

AGENDA ITEM

AUGUST 113
Executive Staff Rules:
Amendments

DATE: August 4, 2006

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

FROM: Robert A. Hawley, Deputy Executive Director

SUBJECT: Rules and Regulations Pertaining to the Employment of Executive Staff:
Amendments

EXECUTIVE SUMMARY

Before the Board Operations Committee and the Board of Governors for adoption are proposed amendments to the Rules and Regulations Pertaining to the Employment of Executive Staff. As set forth in further detail below, these rules establish the policy parameters governing the management staff of the State Bar of California. The rules were first adopted in 1982, and have not been updated or amended in any comprehensive respect since 1986. Amendments to conform to changes in the State Bar and governing authorities are long overdue and recommended in the item that follows. If you have questions regarding these rules or this item please contact Robert Hawley at Robert.Hawley@calbar.ca.gov; 415-538-2277.

INTRODUCTION

The Executive Director is charged with the responsibility of administering State Bar personnel. The Executive Director is guided in this regard, by policy statements adopted by the Board of Governors and articulated in the union negotiated Memoranda of Understanding, the Rules & Regulations Pertaining to the Employment of Confidential Employees, and the Rules & Regulations Pertaining to the Employment of Executive Staff. (Board Policy Book, Tab 18 [Staffing], Article 1 [Executive Director], Section 3 [Administration of Personnel].)

The Executive Director is employed directly by the Board of Governors. The Executive Director's terms and conditions of employment are established by an employment contract directly between the Executive Director and the Board. The majority of State Bar employees are represented by Service Employees International Union (SEIU), Local 535. The terms and conditions of employment for union employees are established by the collective bargaining process. At the Board's recent June, 2006, meeting, the Board fulfilled its responsibility under the governing authorities and ratified the Memoranda of Understanding for the Attorney and General Bargaining Units for the 2006 – 2008 period.

Aside from the Executive Director herself, there are two groups of non-union employees at the State Bar: Executive Staff and Confidential Employees. Executive Staff are the management employees of the State Bar who report to the Executive Director. Confidential Employees are non-union employees who assist State Bar management in the effectuation and administration of personnel and labor relation matters. The terms and conditions of employment for these employees are defined by policy statements adopted by the Board of Governors and articulated in the Rules and Regulations Pertaining to the Employment of Executive Staff (Executive Staff Rules) and the Rules and Regulations Pertaining to the Employment of Confidential Employees (Confidential Employee Rules).

The Confidential Employee Rules were comprehensively amended in 1999. Before the Board here, are amendments to the Executive Staff Rules. These rules were first adopted in February, 1982. They were last revised in any comprehensive way in 1986. These rules need to be updated to address changes since then in the State Bar as well as changes in the governing authorities.

Following Board action, it is these rules that the Executive Director administers in directing the Executive Staff on behalf of the Board.

RECOMMENDATION AND RESOLUTION

Assuming that the Board Operations Committee and Board concur that the amendments to the Executive Staff Rules proposed here should be adopted, the following resolution is recommended:

RESOLVED, that upon the recommendation of the Board of Governors Operations Committee, the Board of Governors adopts the amended Rules and Regulations Pertaining to the Employment of Executive Staff Employees as set forth in the attachment to be effective this date.

DISCUSSION

The proposed amendments are set forth in the rules attached as Attachment 2. An Executive Summary of the amendments is set forth in Attachment 1.

BUDGET/PERSONNEL IMPACT

The personnel impact is as set forth in the rule amendments themselves. The budget impact is within existing budget projections.

BOARD POLICY BOOK IMPACT

There are no resulting changes in the Board Policy Book.

CONCLUSION

The proposed amendments are consistent with prudent personnel administration standards, reflect evolutions and changes in the governing authorities and/or State Bar practices and are recommended for adoption by the Executive Director and Senior Management Team

**RULES AND REGULATIONS
PERTAINING TO THE EMPLOYMENT
OF EXECUTIVE STAFF EMPLOYEES**

**Adopted
February 5, 1982**

**Amended
July 27, 1984
July 19, 1986
April 21, 1988
July 1, 1992
January 1, 2004
January 1, 2005
June 17, 2006
August 19, 2006
November 17, 2006**

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RULES AND REGULATIONS PERTAINING TO THE EMPLOYMENT OF EXECUTIVE STAFF EMPLOYEES

SECTION 1. GENERAL PROVISIONS

A. The following Rules and Regulations Pertaining to the Employment of Executive Staff Employees (hereinafter "Executive Staff Rules") are hereby adopted and shall govern the terms and conditions of employment of all employees, other than the Executive Director, of The State Bar of California (hereinafter "the State Bar") who are designated as Executive Staff Employees. These Executive Staff Rules embody the terms and conditions of employment of the State Bar's Executive Staff Employees and nothing shall confer any additional right or benefit upon any Executive Staff Employee. Any term or condition of employment of an Executive Staff Employee, other than the Executive Director, which is inconsistent with the provisions of these Rules and Regulations is hereby extinguished.

B. These Executive Staff Rules are adopted in recognition of the special relationship that exists between the State Bar and its Executive Staff who have significant responsibility for representing the institutional interests of the State Bar in the formulation, determination and effectuation of policies and programs.

C. The State Bar's business is service - service to the public and to the legal profession. The State Bar's ability to meet this goal depends upon Executive Staff taking personal and professional leadership responsibility for providing high quality service. The changing demands upon the legal system and upon the State Bar make it imperative that Executive Staff commit themselves to assuring high quality service that meets the needs of the public and the profession. Accordingly, Executive Staff Employees undertake a special commitment to provide high quality leadership to the organization in its efforts to provide service to the members of the legal profession and the public in a prompt, courteous, and efficient manner thereby furthering the Mission of the State Bar which states:

The Mission of the State Bar:

Preserve and improve our justice system in order to assure a free and just society under the law.

Goals of the State Bar:

Assure full and equal access of all persons, regardless of circumstances, to the legal system and the delivery of quality legal services.

Assure that every lawyer in California is ethical, competent and professional.

Improve the administration of justice.

Respond to the public's need for information about law, lawyers and the legal system.

Assure the full and equal opportunity of all persons for entry into and advancement in the legal profession.

Maximize the accessibility to the governance of the legal profession for all lawyers and thus assure such governance is reflective of the full diversity of the profession.

Provide benefits, programs and services which promote professional growth and enhance the quality of life of the members.

Assure effective management of State Bar resources and operations.

D. The Executive Director may issue Executive and Administrative Advisories consistent with these Rules. These Executive Staff Rules, as amended from time to time by the Board of Governors of the State Bar (hereinafter "Board"), supersede all prior Executive Staff Rules and other terms and conditions of employment, agreements, representations and understandings, whether oral or written, express or implied, by and between the State Bar and any Executive Staff Employee.

Source: §A: Executive Staff Rules §1 [General Provisions].
 §B: New. Adapted from existing policy.
 §C: New. Adapted from MOU §1 [Preamble].
 §D: Executive Staff Rules §1 [General Provisions]; Adapted from existing practice.

SECTION 2. STATEMENT OF INTENT

In adopting these Executive Staff Rules, the Board recognizes that the employment and retention of qualified, competent Executive Staff Employees is an essential ingredient for the effective organization, management and administration of the State Bar and for the State Bar's discharge of its responsibilities under law for the benefit of the bench, bar and public.

Source: Executive Staff Rules, §2 [Statement of Intent].

SECTION 3. AUTHORITY FOR ADMINISTRATION

The Executive Director, within budgetary guidelines determined by the Board, is responsible for the day-to-day administration, interpretation, enforcement and operation of these Executive Staff Rules. The Executive Director or his/her designee is the authorized agent to resolve any issues concerning the interpretation and operation of these Executive Staff Rules and may do so through the issuance of Executive and Administrative Advisories consistent with these Rules.

Source: Executive Staff Rules §3 [Authority for Administration]; Board of Governors Policy Manual, Tab 18 [Staffing], Article 1 [Executive Director], Section 3 [Administration of Personnel]; Adapted to existing practice.

SECTION 4. DEFINITIONS

- A. "Board" is the Board of Governors of the State Bar.
- B. "Chief Trial Counsel" is the Chief Trial Counsel appointed pursuant to Business & Professions Code section 6079.5.
- C. "Days" are Calendar days, unless otherwise specifically stated
- D. "Employee" or "Employees" are Executive Staff Employees, unless otherwise specifically stated.
- E. "Executive Director" is the Executive Director of the State Bar appointed by the Board of Governors.
- F. "Executive Staff" is those positions designated from time to time by the Executive Director, in accordance with section 3.7 of the Rules and Regulations for the Administration of Employer-Employee Relations, to manage the State Bar. In so designating the Executive Staff, the Executive Director shall be guided by section 3513 of the Government Code and the Executive Staff Designation Standards attached as Appendix 1. The Executive Director shall maintain a roster of current Executive Staff positions.
- G. "Executive Staff Employee" or "Executive Staff Employees" are those employees of the State Bar in positions designated as Executive Staff including Senior Executive Staff Employees. An Executive Staff Employee remains such an employee until his or her position ceases to be so designated.
- H. "General Counsel" is the General Counsel of the State Bar.
- I. "Secretary" is the Secretary of the State Bar selected Pursuant to Business & Professions Code section 6022.
- J. "Senior Executive Staff Employee" shall mean, the General Counsel, the Chief Trial Counsel, the Secretary of the State Bar and such other senior level management position(s) as may be designated by the Executive Director.
- K. "State Bar" is The State Bar of California as defined in Business & Professions Code sections 6001 et seq.

Source: Executive Staff Rules §4 [Definitions]; Business & Professions Code, as noted above; Board of Governors Policy Manual, Tab 18 [Staffing], Article 1 [Executive Director], Section 7 [Secretary and General Counsel]; Article 2 [Chief Trial Counsel]; Article 3 [Lines of Authority].

SECTION 5. TERMINATION AND DEMOTION

- A. All employment with the State Bar as an Executive Staff Employee is terminable at will, with or without cause, by either the State Bar or the Executive Staff Employee. Unless the Board has retained to itself the discretion to appoint or terminate an

Executive Staff Employee, an Executive Staff employee serves at the pleasure of the State Bar and may be terminated, disciplined or demoted at will by the Executive Director.

B. No member of the Board, the Executive Director, any Executive Staff Employee or other employee or agent of the State Bar shall have the authority to make any agreement different from these Rules.

C. In the event that an Executive Staff Employee is demoted, his/her salary shall be adjusted in an appropriate amount as determined by the Executive Director.

Source: Executive Staff Rules §5 [Termination and Demotion].

SECTION 6. SEVERANCE PAY

A. This section is adopted in recognition that an Executive Staff Employee serves at the pleasure of the State Bar and can be terminated for any reason whatsoever.

B. This section shall not apply to an Executive Staff Employee whose involuntary termination or resignation is by reason of his or her commission of an act involving moral turpitude, dishonesty, corruption or similar act of gross misconduct, whether the act is committed in the course of his/her employment or otherwise. This section shall also not apply where an Executive Staff Employee is terminated pursuant to the long-term disability provisions of section 12.E, of these Executive Staff Rules. This section shall also conform to the requirements of California Government Code §53260 when an Employee's term of employment is defined by contract or statute.

C. Upon involuntary termination or upon involuntary resignation, the State Bar shall pay severance pay to the Executive Staff Employee. The amount of such severance pay shall be calculated on the basis of the Executive Staff Employee's continuous length of service with the State Bar, as an Executive Staff Employee, as follows:

<u>Length of Employment</u>	<u>Severance Pay</u>
Less than one (1) year of continuous service	One (1) month
One (1) year or more of continuous service	One (1) month for each completed year of continuous service, up to a maximum of six (6) months

D. Subject to subsection B, and irrespective of subsection C of this section, the severance pay for Senior Executive Staff Employees shall be an amount equal to six (6) months salary for such Senior Executive Employee regardless of the length of his/her employment with the State Bar.

E. The term "length of employment" means the length of continuous regular full-time State Bar service from the actual date of initial employment as an Executive Staff Employee to the actual date of involuntary termination or resignation as an Executive Staff Employee.

F. Severance pay shall be calculated on the basis of the salary which the Employee is receiving at the time of his/her involuntary termination; ~~or resignation or retirement.~~

G. The affected Employee may specify whether the applicable severance pay is to be paid as a lump sum or in noninterest bearing installments over a period of time specified by the Employee, provided that the installment payments shall not extend over a period in excess of six (6) months from date of severance.

Source: Executive Staff Rules §6 [Severance Pay].
§B: California Government Code §53260.

SECTION 7. HOURS OF EMPLOYMENT

A. Inasmuch as the compensation of Employees is based upon the duties that they are required to perform, the hours of employment of Employees are those necessary to reasonably and competently discharge such responsibilities. Accordingly, and consistent with the governing terms of the Fair Labor Standards Act, Employees are not eligible for either overtime compensation or compensatory time off. Nothing in this paragraph shall be interpreted as a limitation on the Executive Director's authority to direct the work and manage the work flow of the State Bar.

B. Although Executive Staff Employees are not entitled to compensatory time off, it is acknowledged that the hours of employment necessary to reasonably and competently discharge the Employee's responsibilities may from time to time necessitate the Employee's absence from the State Bar during normal working hours in order to attend to personal or legal obligations, emergencies or other pressing business that could not otherwise be accomplished outside of working hours provided, however, that this provision shall not be abused.

Source: Executive Staff Rules §7 [Hours of Employment]; Fair Labor Standards Act, 29 U.S.C. §201 *et seq.*

SECTION 8. EQUAL EMPLOYMENT OPPORTUNITY/NONDISCRIMINATION

The State Bar shall encourage and support equal employment opportunity for all employees and applicants for employment without regard to race, creed, religion, color, national origin, age, sex, physical handicap, physical or mental impairment, marital status, political affiliation or sexual orientation. The State Bar shall not discriminate or retaliate against Executive Staff Employees based on these factors in violation of state or federal law. Executive and Administrative Advisories issued periodically by the Executive Director set forth the State Bar's policies on this subject.

Source: New. Adapted from existing policy.

SECTION 9. PLACEMENT, HIRING AND SALARY RATES

A. Executive Staff, including Senior Executives, shall be appointed by the Executive Director and serve at the pleasure of the Executive Director except as set forth in these Rules and in the Policy Manual of the Board of Governors.

B. The Executive Director shall be subject to those terms and conditions of employment established by the Board of Governors for that position independently of these Rules.

C. Subject to the above, the Executive Director shall determine the placement, hiring and salary rates of Executive Staff positions and shall be guided by the nature of the duties required to be performed, the level of difficulty of such duties and the level of responsibility required to be assumed. Executive Staff salaries may be adjusted by the Executive Director from time to time consistent with budgetary constraints set by the Board and with annual performance evaluations as set forth in these Rules.

D. Subject to budgetary constraints set by the Board and annual performance evaluations as set forth in these Rules, the Executive Director may also provide to Executive Staff performance-based incentives.

Source: §A: New. Adapted from existing policy.
§B: New. Adapted from existing policy.
§C: Executive Staff Rules §8 [Placement, Hiring and Salary Rates of Executive Staff Employees]; Board of Governors Policy Manual, Article 1 Section 6 [Government Affairs Representative]; Section 7 [Secretary and General Counsel]; Article 2 [Chief Trial Counsel]; Article 3 [Lines of Authority]; Existing practice.
§D: New.

SECTION 10. EVALUATIONS

The performance of Executive Staff Employees shall be evaluated in writing on or after October 1 of each year. A copy of each evaluation shall be provided to and discussed with the affected Executive Staff Employee.

Source: New. Adapted from existing policy.

SECTION 11. PAID SICK LEAVE

A. Sick leave is defined as absence from work due to illness, medical care, dental care, eye care of the Employee or a member of the Employee's immediate family, including a domestic partner, that cannot be accommodated at times other than during normal State Bar work hours.

~~B. Each Executive Staff Employee employed by the State Bar on July 1, 1984 shall be credited with accrued paid sick leave equivalent to one (1) workday for each month of continuous State Bar employment, in any capacity, up to a maximum of one hundred twenty (120) workdays and in no case less than ten (10) workdays.~~

1 ~~EB~~ Executive Staff Employees accrue paid sick leave credit at the rate of one (1) workday per month (12 working days per year).

1 ~~DC~~ An Executive Staff Employee shall not accrue more than two hundred forty (240) days of paid sick leave.

ED. Upon retirement, an Employee may obtain service credit for accrued and unused sick leave to the extent allowed by the California Public Employee Retirement System (CalPERS). In the alternative, upon retirement, voluntary resignation or layoff from employment with the State Bar, an Employee who has completed one full year of continuous service with the State Bar as a regular Employee may request to be paid for up to a maximum of thirty (30) days of his/her accrued but unused Paid Sick Leave. Payment for such accrued but unused Paid Sick Leave shall be made by the State Bar at the rate of twenty-five percent (25%) of the Employee's daily salary at the time of his/her retirement, voluntary resignation or layoff.

Source: Executive Staff Rules §9 [Paid Sick Leave] adapted to existing practice;
§D: New. Adapted from MOU §30.I.

SECTION 12. DISABILITY LEAVE

A. An Executive Staff Employee who becomes disabled, as defined in the long-term disability policy maintained in accordance with this Section, shall, during the elimination period provided for in the long-term disability policy, utilize his/her previously accrued paid sick leave, provided that, if his/her accrued paid sick leave is exhausted prior to the end of the elimination period, the Executive Staff Employee shall thereafter be granted leave at eighty per cent (80%) of his/her gross pay for the remainder of the elimination period, but in no event for a period in excess of six (6) months.

B. At the end of the elimination period, an Executive Staff Employee who is ~~sick or~~ disabled and qualifies for receipt of benefits pursuant to the long-term disability policy shall receive such benefits and shall not be permitted to take further accrued paid sick leave until such time as he/she may return from such absence.

C. Because Executive Staff are not covered by the California State Disability Insurance Program, the State Bar shall provide to Executive Staff at State Bar expense a long-term disability policy, providing total disability insurance benefits, including the following provisions:

1. An elimination period of one hundred eighty (180) calendar days;
2. A maximum benefit period to age sixty-five (65);
3. Percentage of insured earnings of sixty-six and two-thirds percent (66 2/3%);
4. Maximum insurable earnings of fifteen thousand dollars (\$15,000.00) per month;
5. Maximum benefit amount of ten thousand dollars (\$10,000.00) per month;
6. Minimum benefit amount of fifty dollars (\$50.00) per month;
7. Benefits renewable to age seventy (70) plus;
8. A definition of "total disability" applied during the first twenty-four (24) months to mean disabled from performing the material duties of the insured's own occupation. Rehabilitation provision to apply for disabilities exceeding twenty-four (24) months;
9. Coverage features including:
 - a. Rehabilitation benefit;
 - b. Partial disability benefit;
 - c. Pregnancy;

- d. Waiver of premium;
- e. Recurrent disability clause;
- f. Cost of living adjustment;
- g. Survivor income benefit;
- h. Mental/nervous/emotional disability benefits;
- i. Alcoholism/drug addiction disability benefits;
- j. Pre-existing conditions.

D. During the applicable elimination period for the long-term disability policy, an Executive Staff Employee shall be entitled to return to his/her previous position, consistent with medical clearances. During the applicable elimination period, the State Bar shall pay the applicable premium and make appropriate contributions for the Executive Staff Employee's medical, dental and life insurance benefits.

E. At the end of the elimination period for the long-term disability policy and periodically thereafter as necessary, the State Bar shall determine, on a case-by-case basis, whether to continue the Executive Staff Employee's employment with the State Bar and/or whether to continue the State Bar's payment of medical/hospital, vision care, dental and life insurance coverage. This provision shall have no effect upon the Executive Staff Employee's right to retire from State Bar service and, if qualified, receive medical insurance coverage pursuant to section 27.D of these Executive Staff Rules.

F. An Executive Staff Employee who is absent from work due to illness or disability for a period in excess of thirty (30) consecutive calendar days shall not accrue paid sick leave or vacation during the period of absence that is in excess of thirty (30) calendar days.

Source: Executive Staff Rules §9 [Paid Sick Leave].

SECTION 13. INSURANCE BENEFITS

A. Employee health insurance benefits (medical/hospital), including dependent care, shall be provided through the program in effect on the date these Executive Staff Rules are adopted, or a carrier providing comparable benefits. Kaiser Foundation Health Plan, or a comparable HMO offering comparable benefits, will additionally be offered as an HMO alternative.

B. Vision care, dental coverage and life insurance, including dependent care coverage, shall be provided to Executive Staff Employees at the levels in effect on the date these Executive Staff Rules are adopted. Dependent care coverage shall extend to qualified domestic partners.

C. The State Bar shall pay 100% of the premium payments for all insurance coverages under this section for Executive Staff Employees and qualified dependents.

D. The State Bar will maintain an Employee Assistance Program (EAP) in which Executive Staff Employees may participate.

Source: Adapted from Executive Staff Rules §10 [Insurance Benefits].

SECTION 14. VACATIONS

A. Employees shall accrue vacation at the following rates:

Less than ten (10) years of service	1-1/4 days per month (15 working days per year)
At least ten (10) years but less than fifteen (15) years of service	1-2/3 days per month (20 working days per year)
Fifteen (15) or more years of service	2-1/12 days per month (25 working days per year)

B. The term "years of service" for purposes of vacation accrual shall mean the number of years of regular full time employment with the State Bar, irrespective of classification or position title.

C. Employees shall take at least ten (10) working days of vacation time per year.

D. Notwithstanding any other provision of this section, vacation accrual shall be limited as follows:

1. An Employee with less than ten (10) years of service shall accrue a maximum of forty-five (45) working days of vacation.
2. An Employee with at least ten (10) years but less than fifteen (15) years of service shall accrue a maximum of fifty (50) working days of vacation.
3. An Employee with fifteen (15) or more years of service shall accrue a maximum of fifty-five (55) working days of vacation.

E. Upon termination, an Employee shall be paid for all unused, accrued vacation time.

F. Executive Staff Employees may, at the discretion of the Executive Director, cash in accrued and unused vacation in increments of one week, not to exceed a total of two weeks per calendar year. ~~Employees are encouraged to take at least ten days of vacation.~~

Source: Executive Staff Rules §11 [Vacations];
Executive Advisory 04-01 [Vacation Cash-Out Program].

SECTION 15. HOLIDAYS

A. The following are recognized as paid holidays for all Executive Staff Employees: New Year's Day; Martin Luther King's Birthday; Lincoln's Birthday; Washington's Birthday; Caesar Chavez's Birthday, Memorial Day; Independence Day; Labor Day;

Columbus Day; Veteran's Day; Thanksgiving Day; the day following Thanksgiving Day; one-half day on Christmas Eve; Christmas Day; one-half day on New Year's Eve; one-half day floating holiday to be taken at a time mutually satisfactory to the Employee and the State Bar.

B. Holidays shall be celebrated on the day designated by the State Bar.

C. Executive Staff Employees not on paid status will not receive holiday time off or holiday pay.

Source: Executive Staff Rules §12 [Holidays] adapted to existing policy.

SECTION 16. BEREAVEMENT LEAVE

In the event of a death in the immediate family (i.e., spouse; including domestic partner; child, including foster, step or adopted; parent; brother; sister; father-in-law, including father of domestic partner; mother-in-law, including mother of domestic partner; grandparent; grandchild, Employees shall be entitled to bereavement leave of five (5) days with pay. Such leave shall not be charged to vacation or to paid sick leave.

Source: Executive Staff Rules §13 [Bereavement Leave] adapted to existing policy.

SECTION 17. JURY/WITNESS DUTY

In the event that an Employee is called for jury duty or is subpoenaed to appear as a witness in a state or federal court proceeding in which the Employee is not a party nor has an economic interest, the Employee will receive his/her salary less that amount to which the Employee is entitled as "juror's compensation" or "witness fees". In no instance will the Employee realize less salary than he/she would have otherwise received, had the Employee not been called for jury duty or subpoenaed to appear as a witness.

Source: Executive Staff Rules §14 [Jury Duty].

SECTION 18. MILITARY LEAVE

Military leave and accompanying rights will be granted as provided by law.

Source: Executive Staff Rules section 15 [Military Leave].

SECTION 19. LEAVES OF ABSENCE/SERVICE LEAVE

A. A leave of absence shall be defined as an approved absence from work for an extended time in excess of two weeks without pay requested by an Employee.

B. Except where required by law, a leave of absence shall not exceed a period of twenty-six (26) work weeks.

C. Except as set forth in Section D below, Leaves of Absence will be approved only for compelling reasons such as prolonged illness, recovery from surgery or accidental injury, maternity/paternity following the birth or adoption of a child, family or personal emergencies, or other similar instances. Leaves of Absence shall not be unreasonably denied.

D. Executive Staff Employees shall be entitled to a Service Leave of three (3) months after each five (5) years of continuous full-time service with the State Bar as an Executive Staff Employee. An eligible Employee may elect, however, to take a Service Leave of less than three (3) months, but in no event less than one (1) month.

1. Services Leaves shall be unpaid. However, an Executive Staff Employee may use accrued and unused vacation during the service leave.

2. All Service Leaves shall be scheduled at a time mutually agreeable to the State Bar and the Employee.

E. Any request for a leave of absence must be submitted in writing by the Employee to the Office of Human Resources. The request shall state the reason the leave of absence is being requested and the maximum length of time off the Employee desires. Except where the circumstances do not reasonably permit, requests for leaves of absence shall be made at least one (1) month in advance. Approval is discretionary with the supervising manager.

F. There shall be no accrual of vacation during a leave of absence of thirty (30) days or more. Except where required by law, the State Bar need not continue to provide other Employee benefits during a leave of absence of thirty (30) days or more. A leave of absence shall not be deemed to interrupt an Employee's continuous employment.

G. An Employee returning from a leave of absence shall be entitled to return to the position he/she held at the time the leave was granted if the position is vacant upon the Employee's return, or if the supervisor, in approving the leave of absence, agreed to permit such return to that position.

H. Accrued vacation time may be applied by the Employee to a leave period. Accrued Paid Sick Leave may be applied to a medically verified leave of absence for medical purposes.

Source: Executive Staff Rules §16 [Leaves of Absence], adapted to existing policy.

§C: New. Adapted from existing policy.

§D: New. Adapted from MOU §30.D.

§H: New. Adapted from existing policy.

SECTION 20. COMPULSORY LEAVE OF ABSENCE

The State Bar may place an Executive Staff Employee on compulsory leave, with or without pay, pending investigation of misconduct when it is deemed to be in the best interests of the State Bar.

Source: New. Adapted from existing policy.

SECTION 21. PROFESSIONAL DUES AND FEES

A. The State Bar shall pay annual State Bar membership fees as set forth in the Business & Professions Code for Employees who are employed in position classifications which require California State Bar membership.

B. The State Bar shall pay annual membership fees in job-related professional associations for Employees who are employed in position classifications which do not require California State bar membership, but not in excess of the highest amount of annual fees paid pursuant to subsection A of this section.

Source: Executive Staff Rules §17 [Professional Dues and Fees] adapted to existing policy.

SECTION 22. OUTSIDE EMPLOYMENT

A. An Employee may engage in outside employment or pro bono legal assistance only if prior written approval is given by the State Bar, and such employment neither conflicts with the performance of the Employee's duties nor presents an actual or substantial potential conflict of interest for the Employee or the State Bar. Requests for outside employment approval shall be made in the form set forth in Appendix 2.

B. Outside employment which constitutes the practice of law is discouraged.

Source: §A: Executive Staff Rules §18 [Outside Employment].
§B: New. Adapted to existing policy.

SECTION 23. PROMOTIONS AND TRANSFERS

A. Employees are encouraged to seek management promotional or transfer opportunities within the State Bar. The State Bar shall recruit for vacant Executive Staff positions consistent with Section 8 [Equal Employment Opportunity/Nondiscrimination] of these Rules.

Source: Executive Staff Rules §20 [Promotions and Transfers], adapted to existing practice and governing authorities.

SECTION 24. PERSONNEL FILES

A. The State Bar shall, at reasonable times, upon the request of an Employee, permit that Employee to inspect his/her personnel file and any material referred to in such personnel file. The term "personnel file" refers to the file under the Employee's name regularly maintained on behalf of the State Bar by the Office of Human

Resources. Nothing in this subsection shall apply to the records of an investigation or a possible attorney disciplinary offense nor to letters of reference.

B. Material or information not contained or referred to in such personnel file may not be used to determine the Employee's qualifications for promotion or transfer unless the Employee is first provided with a reasonable opportunity to review such material or information and a reasonable opportunity to respond.

C. Information of a complimentary nature received by the State Bar pertaining to the work performance of any Employee shall be placed in the Executive Staff Employee's personnel file upon the Employee's request.

D. An Employee may respond in writing to any material in his/her personnel file and such response shall be placed in said file.

Source: Executive Staff Rules §21 [Personnel Files].

SECTION 25. TRAVEL AND BUSINESS EXPENSE REIMBURSEMENT

A. Employees shall be reimbursed for travel and related expenses in the course of performing their duties in accordance with the travel and business expense reimbursement policies adopted by the State Bar.

B. A commute reimbursement program may be adopted for Employees by the Executive Director consistent with Internal Revenue Service standards.

Source: § A. Executive Staff Rules §22 [Travel Reimbursement].
§ B. New. Adapted from existing policy.

SECTION 26. RELOCATION

Reimbursement for out-of-pocket expenses resulting from geographic relocation upon initial employment or a transfer at the direction of the State Bar, may be permitted by the Executive Director. An interim housing allowance not to exceed reasonable rental rates for the first six months of service in the new assignment may also be permitted by the Executive Director.

Source: New. Adapted from existing practice.

SECTION 27. RETIREMENT

A. The State Bar shall pay to the California Public Employees' Retirement System ("CalPERS") the full amount of the State Bar Employer contribution for each Executive Staff Employee who is or becomes a member of CalPERS.

B. Effective January 1, 2004, for each Executive Staff Employee who is or becomes a member of CalPERS, the State Bar shall pay to CalPERS a portion of the Employee contribution to CalPERS equal to 2.5% of the Employee's gross salary. Effective the first payday of July, 2005, the State Bar shall pay to CalPERS a portion of the Employee contribution to CalPERS equal to an additional 2.5% of the Employee's gross salary, for a total contribution of 5% as of July 2005. Effective the first payday of

July, 2006, the State Bar shall pay to CalPERS the remainder of the Executive Staff Employee contribution to CalPERS so that, as of July 2006, the entire employee contribution to CalPERS is paid by the State Bar on behalf of the Executive Staff Employee.

C. Executive Staff Employees shall be entitled to participate in an Internal Revenue Code (IRC) Section 457B(b) deferred compensation plan.

D. Under the following circumstances, the State Bar shall provide to regular, full-time Executive Staff Employees who receive benefits under a CalPERS and who retire from under CalPERS as Executive Staff on or after the date upon which these Executive Staff Rules are adopted, comparable health care plan (providing medical/hospital and vision care coverage) benefits including dependent and domestic partner coverage benefits, as it provides from time to time to its then active, regular, full-time Employees, provided that:

1. For Executive Staff Employees employed as such as of the date these Rules are adopted (August 19, 2006), eligibility requires fifteen years of service to the State Bar as a regular employee. For Employees who become Executive Staff after the date these Rules are adopted, eligibility requires fifteen years of service to the State Bar as a regular employee, with at least the last ten years of service preceding retirement as an Executive Staff Employee.

2. The Employee must also have such medical/hospital coverage at the time of his/her retirement from employment with the State Bar;

3. The Employee must also elect to receive retirement benefits effective within one hundred twenty (120) days of retirement from State Bar employment under CalPERS;

4. If the State Bar's agreement with its medical/hospital insurance carrier does not permit the identical coverage to be provided to such retired Employee at the same group rate as the State Bar would pay if they were included, the State Bar may provide substantially similar coverage, or contribute to the purchase of substantially similar coverage in an amount equal to the amount that the State Bar contributes toward payment of medical/hospital and vision care coverage for any of its then active, full-time Employees and their dependents; and

5. If the State Bar subsequently adopts a retirement plan other than CalPERS, the State Bar shall also provide substantially similar medical/hospital and vision care benefits to those who retire from State Bar employment under the provisions of such other retirement plans.

Source: Adapted from Executive Staff Rules §23 [Retirement].
§B: Board of Governors Resolutions OCT 112 (October 6, 2004),
DEC 111A (December 6, 2003); June 112A (June 17, 2006).

SECTION 28. SEVARABILITY

If any provision, or portion thereof, contained in these Rules and Regulations, or the application thereof, to any person or circumstance is held to be unconstitutional, invalid, or unenforceable, the remainder of these Rules and the application of such provision, or portion thereof, to other persons or circumstances shall be deemed severable, shall not be affected, and shall remain in full force and effect.

Source: New.

SECTION 29. EFFECTIVE DATE

These Executive Staff Rules are effective when adopted and apply to all Executive Staff Employees employed by the State Bar on or after the effective date of these Executive Staff Rules.

Source: New.

SECTION 30. BUDGET REQUIREMENTS

The annual budget of general and special funds shall have a contingency reserve allocated to cover the costs of the application and implementation of these Executive Staff Rules.

Source: Executive Staff Rules §24 [Budget].

**RULES & REGULATIONS
PERTAINING TO THE EMPLOYMENT
OF EXECUTIVE STAFF**

APPENDIX 1

Executive Staff Designation Standards

Management employees formulate and effectuate management policies by expressing and making operative the decisions of their employer. They exercise discretion without and even independently of established employer policy. They take or effectively recommend discretionary actions that effectively control or implement employer policy. Specifically, these duties may involve many or all of the following:

Management Authority (Policy Making)

Primary duty is managing a recognized State Bar program, department or office.

Establishes criteria for and formulates State Bar project, program, department or office policy and assesses effectiveness.

Exercises discretion and independent judgment in the performance of duties that may affect State Bar programs and services within the State Bar's constituent community.

Has access to personnel related confidential proprietary information.

Fiscal Responsibilities

Has responsibility to plan and administer the budget for a State Bar program, department or office.

Has authority to approve State Bar expenditures for goods/and or services at significant levels.

Has authority to represent the State Bar in negotiations with vendors involving significant obligations.

Internal External Recognition

Is designated a senior executive, manager, director or assistant or deputy thereto by position title.

Is called upon to present the State Bar's positions to external entities and individuals involving complex, sensitive or controversial matters. Is expected to deal with individuals of any level in the organization. Is expected to obtain desired results.

Is called upon to represent the State Bar's interests before the Board of Governors and State Bar constituencies.

Personnel Administration

Customarily and regularly directs the work of two or more other employees in the performance of State Bar business.

Has the authority to hire, fire, advance, promote, or otherwise change the status of other employees or whose suggestions and recommendations as to such are given particular weight.

Represents the position of the State Bar in the administration of employee grievances.

Participation in labor organization activities would create a conflict of interest with position responsibilities.

Interviews, selects and trains employees;

Plans and directs and apportions the work of employees.

Maintains records for use in personnel supervision and control.

Appraises employee performance for use in recommending promotions or other changes in status.

Source: 29 C.F.R. 541.100 *et seq.*

Adopted: June 28, 1993

Revised: August 2006

**RULES & REGULATIONS
PERTAINING TO THE EMPLOYMENT
OF EXECUTIVE STAFF**

APPENDIX 2

**STATE BAR OF CALIFORNIA
OUTSIDE EMPLOYMENT QUESTIONNAIRE - NONLEGAL**

1. What is the nature of the work you would be performing?
2. What is your anticipated time commitment (e.g., long-term, short-term, hours per week, days per week)?
3. What are the actual or potential conflicts?
 - a. Could your performance of this work be or appear to be in conflict with the State Bar's goals and objectives?
 - b. What is the anticipated effect of this work on your current workload and your availability for future assignments?
 - c. Is there any likelihood of there being or appearing to be any connection between this work and your duties for the State Bar?
 - d. What other conflicts, actual or potential, do you foresee?
4. Would your work involve your being contacted at the State Bar? How do you propose to handle this?
5. Do you agree not to use State Bar resources for your outside employment, e.g., State Bar phones, copying machines, fax machines, secretarial time, stationery, postage, supplies, computers or other State Bar resources?
7. Are those with whom you will come in contact aware that the State Bar is not involved in any way in your outside employment? Explain how you will make this clear.

**STATE BAR OF CALIFORNIA
OUTSIDE EMPLOYMENT QUESTIONNAIRE - LEGAL**

1. What is the nature of the legal work you would be performing?
2. What is your anticipated time commitment (e.g., long-term, short-term, hours per week, days per week)?
3. What are the actual or potential conflicts?
 - a. Could your performance of this work be or appear to be in conflict with the State Bar's goals?
 - b. What is the anticipated effect of this work on your current workload and your availability for future assignments?
 - c. Is there any likelihood of there being or appearing to be any connection between this work and your duties for the State Bar?
 - d. What other conflicts, actual or potential, do you foresee?
4. Would your work involve any court, deposition or other formal appearances? How do you propose to cover such appearances?
5. Would your work involve your being contacted at the State Bar? How do you propose to handle this?
6. Do you agree not to use State Bar resources for your outside employment, e.g., State Bar phones, copying machines, fax machines, secretarial time, stationery, postage, supplies, computers or other State Bar resources?
7. Will you assure that your clients/customers are aware that the State Bar is not involved in any way in your work? Explain how you will make this clear. In the alternative, will you provide the State Bar with proof of adequate errors and omissions insurance coverage or an agreement to indemnify and hold harmless the State Bar from any liability from your outside employment?
8. Will you comply with Business and Professions Code §6211 regarding your handling of trust funds?

EMPLOYEE REQUEST FOR APPROVAL
FOR OUTSIDE EMPLOYMENT ACTIVITIES

Employee Name _____

Office _____ Position _____

In addition to my State Bar position, I seek approval for employment in the position described below:

Employer _____

Position Title _____

Number of hours worked per week _____

I agree that this outside employment:

- 1) is not in conflict with my official duties as a State Bar employee, and
- 2) does not involve services which might conflict with the interests of the State Bar.

Date

Employee's Signature

Date

Senior Executive's Signature

Reviewed by:

Date

Manager, Office of Human Resources