



The State Bar of California

Regular Meeting of the Board of Trustees Zoom

Open Session Minutes
Thursday, May 16, 2024
10:04 a.m.–4:05 p.m.

Time meeting Commenced: The Board meeting commenced in open session at 10:04 a.m. The Board moved into closed session at 12:39 p.m. The Board returned to open session at 3:15 p.m.

Time meeting Adjourned: 4:05 p.m.

Chair: Brandon Stallings

Board Secretary: Louisa Ayrapetyan

Members Present: Patricia Barahona, Raymond Buenaventura, José Cisneros, Sarah Good, Mary Huser, Melanie Shelby, Arnold Sowell Jr., Brandon Stallings, Mattheus Stephens, Mark Toney, Genaro Trejo

Members Absent: Hailyn Chen

Staff Present: Ellin Davtyan, Leah Wilson

OPEN SESSION

ROLL CALL

The Board of Trustees meeting was called to order by Chair Stallings. Roll call was taken and a quorum was established.

PUBLIC COMMENT

Chair Stallings called for public comment, inquiring as to whether there were person(s) who wished to comment on any agenda item. The following comment was provided to the Board:

1. Benjamin Kohn:
Benjamin Kohn addressed the Board to reiterate his support for a new vendor to enhance operational integrity and provide remedies not available under the NCBE, including handling exams on different dates and improving testing accommodations. He also noted the Legislature's reluctance to grant the State Bar's full requested fee increase due to disagreements with the Bar's policy decisions. He urged the Board to support the Legislature's requests to facilitate the fee increase. Lastly, Kohn highlighted the delay in moving the approved testing accommodation rule revision to the California Supreme Court, stressing the need to prioritize this to avoid prejudicing disabled applicants in future exam cycles.

2. Todd Hill:

Todd Hill addressed the Board to stress the urgent need for transparency reform within the State Bar. He highlighted significant transparency issues, specifically concerning closed sessions used to discuss unnamed liabilities absent from the State Bar's official records. This lack of transparent reporting prevents the public from verifying the justification and outcomes of these sessions.

Hill argued that the omission of these liabilities from financial statements suggests non-compliance with the Bagley-Keene Act and government code requirements for closed sessions. He emphasized that true transparency is crucial for public trust and adherence to generally accepted accounting principles (GAAP). He called for overhauling closed session protocols to meet stringent transparency standards and restore public confidence in the State Bar's operations. Hill submitted detailed concerns in a document titled "A Hidden Ledger" for the Board's consideration.

3. Ray Hayden:

Ray Hayden urged the Board to directly admit provisionally licensed lawyers (PLLs) to full practice if they meet all other admission requirements, citing their experience and challenges during the pandemic. He requested the California Bar to aid in this transition for those who have performed well in the PLL program.

Hayden also proposed that the California Bar Exam should consist solely of objectively scored multiple-choice questions to ensure fairness and avoid the two-year rule, arguing that the current high failure rate is unjustifiable. He drew parallels to FAA exams, which are multiple-choice and require high precision to pass. Hayden criticized the current scoring system and offered free study materials that have helped others pass the exam. He emphasized the need for a fair and objective exam to ensure new lawyers are competent and thanked the Board for their time.

10 MINUTES

Approval of March 21–22, 2024, Open Session Minutes

Moved by Buenaventura, seconded by Cisneros

Ayes – (11) Barahona, Buenaventura, Cisneros, Good, Huser, Shelby, Sowell, Stephens, Toney, Trejo, Stallings

Noes – (0)

Abstain – (0)

Absent – (1) Chen

Minutes adopted.

30 CHAIR'S REPORT

As part of Chair Stallings oral report, he directed staff to research how protest activity has been handled in the moral character determination process historically, consult with members of the Committee of Bar Examiners and subject matter experts on ethics and First Amendment issues, and

explore how other jurisdictions are considering whether such protest activities should factor into character and fitness reviews for admissions to the bar and licensure as attorneys.

40 EXECUTIVE DIRECTOR'S REPORT

Executive Director Leah Wilson provided an oral report.

50 CONSENT AGENDA

50-1 Approval of Specified Contracts Pursuant to Business and Professions Code Section 6008.6

RESOLVED, that the Board of Trustees approves execution of the contracts listed herein.

50-2 Annual Report on the Use of Outside Counsel in 2023

Informational only.

50-3 Approval of State Bar Appointee to the Judicial Council of California

RESOLVED, that the Board of Trustees, upon recommendation of the Board Executive Committee, appoint Craig Peters to the Judicial Council of California for a three-year Term, beginning September 19, 2024, and expiring at the Judicial Council's September 2027 meeting, or until further order of the Board, whichever occurs earlier.

FURTHER RESOLVED, that the Board of Trustees, upon recommendation of the Board Executive Committee, approve the list of alternate members as presented in Attachment A, each for the remainder of the resigning member's term if a midterm vacancy is created.

50-6 Approval of 2024 Quarter One Investment Report

RESOLVED, that the Board of Trustees, upon recommendation of the Finance Committee, approve the 2024 Quarter One Investment Report for the three months ended March 31, 2024, in the form presented this day before the Board.

Consent calendar moved by Toney, seconded by Stephens

Ayes – (11) Barahona, Buenaventura, Chen, Cisneros, Good, Huser, Shelby, Stephens, Sowell, Toney, Trejo, Stallings

Noes – (0)

Abstain – (0)

Absent – (1) Chen

Motion carries.

This agenda item was taken off of the consent calendar for a separate discussion.

50-4 Report of Action Taken by Audit Committee on behalf of Board of Trustees Regarding Annual Financial Statement Audit Including Legal Services Trust Fund Report

RESOLVED, that the Board of Trustees receives the 2023 Financial Statements and Independent Auditor's reports.

Moved by Toney, seconded by Shelby

Ayes – (11) Barahona, Buenaventura, Chen, Cisneros, Good, Huser, Shelby, Stephens, Sowell, Toney, Trejo, Stallings

Noes – (0)

Abstain – (0)

Absent – (1) Chen

Motion carries.

50-5 Approval of 2024 Quarter One Board and Management Travel Expenses Report

This agenda item was withdrawn and will be brought back to the Board for approval in July 2024.

60 BOARD OF TRUSTEES SITTING AS THE REGULATION AND DISCIPLINE COMMITTEE

60-1 Report on Office of Chief Trial Counsel 2023 Quarter Four and 2024 Quarter One Performance Metrics

Presenter: George Cardona, Chief Trial Counsel

Presentation and discussion only.

60-2 Request for Approval of Mandatory Fee Arbitration Filing Fee Increase

Presenter: Bridget Gramme, Special Counsel, Division of Consumer Protection, Admissions, Access & Inclusion

This agenda item was initially planned as an action item. However, after receiving feedback and concerns about potential unintended consequences for local bar association programs, it was changed to a discussion item. Staff will return to the Board with a recommendation in July 2024 after conducting stakeholder conversations with local bar associations.

60-3 Ad Hoc Commission on the Discipline System: Approval of Recommendations for Website Removal and Expungement

Presenters: Steven Moawad, Special Counsel, Regulation Division
Mia Ellis, Deputy Special Counsel, Regulation Division

RESOLVED, that the Board of Trustees, sitting as the Regulation and Discipline Committee, directs staff to draft a new Rule of Court regarding expungement of nondisbarment discipline after 8 years from the effective date/completion of the initial discipline consistent with the limitations set forth in this item and as discussed during the May 16, 2024, meeting of the Board of Trustees, and return the draft rule to the Board for further action; and it is

FURTHER RESOLVED, that the Board of Trustees, sitting as the Regulation and Discipline Committee, directs staff to draft proposed statutory amendments regarding expungement of nondisbarment discipline and return the draft statutory amendments to the Board for further action; and it is

FURTHER RESOLVED, that the Board of Trustees, sitting as the Regulation and Discipline Committee, directs staff to draft a new rule of the State Bar, consistent with the limitations set forth in this item, to effectuate website removal of criminal conviction transmittals within six months of receipt of an order granting relief pursuant to sections 1203.4, 1203.4a, 1203.41, 1203.42, or 1203.425 of the Penal Code and return the draft rule to the Board for further action; and it is

FURTHER RESOLVED, that the Board of Trustees, sitting as the Regulation and Discipline Committee, directs staff to draft a new rule of the State Bar, consistent with the limitations set forth in this item, to effectuate website removal of discipline history from the attorney profile page of licensees resigned without charges pending and to return the draft rule to the Board for further action.

Moved by Good, seconded by Buenaventura

Ayes – (10) Barahona, Buenaventura, Chen, Cisneros, Good, Huser, Shelby, Stephens, Sowell, Toney, Trejo

Noes – (1) Stallings

Abstain – (0)

Absent – (1) Chen

Motion carries.

700 MISCELLANEOUS

701 Discussion and Approval of Agreement with Kaplan North America, LLC for the Preparation of California Bar exam Materials

This agenda item was withdrawn from the agenda to finalize all key terms before bringing it to the Board. The Board will set a special meeting to approve this contract.

702 Discussion and Approval of Current and New 2024 Legislative Priorities and Affirmative Legislative Proposals

Presenters: Donna Hershkowitz, Chief of Mission Advancement & Accountability Division
Bridget Gramme, Special Counsel, Division of Consumer Protection, Admissions, Access & Inclusion

RESOLVED, that the Board of Trustees adopts, as part of the legislative priority to secure a fee increase, amending Business and Professions Code section 6140.55 as described in the statutory amendments section in this analysis; and it is

FURTHER RESOLVED, that the Board of Trustees adopts an affirmative legislative proposal amending Business and Professions Code section 6140.5 to permit the State Bar to reduce or waive principal/interest when collecting reimbursement to the CSF from a respondent as a condition of reinstatement.

FURTHER RESOLVED, that the Board of Trustees continues to support AB 3279 (Judiciary), if amended to include a \$125 licensing fee increase as set forth in the April 1 report, Justification for

Licensing Fee Increase, and outlined in the table in this agenda item under “State Bar Identified Need”.

Moved by Cisneros, seconded by Sowell

Ayes – (9) Barahona, Buenaventura, Cisneros, Good, Huser, Sowell, Stephens, Trejo, Stallings

Noes – (1) Shelby

Abstain – (0)

Absent – (2) Chen, Toney

Motion carries.

703 2022–2027 Strategic Plan: Review and Approval of New Goal 5

Presenter: Elizabeth Nolan, Lead Principal Analyst, Mission Advancement & Accountability Division

RESOLVED, that the Board of Trustees approves and adopts Goal 5 within the updated State Bar 2022–2027 Strategic Plan, included in this item as attachment A, and directs staff to make any necessary adjustments to the State Bar’s two operational plans as a result.

Moved by Barahona, seconded by Stephens

Ayes – (10) Barahona, Buenaventura, Cisneros, Good, Huser, Shelby, Stephens, Sowell, Toney, Stallings

Noes – (0)

Abstain – (0)

Absent – (2) Chen, Trejo

Motion carries.

704 Adoption of State Bar Policy on Law School Name Changes on the Attorney Profile

Presenters: Steven Moawad, Special Counsel, Regulation Division
Mia Ellis, Deputy Special Counsel, Regulation Division

RESOLVED, that the Board of Trustees adopts a law school name change policy wherein, unless retroactive application is required explicitly by statute or by order of the Supreme Court, law school name changes will only be reflected on the attorney profile page prospectively—to licensees who graduate after the effective date of the name change; and it is

FURTHER RESOLVED, while this policy should be applied to the attorney profile page of graduates of all law schools that changed their name, including those that occurred previously, if correcting the law school on the attorney profile page of licensees that graduated prior to the effective date of name changes that previously occurred proves exceedingly difficult or unduly time consuming or expensive, staff have discretion to apply this policy only to future law school name changes.

Moved by Cisneros, seconded by Stephens

Ayes – (10) Barahona, Buenaventura, Cisneros, Good, Huser, Shelby, Stephens, Sowell, Trejo, Stallings

Noes – (0)

Abstain – (0)

Absent – (2) Chen, Toney

Motion carries.

705 Approval of Quarter One 2024 Financial Statements Report

RESOLVED, that the Board of Trustees, upon recommendation of the Finance Committee, approve the 2024 First Quarter Financial Statements Report for the three months ended March 31, 2024, in the form presented this day before the Board.

Presenter: Aracely Montoya-Chico, Chief Financial Officer

Moved by Stephens, seconded by Sowell

Ayes – (11) Barahona, Buenaventura, Cisneros, Good, Huser, Shelby, Stephens, Sowell, Toney, Trejo, Stallings

Noes – (0)

Abstain – (0)

Absent – (1) Chen

Motion carries.

Chair Stallings stated that pursuant to Government Code section 11126(e)(2)(C), 11126(c)(1), 11126(e)(2)(B)(i), 11126(e)(2)(A), and Business and Professions Code section 6026.7(c)(3) the Board of Trustees will move to closed session to consider the items listed on the closed session agenda.

CLOSED SESSION

1000 MINUTES

Approval of March 21–22, 2024, Closed Session Minutes

5000 CLOSED CONSENT

5001 Recommendation Regarding Requested Amicus Participation in In re Jack Jordan Litigation (U.S. Circuit Court of Appeals for the Ninth Circuit, Case No. 23-80007)

**Closed pursuant to Government Code § 11126(e)(2)(C).*

7000 MISCELLANEOUS

7001 Consideration of Contract with Kaplan North America LLC Relating to the Preparation of Examination Materials & Security of Test Administration of the California Bar Examination

**Closed pursuant to Government Code § 11126(c)(1) and Business and Professions Code § 6026.7(c)(3).*

7002 Conference with Legal Counsel – Anticipated Litigation

**Closed due to significant exposure to litigation pursuant to Government Code § 11126(e)(2)(B)(i).*

7003 Conference with Legal Counsel – Anticipated Litigation

**Closed due to significant exposure to litigation pursuant to Government Code § 11126(e)(2)(B)(i).*

7004 Conference with Legal Counsel – Existing Litigation

Agaton et al. v. State Bar of California et al. (L.A. Super. Ct. Case No. 23STCV21606)

**Closed pursuant to Government Code § 11126(e)(2)(A).*

OPEN SESSION

The Board reconvened in open session and announced that there were no actions to report from the closed session. All agenda items were discussed on May 16, 2024. There was no meeting on May 17, 2024.

ADJOURN