



# THE STATE BAR OF CALIFORNIA

## OFFICE OF THE EXECUTIVE DIRECTOR

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May 13, 2016

Honorable Tani G. Cantil-Sakauye  
Chief Justice of California  
Supreme Court of California  
455 Golden Gate Avenue  
San Francisco, CA 94102-3660

Honorable Jerry Brown  
Governor of California  
State Capitol, Suite 1173  
Sacramento, CA 95814

Honorable Kevin de León  
Senate President pro Tempore  
State Capitol, Room 205  
Sacramento, CA 95814

Honorable Anthony Rendon  
Speaker of the Assembly  
State Capitol, Room 219  
Sacramento, CA 95814

Honorable Hannah-Beth Jackson  
Chair, Senate Committee on Judiciary  
State Capitol Room 2032  
Sacramento, CA 95814

Honorable Mark Stone  
Chair, Assembly Committee on Judiciary  
State Capitol, Room 5155  
Sacramento, CA 95814

Dear Chief Justice Cantil-Sakauye, Governor Brown, President Pro Tem de León, Speaker Rendon, Senator Jackson, Assemblyman Stone, Members of the Senate Judiciary Committee and Members of the Assembly Judiciary Committee:

I am pleased to provide the following timely reports required by Business and Professions Code section 6140.16, part of legislation authorizing the State Bar of California's annual licensing fee. These four reports are important steps to ensure that the State Bar of California effectively and efficiently uses both annual licensing fees and other appropriate revenue sources in support of its public protection mission to regulate the legal profession. The relevant statutory language is provided immediately below; following is a brief summary of each report.

The relevant portions of Business and Professions Code section 6140.16 provide as follows:

- (a) To align its staffing with its mission to protect the public as provided in Section 6001.1 and to provide guidance to the State Bar and the Legislature in allocating resources, the State Bar shall develop and implement a workforce plan for its discipline system and conduct a public sector compensation and benefits study. The workforce plan and compensation study shall be used to reassess the numbers and classifications of staff required to conduct the activities of the State Bar's disciplinary activities.
- (b) The workforce planning shall include the development and recommendation of an appropriate backlog goal, an assessment of the staffing needed to achieve that

goal while ensuring that the discipline process is not compromised, and the creation of policies and procedures sufficient to provide adequate guidance to the staff of each unit within the discipline system.

(c) In addition to the requirements in subdivisions (a) and (b), the State Bar shall conduct a thorough analysis of its priorities and necessary operating costs and develop a spending plan, which includes its fund balances, to determine a reasonable amount for the annual membership fee that reflects its actual or known costs and those to implement its workforce plan.

(d) The State Bar shall submit a report on its workforce plan and spending plan to the Legislature by May 15, 2016, so that the plans can be reviewed in conjunction with the bill that would authorize the imposition of the State Bar's membership fee. The report shall be submitted in compliance with Section 9795 of the Government Code. The State Bar shall complete and implement its workforce plan by December 31, 2016.

### **Workforce Planning**

Working with a committee which included bargaining unit representation, the State Bar competitively selected the National Center for State Courts (NCSC) to conduct a work force analysis of those components which comprise its discipline system, defined for the purposes of this effort as the Office of the Chief Trial Counsel (OCTC), the State Bar Court, the Office of Probation, the Lawyer Assistance Program, the Client Security Fund, and Member Records and Compliance. The recently completed preliminary report will be followed by recommendation analysis and refinement, in preparation for a December 31, 2016, implementation date.

The NCSC report made significant recommendations in the areas considered, as outlined below.

#### **A. OCTC**

1. OCTC Intake and Enforcement Unit functions should be combined for great efficiency;
2. Greater attention to supervising and managing operations is required to lead staff and build more cohesive teams;
3. Specialized complaint grouping and prosecution has 'siloed' OCTC operations, limiting assignment flexibility, opportunities for professional growth, and producing unequal workloads; with limited exceptions for cases involving unauthorized practice of law, assumption of practice, and criminal conviction monitoring, specialized teams should be changed into a general investigation model;
4. The new team approach should include approximately seven to nine members, combining attorneys, investigators, paralegals and clerical staff under the leadership of a Supervising Attorney with significant discretion and decision-making authority;

5. Written policies regarding team time and production standards should be developed by OCTC leadership, clarifying and limiting those matters requiring approval beyond the Supervising Attorney;
6. Case assignments should be changed to a direct assignment approach made to the teams by a central processing unit, eliminating the current system of placing files in drawers or 'baskets' pending assignment to attorneys for initial reviews; and
7. Call Center hours should be extended to 5:00 p.m. for increased public access.

B. State Bar Court

1. Provide the Presiding Judge with dedicated administrative support staff, with that staff also responsible for tracking and reporting reinstatement eligibility and final discipline status; and
2. Improve reporting on Court performance measures.

C. Lawyer Assistance Program (LAP)

1. Engage in a strategic planning process for the LAP to determine whether LAP is to be reactive, responsive, and corrective to issues faced, or proactive, by advertising services and sponsoring workshops and orientations about attorneys' stress, addiction, and mental health issues;
2. Assess staffing based on caseload levels; and
3. Review the use and purpose of the Evaluation Committee, to determine if it is needed as a review entity, or whether it can be eliminated.

D. Office of Probation

1. Provide monitoring levels based on the seriousness of the case and reduce monitoring requirements based on established pattern of compliance; and
2. Discontinue monitoring attorneys who have resigned or who are not subject to discipline.

E. Member Records and Compliance

1. Require approved providers of Continuing Legal Education to electronically certify satisfactory completion of a course or educational program;
2. Implement a policy clarifying that attorneys should be notified of closed complaints and outlining when such complaints may be purged from the OCTC file; and
3. Implement a policy or, if necessary, promulgate a rule regarding who has authority to reinstate an attorney's license.

#### F. Client Security Fund

1. Improve customer service through standardized proactive communication with applicants regarding case and application status.

In addition, NCSC recommended the Bar commit to improved communication and information sharing between discipline system Departments. Inter-Departmental siloes, particularly as related to system access, were identified as a structural barrier to efficiency. Lastly, NCSC recommends that the Bar undertake a true time-study/weighted caseload analysis to determine appropriate caseload levels for many positions in the organization, including attorneys, investigators, case managers, and probation deputies.

The State Bar welcomes these recommendations, and looks forward to their thorough consideration in a collaborative process involving all stakeholders in developing an implementation plan.

#### **Compensation and Benefits Study**

The State Bar selected CPS HR Consulting (CPS) to conduct a classification and compensation study for the entire organization. The initial phase of the effort (Phase 1) involved OCTC only; the rest of the Bar will be studied between June 1 and October 30, 2016.

With respect to Phase 1 findings, CPS recommended modifications to the classification structure, including creation of progressive series to afford employees with clear career pathways, elimination of some classifications, and the addition of responsibilities to others. Salary findings were summarized by CPS as follows:

The salary recommendations result in salary increases for all Attorney classifications, including management and executive management classifications. The salary recommendations result in salary decreases for the Investigator classification series, the Paralegal classification, the Legal Secretary classification, and the Customer Services Representative (Complaint Analyst I).

Notably, attorney positions were found to be up to 15.84 percent *below* the labor market median, while non-lawyer positions ranged from 6.21 to 32.82 percent *above* market.

These results were unexpected and have created understandable concern among the State Bar's workforce. State Bar leadership has endeavored to reach out to all those potentially impacted by the Study's recommendations and to reassure them that these recommendations will be carefully reviewed. The State Bar is committed to working with its staff and Union members to avoid salary reductions of incumbent personnel, even as changes are developed and implemented. Many of these recommendations will also be relevant to the Bar's upcoming labor negotiation process; since existing labor agreements will expire on December 31, 2016.

### **Backlog Standard Recommendation**

The current statutory backlog standard of 180 days for a complaint to be closed or filed in State Bar Court has proven to be problematic over the last several years, as evidenced by audit findings and significant staff concern. In 2015, and as context for the new backlog standard recommendations outlined below, the average pendency of a complaint that was filed in State Bar Court was 305 days, well above the 180 target.

Through the efforts of an interdisciplinary team of OCTC employees who worked on the project for many months, the Bar has developed two proposed standards for legislative consideration, Feasible and Enhanced. Implementation of these standards will require an increase of resources – one more modest (Feasible) than the other (Enhanced). The current statutory standard is provided as a point of reference, along with its corresponding additional staffing need:

Backlog Standard Type	Backlog Standard Days	Estimated Additional Staffing Need
Feasible	243	40 FTE
Enhanced	197	70 FTE
Current Statutory	180	81 FTE

### **Spending Plan**

The spending plan, which outlines both current expenditures directly tied to mandatory membership fee revenue and the resource needs associated with implementing workforce planning and backlog standard recommendations, reflects the overarching fact that over 80 percent of membership fee revenue is allocated to OCTC, State Bar Court, and the Office of Probation alone. Of these costs, nearly 70 percent comprise salary and benefits expenses.

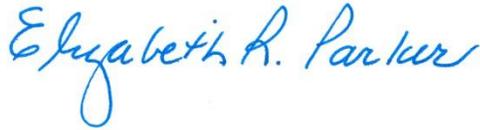
The combined estimated impact of implementation of the various recommendations presented in the series of reports due May 15, 2016, ranges from \$1.5 to \$10.4 million. . A number of concurrent expenditure review and cost recovery activities is underway, including a review of various fees for service, and these may mitigate this impact. These options will be the subject of review with the State Bar Board of Trustees and other stakeholders in the upcoming months.

### **Conclusion**

As this work demonstrates, the State Bar's Board of Trustees and its new management team have prioritized the legislative mandate to produce four wide-ranging and interconnected reports to strengthen the State Bar's infrastructure. The progress reflected in the attached reports reflects the commitment of a new State Bar administration and management team, dedicated to improvement and change.

The State Bar management team stands firm its efforts for transparency, accountability and excellence in all its responsibilities which the citizens of California must have for a well-functioning system of public protection in the regulation of the legal profession. We look forward to working with you to achieve this shared objective as we begin implementing many of the recommendations of these reports.

Respectfully,

A handwritten signature in blue ink that reads "Elizabeth R. Parker". The signature is written in a cursive style with a large, looping initial "E".

Elizabeth R. Parker  
Executive Director  
State Bar of California