



THE STATE BAR OF CALIFORNIA

Date: November 3, 2010
To: Members, Board Volunteer Involvement Committee (VIC)
From: Karen Hagelund
Re: Overview of Annual Appointment Review Process

BACKGROUND

The Board has charged the Board Committee on Volunteer Involvement (VIC) with the review of non-disciplinary appointment recommendations to State Bar sub-entities and external groups.

The appointment process is cyclical, with the board review determined by the term's end date and the board's meeting schedule. Most appointments must be made between March and July, and therefore, the bulk of the VIC appointment review will occur during these months.

Except for outreach issues and policy discussions, the appointment issues for VIC will be conducted in closed session. Only the Board of Governors is authorized to make the appointments, and every appointment is confidential until the full Board makes the appointment. In addition, the fact that someone applied for appointment is confidential. Information concerning applications is released only to those involved in the appointment process such as board members and authorized committee members and staff.

State Bar committee appointments are governed by the Board's appointment policies and procedures (found in the Board Book at Tab 15) and by statutory provisions. The appointments to external groups are governed by the policies of the external organization and by Board policy.

Attached are the list of State Bar and external entities (Attachment 1), a chart of key dates and deadlines for the coming year (Attachment 2), and the application brochure and form published at the State Bar Web site (Attachments 4 and 5).

TYPES OF APPOINTMENTS

A. Interim Appointments

Interim appointments are appointments to fill unexpected mid-year vacancies and they differ from regular appointments in that the terms of become effective immediately and retain the original expiration dates of the members being replaced (i.e., those appointed to these positions fill only the remaining portion of the term). The vacancies are generally due to members who've resigned or declined an appointment.

Interim appointments occur throughout the year, but the most appear on the November, January, and March agendas.

Generally, about 6% of the State Bar committee members are unable to continue to serve or to make the time commitment because of a change in job or personal circumstances. Depending on the specific circumstances, for these appointments, Board policy permits committees to recommend an applicant from the most recent applicant pool or a newly recruited applicant. Applicants filling unexpired terms of one year or less are eligible for reappointment to a full three-year term.

Historically, interim appointments have been considered on the consent agenda unless there are policy issues to be considered or a board member requests discussion of the item.

B. Annual Appointments to Standing, Special and Section Executive Committees

February 1, 2011 is the application deadline for most standing, special and section executive committees. All applications and letters of recommendation must be submitted to the Appointments Office for processing. The applications, instructions and policies are distributed to the individual committees no later than March 1.

Committee Review March 1 - April 12. For most committees, either the committee's leadership and/or a nominating sub-committee initially review the applications. The committees review all aspects of the application, weighing the qualifications of the applicant, the letters of recommendation, the committee's requirements and needs for the coming year, and the Board's policies regarding appointment.

By mid-April (April 12), each committee chair submits a ranking of the new applicant pool and a letter to VIC describing the committee's nominations for officers, reappointments (if any), and new members. Upon receipt of the committee's recommendation, staff reviews the nominations for potential policy conflicts (e.g., same firm, prior service, discipline, or nomination to more than one committee) prior to distribution to VIC for review.

C. Annual Appointments Requiring Application Ranking by VIC Members

Pursuant to historical practice and the Board's adopted procedures, VIC reviews and ranks applicants for the following entities. The proposed time frame for VIC members to rank the applications are also noted below.

1. ABA House of Delegates: Feb 7-Feb 25, 2011
2. Judicial Council: Feb 15-Feb 28, 2011
3. Committee of Bar Examiners (CBE): June 2011
4. Commission on Judicial Nominees Evaluation (JNE): May/June 2011
5. JNE Review Committee: June 2011

VIC members typically will have two to three weeks after receiving the applications to review and rank the applications for the above entities. The rankings are submitted to the Appointments Office and then compiled for discussion and final action at the next VIC meeting.

In addition, for the State Bar committees (CBE, JNE, and LAP), prior to the VIC meeting, the VIC subcommittee may schedule its interviews of the chair and vice chair candidates, preferably in conjunction with a committee meeting.

- **CBE:** CBE reviews the applications and submits its written recommendation to VIC. VIC members review CBE's written recommendation and rank the applications, usually in June, with final action taken at the July meeting. The number of CBE vacancies varies between one and three seats each year. The officer interviews, if needed, are generally conducted at the CBE June meeting in Pasadena. The CBE chair sits as a member of the VIC interview subcommittee.
- **JNE:** The application deadline for JNE is May 2, 2011. JNE terms are one year and the members typically serve three one-year terms. Each year the applicant pool consists of approximately 25 commissioners up for reappointment and 30-50 new applicants. In 2011, we expect a minimum of 13 positions for new members. In addition to the applications, VIC members receive a written recommendation and ranking from the JNE leadership. Historically, VIC has required one or more hours to select the final JNE slate, and therefore, an additional meeting may be required in either June or July for the JNE appointments. The JNE leadership is invited to this meeting to participate in the discussion.
- **JNE Review Committee (RJNE):** Current JNE rules provide for the appointment of a three-member Review Committee (RJNE) to review requests for reconsideration of the JNE Commission rating of "not qualified." RJNE presently consists of three members: one former lawyer member of the JNE Commission, one former public member of the JNE Commission, and one Board member who must also be a current liaison to the JNE Commission. The committee focuses its investigation on possible violations of the rules of procedures; the committee does not evaluate the qualifications of the candidate. Members serve staggered three-year terms, and each serves as the Chair in his/her third year. In 2011, there will be a lawyer-member vacancy and the Board liaison seat will also be open. VIC members will rank the applications, which they normally receive in mid-June.

Note: A proposed revision to the JNE Rules which would change the composition of the Review Committee is currently under review by Board Operations.

- **LAP Oversight Committee:** The LAP terms are set by statute. Members serve four-year renewable terms and all terms expire on December 31. Because the committee membership must meet specific criteria set by statute and because of the extensive learning curve, members serve multiple terms. The State Bar appoints six of the 12 members, the Governor appoints four members and the Senate Rules Committee and the Assembly Speaker each appoint a member. Generally, there are one or two renewal appointments each year; in some years, such as in 2011, there are no member vacancies. For the officers, VIC appoints a subcommittee to conduct interviews. However, if there is only one candidate for chair or vice chair, the interviews may be waived. In 2011, although there are no member vacancies, VIC will consider the chair appointment. LAP currently does not have a vice chair.

- **ABA House of Delegates:** ABA and Board policies govern these appointments. The application deadline for the annual appointments to the ABA is February 1, 2011. In 2011, the terms of five delegates expire, and pursuant to board policy, each of the five delegates is eligible for reappointment. The ABA House of Delegates is the policy-making body of the ABA, and pursuant to its rules, the State Bar appoints 11 delegates. The Bar does not reimburse its delegates for any expenses associated with their service in the ABA House of Delegates. The State Bar's delegates are part of the California delegation, which consists of approximately 24 other delegates appointed by ten local bar associations, ABA sections and divisions, and former officers and board members. The elected State Delegate, John L. McDonnell, Jr. of Oakland, currently heads the California delegation.

VIC members will receive the applications in mid-February and will have approximately two weeks to review and rank the applicants. VIC will discuss the rankings and make its final recommendation at the March 4 meeting.

- **Judicial Council:** The Judicial Council is a state constitutional agency that provides policy direction to the courts, the Governor, and the Legislature concerning court practice, procedure and administration. The council consists of 27 members— four lawyer members appointed by the State Bar, the Chief Justice, fourteen judges appointed by the Chief Justice, one member from each house of the Legislature, and six advisory members, including representatives of the California Judges Association and state court administrative agencies. The four current State Bar's appointments to the Council are: Joel Miliband, Jim Penrod, Miriam Krinsky, and Edith Matthai.

The application deadline for the Judicial Council is February 1, 2011. This year the State Bar will have two appointments to make (replacing Joel Miliband and Jim Penrod). VIC members will have approximately two weeks to review and rank the applicants. VIC will discuss the rankings at the March meeting. Depending on the results of the initial rankings, VIC may conduct applicant interviews. Should interviews be deemed necessary, they would normally be conducted prior to, or at, the May meeting, and VIC would make its final recommendation to the Board at the May meeting.

D. Other Appointments

- **Fee Arbitration Panel and Presiding Arbitrator** *(November meeting)*
Each November, VIC also considers the appointments and reappointments to the Bar's Fee Arbitration Department, including the Presiding Arbitrator. The Fee Arbitration Department consists of approximately 400+ volunteer lawyer and non-lawyer arbitrators. The arbitrators serve one-year terms, ending December 31. Arbitrators may serve as long as they meet the qualifications. The Committee on Mandatory Fee Arbitration recruits volunteers for the department throughout the year, and a few new appointments generally are made at every meeting.
- **External Organizations**
VIC also monitors the annual or bi-annual appointment recommendations for certain external organizations whose bylaws or rules require that the State Bar appoint one or more of its members. The appointments to these groups are governed by the by-laws

and policies of the external organization. These organizations, and the dates their appointments are considered by VIC, are noted below:

- California Bar Foundation Board of Directors (November 2010 meeting)
- Center for Civic Education Board of Directors (July 2011 meeting)
- Law School Council (July 2011 meeting)
- Legal Services Programs Boards of Directors for five entities:
 1. Legal Services of Northern California (LSNC) (Jan 2011, March 2011)
 2. California Indian Legal Services (CILS) (March 2011)
 3. California Rural Legal Assistance (CRLA) (no appointments in 2011)
 4. Legal Aid Foundation of Los Angeles (LAFLA) (no appointments in 2011)
 5. Legal Aid Society of Orange County (LASOC) (no appointments in 2011)

E. Awards

Each year, CYLA, the Standing Committee on Delivery of Legal Services Committee, the Council on Access and Fairness, and the Witkin panel solicit nominations for annual awards recognizing outstanding achievements of individual California lawyers, law firms, and/or bar associations. The awards are presented at the Awards Ceremony at the Annual Meeting. Between January and May, each group solicits nominations, reviews the nomination materials, and selects the recipients. VIC and the Board consider the award nominations at their May and July meetings. The names of those nominated for the awards and the names of the recipients are confidential until the Board formally approves the selections. The current awards are:

- Diversity Awards (Council on Access and Fairness)
Award recognizes to recognize exemplary efforts by an attorney, law firm and bar association to increase diversity in the legal profession.
- Education Pipeline Award (Council on Access and Fairness)
Award recognizes education pipeline programs that increase student awareness about the judicial system and promote careers in the law.
- Jack Berman Award (CYLA)
Award recognizes the achievements in public service of a young lawyer or a lawyer who is in their first five years of practice.
- Loren Miller Legal Services Award (Standing Committee on Delivery of Legal Services)
A lifetime achievement award is given annually to a lawyer who has demonstrated long term commitment to legal services and who has personally done significant work in extending legal services to the poor.
- President's Pro Bono Awards (Standing Committee on Delivery of Legal Services)
Award recognizes outstanding pro bono contributions by California attorneys in a variety of practice settings.
- Witkin Medal of Honor (Witkin Selection Panel)
The award recognizes both lawyers and non-lawyers whose outstanding contributions and achievements have enriched the legal profession and exalted the science of jurisprudence.