shall regulate admission to the practice of law in the State of California. More specifically, the Bar shall execute the following strategies:

Strategies:

1. Establish and maintain standards for institutions, subject to the State Bar's oversight, which are engaged in the training and education of legal professionals, including institutions providing continuing legal education for admitted professionals.
2. Establish and maintain standards for the admission of individuals to the practice of law in California, including standards pertaining to: requisite education and training; the ability of individuals to demonstrate adequate knowledge to competently practice law; and the moral character of applicants.
3. Establish and maintain standards for the continuing legal education for admitted professionals.
4. Establish and maintain standards for the practice of law within California by individuals admitted to the bar of other states and nations.
5. Establish and maintain standards for the certification of practitioners in specialized areas of law.
6. Establish and maintain procedures for the initial registration and annual renewal of registration of law corporations and limited liability partnerships entitled to practice law in the State of California.
7. Maintain records as required by law – including the status of members of the Bar, registration of law corporations and limited liability partnerships entitled to practice law, and accreditation of institutions providing education and training of legal professionals (including continuing education and specialist education) – and provide for public access to this information, consistent with applicable requirements of privacy and confidentiality.

Competence, Ethical Standards, Rules and Guidelines for Practice

To ensure the highest levels of competency and ethics of all attorneys, the State Bar shall assist in the development of both rules and guidelines (e.g. voluntary standards of conduct, best practices) to govern the practice of law in the State of California. More specifically, the Bar shall execute the following strategies:

Strategies:

1. The Board of Governors shall establish a committee to assist the Board in considering amendments to the Rules of Professional Conduct and other laws governing the conduct of lawyers.
2. From time to time, the Board may also establish committees, task forces or working groups to study issues of importance to the profession and to recommend relevant rules or guidelines where appropriate.
3. The State Bar shall provide technical, logistical and staff support to such committees, task forces and working groups.

Investigation and Discipline

To protect the public from unprofessional conduct of attorneys and to uphold the highest standards of the legal profession, the State Bar shall implement a system for the investigation and resolution of complaints against attorneys in the State of California, including, when appropriate, recommendation of disciplinary action. More specifically, the Bar shall execute the following strategies:

Strategies:

1. Establish and maintain a process by which members of the public may bring complaints against attorneys to the State Bar, as well as a process for evaluating these complaints and forwarding them for further action where appropriate.
2. Establish and maintain a process for the investigation of substantiated allegations and, where appropriate, for instituting disciplinary proceedings.
3. Establish and maintain a court for hearing disciplinary proceedings against attorneys ("State Bar Court") and recommending disciplinary action to the State Supreme Court. The State Bar Court will be organized to include a hearing department and a review department.

4. Establish and maintain the capability to monitor the compliance of attorneys placed on probation as part of the disciplinary process, and to institute probation revocation proceedings when appropriate.
5. Establish and operate a program under which a designated portion of the member fees paid by all State Bar members are set aside to pay compensation – at the discretion of the Board of Governors – to members of the public who have suffered financial damages due to misconduct by members of the State Bar; and make appropriate efforts to recover the amounts of such payments from those responsible for the misconduct.
6. Establish and maintain a program providing mandatory arbitration of disputes pertaining to attorney fees and costs, including the establishment of guidelines for programs operated by local bar associations.

GOAL 2. ADMINISTRATION OF JUSTICE - The State Bar is recognized and respected as a contributing and accountable leader in improving the administration of justice and ensuring the rule of law in our civil society.

Leadership of the Profession

In addition to its core regulatory mission, the State Bar is the “umbrella organization” which represents and leads the legal profession in the State of California. In carrying out this role, the Bar shall at all times be cognizant of the First Amendment rights of its individual members. In a manner and to an extent permitted by law, the Bar shall carry out activities in accordance with the concerns and aims of the profession, as determined by the Board of Governors. More specifically, the Bar shall execute the following strategies:

Strategies:

1. Undertake appropriate activities to inform and educate the public regarding the profession and the activities of the Bar, by means of electronic publications (e.g. its website), printed publications and through contact with the mass media.
2. Cooperate with local and specialty bar associations, the California Young Lawyers Association and other entities as the statewide representative of the legal profession, taking care that mandatory dues are expended appropriately.
3. Undertake activities to encourage the expansion of the access to justice by low-income Californians and expanded provision of low- and no-cost legal services to low- and moderate-income Californians.
4. Undertake activities to enhance the diversity of the legal profession to eliminate bias in the practice of law, taking care that mandatory dues are expended appropriately.
5. Provide information to the State Legislature and other public bodies on matters pertaining to the mission of the State Bar, taking care that mandatory dues are expended appropriately.

Legal Services Funding

The State Bar effectively administers and distributes funding through the Interest on Lawyer Trust Accounts program and Equal Access Fund to maintain and increase the availability of legal services for indigent persons statewide.

On several occasions, beginning with the enactment of the IOLTA program in 1981, the Legislature and Governor have expressed the State's commitment to provide funding for providers delivering civil legal services free of charge to indigent clients throughout California. As of this writing, funding sources for this purpose include interest on lawyer trust accounts ("IOLTA"), legislative appropriations and a designated portion of certain legal filing fees ("Equal Access Fund"), and voluntary contributions ("Justice Gap Fund"). The State Bar has been designated as the agency responsible for the administration and distribution of these resources to service-providing organizations. More specifically, the Bar shall execute the following strategies:

Strategies:

1. Collect and distribute interest on lawyer trust accounts, consistent with the provisions of Article 14 of the Business & Professions Code.
2. Under contract with the Administrative Office of the Courts (AOC), receive and distribute the proceeds of the "Equal Access Fund," including appropriations from the treasury of the State and legally designated portions of certain filing fees.
3. Implement a process whereby members of the profession may make voluntary contributions for the purposes defined in Article 14 of the Business & Professions Code.

Judicial Nominee Evaluation

The Commission on Judicial Nominees Evaluation ("JNE Commission"), established pursuant to Government Code Section 12011.5, is the State Bar agency which evaluates all candidates who are under consideration for a judicial appointment by the Governor. The mission of the Commission is to assist the Governor in the judicial selection process and thereby to promote a California judiciary of quality and integrity by providing independent, comprehensive, accurate, and fair evaluations of candidates for judicial appointment and nomination.

Strategy:

1. The State Bar shall faithfully execute its mandated role.

GOAL 3. MEMBER SERVICES - The State Bar provides a wide array of services and benefits to members that meet their professional development, business, and personal needs.

Service to Members

As a membership organization, the State Bar shall provide a high level of customer service in its contacts with members, and provide benefits of membership similar in nature to those of a voluntary association (where not in conflict with law). More specifically, the Bar shall execute the following strategies:

Strategies:

1. Establish and maintain programs to provide information to lawyers on Professional Conduct and other duties of attorneys.
2. Establish and maintain a primary point(s) of contact for membership issues, such as member records inquiries, change of status requests, and MCLE compliance questions.
3. Optimize the use of technology to communicate with members and member groups, including development of online access to allow members to review and manage aspects of their membership status and related information via the Internet.
4. Produce a regular, periodic publication for members of the Bar, covering the Bar's activities, issues relevant to the practice of law, and opportunities for education and professional development.
5. Investigate and – where feasible, cost effective, and in the interest of the Bar and of the profession – implement Bar “sponsored” services and products to be available to Bar members.
6. Investigate and – if feasible, cost effective, and in the interest of the Bar and of the profession – implement appropriate uses of networking technology as a resource for the legal profession.
7. Establish and operate an Attorney Diversion and Assistance program in conformity with the Attorney Diversion and Assistance Act.

Education and Professional Development

For the purpose of improving the quality of legal services in the State of California, and to encourage the provision of legal services consistent with the highest standards of professional competence, care, and ethical conduct, the State Bar shall undertake activities to inform educate and develop its members with regard to all aspects of legal practice. More specifically, the Bar shall execute the following strategies:

Strategies:

1. Undertake educational, professional development activities, and outreach efforts aimed at ensuring that members of the profession are aware of, appreciate and understand, their duties as attorneys.
2. Establish and operate voluntary “sections” devoted to specific areas and types of legal practice for the purpose of enhancing competence and offering professional development opportunities in these areas.

Goal 4. STATE BAR ADMINISTRATION - The State Bar obtains and uses resources effectively and efficiently to support all aspects of its operations and demonstrates the cost effectiveness of State Bar services and activities.

Administration

The Board recognizes the value and need to hire professional staff to support this organization, and looks at staff members as critical partners in the organization's success. The Board recognizes the need to delegate to staff the management functions that ensure effective follow-through and implementation of the governance leadership of the Board.

In keeping with the State Bar's value of economy, efficiency and effectiveness, the Bar shall carry out the administrative functions necessary for the efficient functioning of a statewide organization. More specifically, the Bar shall execute the following strategies:

Strategies:

1. Provide for the executive leadership of the organization as a whole
2. Provide for in-house legal counsel
3. Provide for administrative support in the area of human resources management
4. Provide for administrative support in the area of operations, real property and facilities management
5. Provide for administrative support in the area of finance and purchasing
6. Provide for administrative support in the area of information technology and telecommunications

The State Bar of California | Structure

