

Excerpts of Board Appointment Policies and Procedures

GENERAL / CRITERIA

The following are excerpts of policies and procedures adopted by the Board of Governors that affect the Board's recurring non-disciplinary appointments to the State Bar's standing committees, section executive committees, and special boards, commissions and committees (See also Board Book, Tab 15)

■ **Achieving a Diversified Membership.** Diversity includes a **multitude** of factors identified under Criteria, article 2, section b, sub-paragraph b.(3). These factors include geography, type of practice, size of practice, gender, ethnicity, sexual orientation, disability, length of time in practice, etc. (*Board of Governors' Resolution, March 1997*)

■ **General.** It is the policy of the Board of Governors to encourage the opportunity of all members of the State Bar to participate in activities of committees and to achieve a diversified membership on committees (including, but not limited to, standing and special committees and executive bodies to which the Board of Governors has the authority to make appointments) and in order to further encourage all members in such participation, the board adopts the following procedures, applicable generally whenever there are vacant positions to be filled by board appointments to such bodies. (*Board of Governors' Resolutions, June 1977, August 1987*)

■ **Criteria.** The board adopts the following criteria to guide the board committee that reviews, reports on and makes recommendations to the board concerning such appointments:

- a. Consistent with the application of a variety of factors, and to the maximum extent practicable, the criteria for appointment shall be applied so as to achieve diversification and broad representation on each committee, commission, executive committee of sections or other entity and so as to encourage the participation of women, ethnic minorities, racial minorities, recent admittees and more experienced attorneys.
- b. In considering recommendations of applicants to the board for appointment, the board committee shall:
 - (1) Define the general and specific purposes of the entity to which the appointments are to be made and other relevant factors relating to its duties and functions, including, but not limited to, the number of meetings budgeted or anticipated, the estimated volunteer time, the difficulty of tasks, and projected work product deadlines.
 - (2) Identify particular, legal, organizational or cultural expertise that may be appropriate for meaningful contribution to the entity's purposes, duties and functions.

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(3) Identify factors that encourage breadth and depth of perspectives including, but not limited to, the following:

- length of time in the practice of law or, if appointment is of a person who not a lawyer, the length of time in a given profession or vocation;
- accomplishments of note;
- proven commitment to volunteer work or strong indication of capacity and desire for making the expected time commitment;
- personal recommendations for the appointment;
- educational background;
- geographic location of residence and work;
- size of law firm or of practice;
- types of employment and types of specific interests represented by law practice or employment (e.g., house counsel, public, private, etc.; personal injury, litigation, plaintiff or defense, etc.);
- gender, age, race, ethnicity and other factors of minority status including religious creed, physical or mental disability, or sexual orientation contributing to diversity and broad representation;
- prior experience in national, state or local bar association work, or similar experience if a nonlawyer appointment;
- prior experience in the subject area of the entity.

(Board of Governors' Resolutions, September 1981 and August 1987)

■ **Confidentiality.** Applications for appointment to any entity to which the board appoints are treated as confidential. This includes any material submitted with an application. In addition, the fact that someone has applied for an appointment is treated as confidential. Information concerning applications for appointment is released to those persons involved in the appointment process, e.g., board members, section and committee officers, and all staff necessary to assist in the appointments process. *(Board of Governors' Resolution, August 1987)*

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LIMITATIONS

■ **Factors Which Militate Against Appointment.** The Board committee shall identify the following factors which could militate against appointment, but which should be weighed among other factors:

Discipline -- If a lawyer appointment, whether there is any public information known to the State Bar about the applicant or a record of public discipline imposed.

Same firm -- Whether any other member of applicant's firm is on the entity.

Previous term -- Whether the applicant previously served on the entity.

(Board of Governors' Resolutions, June 1977, August 1987, February 1994; see Board Book, Tab 20)

■ **Disciplinary Probation.** In no case shall the Board of Governors appoint a person who is subject to State Bar disciplinary probation. *(Board of Governors' Resolution February 1994)*

■ **Ex Officio Members, Advisers, and Consultants.** Unless expressly authorized by the Board, advisers, ex officio members, and consultants shall not be appointed to State Bar standing or special committees. (A section executive committee, at the executive committee's discretion, may appoint nonvoting advisers to the executive committee for such terms and purposes as may be determined by the executive committee. Such advisers serve at the pleasure of the executive committee.) *(Board of Governors' Resolution, September 1981)*

■ **Out of State Members, Guidelines for Appointment.** An out-of-state member of the State Bar may be appointed to serve on State Bar sub-entity subject to these guidelines:

- 1) The potential appointee, considered in light of the relevant applicant pool shall fulfill the requirements and standards for appointment and be subject to the same appointment process and standards as resident members, except that;
- 2) Due consideration shall be given in the appointment process to the budget impact of any additional costs that may be incurred by the State Bar due to the service of the out-of-state member.

(Board of Governors' Resolution, May 2005)

■ **Service on Multiple Committees.** Only in exceptional cases shall the Board of Governors appoint one person to more than one committee or commission of the State Bar. *(Board of Governors' Resolution, May 1982.)*

■ **State Bar Staff.** In order to minimize the potential for actual or perceived conflict and favoritism and to encourage maximum participation from the membership of the bar, that, as a general rule, the board is not inclined to appoint members of the staff of the State Bar to section executive, standing and special committees and commissions of the bar; said policy to be disregarded only in the most exceptional circumstances. *(Board of Governors' Resolution, October 1990)*

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TERM OF OFFICE

■ **Committee Year.** Unless otherwise specified by the Board of Governors, appointment terms for standing, special and section executive committees follow the committee year. The normal committee year shall commence with the close of the Annual Meeting and continue until the close of the Annual Meeting of the following year. (*Board of Governors' Resolution, August 1992*)

■ **Term, Maximum.** The term of office for all members of standing, special and section executive committees shall be three years; said terms to be staggered. Members serve no more than three years, except to permit service as Chair, Vice-Chair or Chair-Elect in a fourth year, or Chair in a fifth year. The exceptions to the three-year term are: the section executive committee members who serve as an officer in a fourth year, or a Chair, Vice Chair or Chair-elect in a fifth year or as Chair in a sixth year; the Committee of Bar Examiners and the CEB Governing Committee whose members serve four-year terms. Officers are appointed by the Board and serve one-year terms. (*Board of Governors' Resolutions August 1982, July 1986; December 1991, September 1996, July 2004, July 2005; Agreement between the State Bar of California and the University of California Continuing Education of the Bar VIII A.6; Rules and Regulations of the State Bar, Article XIII, §4*)

■ **Term, Reappointment of Members Filling Unexpired Vacancies.** Members appointed to fill unexpired terms of one year or less may be reappointed for a full three-year term. Members appointed to fill unexpired vacancies of more than one year are not eligible for reappointment, except to serve as an officer. This reappointment limitation does not apply to members of the Committee of Bar Examiners or the CEB Governing Committee. (*Board of Governors' Resolution April 1993*)

■ **Removal of Committee Members.** Committee members serve at the pleasure of the board. A committee member should not be asked to resign, and the Board of Governors should not remove a committee member from office, unless, without justification, the member refuses or persistently fails to perform his or her duties as a member of the committee. If a committee member, without justification, refuses or persistently fails to perform his or her duties, or if other good cause exists, the board may ask for the member's resignation or, if necessary, remove him or her from office.

This policy should not be construed as limiting the inherent power of the Board of Governors to remove any such appointee from office at any time. Standing and special committee members who miss more than one-third (1/3) of the regularly scheduled meetings during a committee year without good cause, will be deemed to have resigned from the committee. Policies adopted by the various section executive committees shall prevail.

(*Board of Governors' Resolutions, September 1972, July 1986*)

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CERTAIN ENTITY POLICIES

■ **Sections.** Only members of the section are eligible for appointment to the executive committee. To the extent practical, the executive committee shall be representative of the various fields covered by the section.

The executive committee shall consist of 15 members appointed by the Board of Governors. Each member of the executive committee shall take an oath of office and shall receive no compensation for services. Nothing herein shall prevent up to a 17-member executive committee for the purpose of permitting service as an officer in a fourth year, or as Chair, Vice Chair or Chair-elect in a fifth year, or as Chair in a sixth year.

So far as practical, all rules and policies heretofore and hereafter adopted by the board for the operation of committees shall apply to sections.

(Board of Governors' Resolution, May 1976, March 1977; July 1989, July 2005; Rules and Regulations of the State Bar, article XIII, §4; see also Board Book Tab 20)

■ **Procedure for Section Executive Committees**

1. Section appointment recommendations will be placed on the consent agenda for the appropriate Board committee, with any committee member retaining the right to remove any section's recommendation from consent in order to allow for fuller discussion. If any section's recommended slate of appointments is to be removed from the board committee's consent agenda, it should be removed in its entirety.
2. Any recommendation removed from consent will be deferred until a subsequent meeting of the committee. In the interim, the section having offered the recommendation will be notified and invited to participate in the committee's discussion of its recommendation. All section appointment recommendations that are passed by the committee will be placed on the consent agenda of a subsequent meeting of the board.
3. As soon as is practicable following the board committee meeting, the list of all those section appointment recommendations passed by the appropriate board committee will be compiled and distributed to all members of the Board, who will be given two weeks to notify the Secretary of the State Bar of any appointment recommendation that should be removed from the Board consent agenda.
4. Any section offering an appointment recommendation that has been removed from the board's consent agenda will be notified and invited to participate in the board's discussion of that appointment.

(Board of Governors' Resolution, January 1999)

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■ **Lawyer Assistance Program (LAP) Board Policy:** The appointments to the committee include six (6) by the Board, four (4) by the Governor's Office, and one (1) each by the Senate Rules Committee and the Assembly Speaker. Terms are set at four years, and terms may be renewed. The initial terms of the members were staggered so that in subsequent years, there will be three (3) annual appointments to the committee. The 12-members must include:

Six (6) members appointed by the Board of Governors who meet the following criteria:

- Two (2) members who are licensed mental health professionals with knowledge and expertise in the identification and treatment of substance abuse and mental illness;
- One (1) member who is a physician with knowledge and expertise in the identification and treatment of alcoholism and substance abuse;
- One (1) member of the board of directors of a statewide nonprofit organization established for the purpose of assisting lawyers with alcohol or substance abuse problems, which has been in continuous operation for a minimum of five years; and
- Two (2) members who are attorneys, at least one of which is in recovery and has at least five years of continuous sobriety.

Four (4) members appointed by the Governor, including: (a) two members who are attorneys, and (b) two members of the public.

One (1) public member each appointed by the Speaker of the Assembly and the Senate Rules Committee.

(Board of Governors' Resolution, May 2002; see also Board Book, Tab 19)

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■ ***ABA House of Delegates Selection Guidelines:*** The State Bar will strive to appoint members from its applicant pool meeting the following guidelines:

- One (1) delegate who qualifies as the young lawyer representative;
- Up to two (2) delegates to include the most immediate past member of the ABA Board of Governors and any immediate past officer of the ABA from the California ABA Delegation;
- Two (2) members who have not had substantial volunteer experience but who possess the leadership and other skills to be successful delegation members; and,
- Six (6) delegates who have substantial bar experience, especially with the ABA, and are typical of other State Bar appointments.

Unless authorized by the Board, each member of the State Bar's ABA delegation would be eligible for reappointment to no more than three (3) consecutive two-year appointments or a maximum of six (6) consecutive years of service with the delegation. Delegates who have completed such service may apply in the future after a period of not less than two years from the date of the expiration of the delegate's last term of service with the State Bar.

(Board of Governors' Resolution, March 2002, November 2006)