

AGENDA ITEM

MARCH 113
Executive Director
Evaluation Process

DATE: March 20, 2009

TO: Members, Board Operations Committee
Members, Board of Governors

FROM: Robert A. Hawley, Deputy Executive Director

SUBJECT: Executive Director Annual Performance Evaluations

EXECUTIVE SUMMARY

A timetable and procedure for conducting the Executive Director's (ED's) annual performance evaluation is set forth below. By pre-existing Board action, the Board Operations Committee (BOps) conducts the evaluation of the ED in accordance with the criteria and process previously adopted and reports to the Board of Governors. In 2008, a special subcommittee was assigned to recommend an abbreviated process for the ED evaluation in light of the well-developed evaluation history that exists on the incumbent ED. The subcommittee's considerations are set forth here. This item is before the Board to confirm the process for the ED's streamlined 2008-09 review. If you have questions, please call Robert Hawley at 415-538-2277 or Robert.Hawley@calbar.ca.gov.

I. EXECUTIVE DIRECTOR ANNUAL PERFORMANCE REVIEW PROCESS

A. The Authorities

By Board action, the Executive Director of the State Bar (ED) is subject to an annual performance evaluation. The review is to be conducted by a Board committee designated by the Board, currently the Board Operations Committee (BOps). The State Bar's Office of Human Resources and the State Bar's Deputy Executive Director assist BOps in this process. The criteria, timetable and procedures governing the ED's evaluation are established by Board action. (See, Board Book, Tab 18 [Staffing], Article 1 [Executive Director], Section 9 [The Executive Director's Annual Performance Evaluation], Attachment 1).

The ED is employed by the Board under a contract. This contract was renewed last year to run through November 2013. The contract sets the salary of the ED, which was recently adjusted November 2008, following the 2008 performance evaluation process. Under the

ED's contract, the ED's salary is subject to further adjustment in the discretion of the Board, following the 2008-09 annual performance evaluation.

Due to the fact that the incumbent ED has served in the position for eight years and has a well-developed performance history, reported each of those years in an extensive report, it was suggested in 2008, that the annual performance evaluation be streamlined and scaled back. A presidential select task force was appointed to evaluate how this could be accomplished.

A revised process is before the Board for adoption. The process is very similar to that which has historically occurred, but is lessened in its detail and intensity. BOps is to continue to oversee the evaluation process. BOps will circulate to the Board a streamlined evaluation form (Attachment 2). The input received will then be compiled and discussed between the ED and the Board and a determination made as to whether a salary adjustment is appropriate in November 2009. A proposed timeline for this process is set forth below

B. Timeline

The following timetable is proposed:

March 5 – 6	Board adopts timetable and process. Evaluation forms are distributed.
April 15	Completed evaluation forms are returned to the State Bar. Any written comment the Executive Director wishes to provide is returned to the State Bar.
May 1	Evaluation forms are synthesized. An abbreviated written Evaluation Report is prepared and shared with the Board Operations Committee.
May 8	The evaluation data is shared with the Executive Director.
May 14 -15	The Evaluation of the Executive Director is discussed between the Board and the Executive Director.

II. PROCEDURE

All communications pertaining to the evaluation process are strictly confidential. The Board Book, Tab 18 [Staffing], Article 1 [Executive Director], Section 9 [The Executive Director's Annual Performance Evaluation] provides in this regard:

“The meetings of the committee and all information obtained in the course of the evaluation proceedings shall be confidential, and shall not be disclosed except as otherwise provided herein. Sufficient disclosure shall be made to the evaluatee on request to assure a full and fair opportunity to respond to evaluation material, except that the identity of the persons providing evaluation material shall not be disclosed.”

The Evaluation Committee and Board should strictly adhere to this confidentiality requirement.

The Board Operations Committee is chaired by the President in conducting the Executive Director's evaluation. The Office of Human Resources, under the Direction of the Deputy Executive Director, has staffed and provided administrative assistance in conducting the Executive Director's review in the past, subject to strict confidentiality requirements. The Office of Human Resources is available to BOps for this purpose in connection with this year's process as well.

III. FISCAL AND/OR PERSONNEL IMPACT

Any fiscal or personnel impact is within existing budget and policy standards.

IV. BOARD BOOK ADMINISTRATIVE MANUAL IMPACT

The Resolution suspends any Board adopted rules that are inconsistent with the resolution.

V. RECOMMENDATION AND RESOLUTION

Assuming the above meets with the approval of the Board and BOps, it will serve as the procedure for the 2008-09 review process for the ED. Assuming this procedure is acceptable, the following resolution is recommended:

RESOLVED, that upon the recommendation of the Board Operations Committee, the Board of Governors, approves for 2009 the streamlined procedure for conducting the Annual Performance Evaluation of the Executive Director, consistent with the item before the Board Committee and Board this date; and it is

FURTHER RESOLVED, that the Board Operations Committee be chaired by the President in conducting the Executive Director's evaluation; and it is

FURTHER RESOLVED, that any Board adopted procedures inconsistent with this resolution are suspended, pending further Board action.