

Attachment 1

Section 9 The Executive Director's Annual Performance Evaluation

The Executive Director of the State Bar is subject to an annual performance evaluation to be completed by July of each year. The review shall be conducted by a Board Committee designated by the Board, currently the Board Operations Committee. The State Bar's Office of Human Resources and the State Bar's Deputy Executive Director shall assist the designated Board Committee in this process.

(a) **Evaluation Criteria**

The Executive Director's evaluation is conducted based on performance criteria and competencies and on goals and objectives set by the designated Board Committee. The designated Board Committee, annually sets the Executive Director performance targets and annually evaluates progress in achieving these targets. The performance criteria and competencies for evaluation are: job skills, technological proficiency, quality performance, quantity of work, leadership, teamwork and collaboration, constituency commitment, communication, fiscal accountability, development and compliance with policies and procedures, strategic perspective/planning, managing change, managing and developing staff, Board/constituency relations, valuing diversity.

(b) **Confidentiality**

The meetings of the designated Board Committee and all information obtained in the course of the evaluation shall be confidential and shall not be disclosed except as otherwise provided in this article. Sufficient disclosure shall be made to the Executive Director to assure a full opportunity to respond to evaluation material. The identity of the persons providing evaluation material shall not be disclosed.

(c) **Timetable and Procedures**

Each year, the Board sets the timetable and procedures for conducting the Executive Director's annual performance evaluation. The committee shall meet with the Executive Director as soon as practical in the board year to discuss the performance standards, goals, procedures and timetable. The Board Committee shall set the procedures and meetings during the board year to assure a full and fair evaluation, and shall present its report to the Board in executive session at the July meeting.

(Source: Board of Governors' Resolutions, March 2002, March 2003, March 2004).

CHIEF TRIAL COUNSEL

Section 1 Relationship with the Executive Director

The executive director shall bring his or her choice for Chief Trial Counsel (subject to Senate confirmation) to the board for approval. The Chief Trial Counsel shall report to the Board of Governors discipline system oversight committee consistent with Business & Professions Code Section 6079.5 on substantive issues pertaining to the discipline enforcement system. The Chief Trial Counsel and the Office of the Chief Trial Counsel shall otherwise be subject to the executive and administrative authority of the Executive Director in like manner as other executive staff.

(Source: Board of Governors' Resolution, May 20, 1997, March 2002, March 2003, March 2004, Business and Professions Code 6079.1)

Section 2 Appointment, Term, Qualifications

The rules governing the appointment, the term, and the qualifications of the chief trial counsel are described in Business & Professions Code section 6079.5(a)(b) (see State Bar Act, Appendix 3e).

(Source: Bus. & Prof. Code, §6079.5 (a) and (b).)

Section 3 The Chief Trial Counsel's Annual Performance Evaluation

Under Board policy, the Executive Director is responsible for evaluating the performance of all State Bar staff. The Chief Trial Counsel position is unique. Under Business & Professions Code Section 6079.5, the Board appoints the Chief Trial Counsel who serves for a term of four years. The Board has delegated to the Executive Director the selection of the Chief Trial Counsel which is then acted upon by the Board. The appointment is subject to the confirmation of the State Senate. The Chief Trial Counsel, by statute, reports to the discipline system oversight committee on the Board and, in connection with the exercise of prosecutorial discretion, does not report to the Executive Director.⁴

At the recommendation of the Executive Director, because of the uniqueness of the Chief Trial Counsel position, the Board, through its discipline oversight and Board Operations Committees, has undertaken the responsibilities for conducting the Chief Trial Counsel's evaluation. Recognizing the Executive Director's institutional role in selecting the Chief Trial Counsel, the Chief Trial Counsel's role as a senior member of the Executive Director's management team, and the responsibility of the Executive Director for institutional oversight and administration of personnel, budget, and facilities support functions of the State Bar as a whole, including the Office of the Chief Trial Counsel, the Executive Director sits as a member of the Board Committee on Operations in connection with the Chief Trial

⁴ Consistent with statutory authority, the Chief Trial Counsel reports to the discipline system oversight committee and is independent of the Executive Director with respect to the exercise of the Chief Trial Counsel's prosecutorial discretion. The Chief Trial Counsel is subject to the Executive Director's administration of personnel, budget, and facilities support functions which the Executive Director executes in conformity with Board policy.

Counsel's review. The Chair of the Board Committee on Regulation, Admissions & Discipline chairs the review committee.

(a) Evaluation Criteria

The Chief Trial Counsel's evaluation is conducted based on performance criteria and competencies and on goals and objectives set by the designated Board Committee. The Designate Board Committee annually sets the Chief Trial Counsel's performance targets and annually evaluates progress in achieving these targets. The performance criteria and competencies for evaluation include: job skills, technology proficiency, quality performance, quality of work, leadership, teamwork and collaboration, public protection commitment, communication, fiscal accountability, compliance with policies and procedures, strategic perspective/planning, managing change, managing and developing period, interpersonal/conflict resolution skills, valuing diversity;

(b) Confidentiality

The meetings of the designated Board Committee and all information obtained in the course of the evaluation shall be confidential and shall not be disclosed except as otherwise provided in this article. Sufficient disclosure shall be made to the Chief Trial Counsel to assure a full opportunity to respond to evaluation material. The identity of the persons providing evaluation material shall not be disclosed.

(c) Timetable and Procedures

Each year, the Board sets the timetable and procedures for conducting the Chief Trial Counsel's annual performance evaluation. The committee shall meet with the Executive Director as soon as practical in the board year to discuss the performance standards, goals, procedures and timetable. The Board Committee shall set the procedures and meetings during the board year to assure a full and fair evaluation, and shall present its report to the Board in executive session at the July meeting.

(Source: Board of Governor's Resolution, March 2002, March 2003, March 2004).

§6079.5 Chief Trial Counsel; Appointment; Term; Qualifications

- (a) The board shall appoint a lawyer admitted to practice in California to serve as chief trial counsel. He or she shall be appointed for a term of four years and may be reappointed for additional four-year periods. He or she shall serve at the pleasure of the board. He or she shall not engage in private practice. The State Bar shall notify the Senate Rules Committee and the Senate and Assembly Judiciary Committees within seven days of the dismissal or hiring of a chief trial counsel.

The appointment of the Chief Trial Counsel is subject to confirmation by the Senate, and the time limits prescribed in Section 1774 of the Government Code for Senate confirmation and for service in office are applicable to the appointment.

He or she shall report to and serve under the Regulation, Admissions, and Discipline Oversight Committee of the Board of Governors of the State Bar or its successor committee on attorney discipline, and shall not serve under the direction of the chief executive officer.

- (b) The chief trial counsel shall have the following qualifications:
- (1) Be an attorney licensed to practice in the State of California, be in good standing and shall not have committed any disciplinary offenses in California or any other jurisdiction.
 - (2) Have a minimum of five years of experience in the practice of law, including trial experience, with law practice in broad areas of the law.
 - (3) Have a minimum of two years of prosecutorial experience or similar experience in administrative agency proceedings or disciplinary agencies.
 - (4) Have a minimum of two years of experience in an administrative role, overseeing staff functions.

The board may except an appointee from any of the above qualifications for good cause upon a determination of necessity to obtain the most qualified person.

On or after July 1, 1987, the chief trial counsel may, as prescribed by the Supreme Court, petition the court for a different disposition of a matter than the recommendations of the review department or the board to the court. (Added by Stats. 1986, ch. 1114. Amended by Stats. 2002, ch. 415, effective September 9, 2002)