

## RESOLUTION 08-10-2018

### DIGEST

#### State Bar of California: Oversight by an Inspector General

Adds Business and Professions Code section 6075.1 to create a State Bar Inspector General position to monitor and evaluate disciplinary systems, programs, and procedures of the State Bar of California.

### STATEMENT OF REASONS

The Problem: Pursuant to the adoption of Business & Professions Code section 6031.5, effective January 1, 2018, focus of the State Bar will be on its regulatory functions. The legislature has previously created temporary monitors to report to the Supreme Court concerning the efficiency and effectiveness of the bar's disciplinary system, finances, and other operations. However, the monitors' missions did not encompass the whole of the State Bar's regulatory system, including, e.g., admissions, human resource management, administration of specializations, or diversity and inclusion. The State Bar has recently completed a classification and compensation study that will provide essential data on the labor markets that impact all of its functions. In the aftermath of that study, the bar has created a new executive management team position entitled Chief Programs Officer. This position will be responsible for essential programs not previously addressed by ad hoc monitors, including: the offices of Admissions, Professional Competence, Member Records and Compliance, Client Security Fund, and Case Management and Supervision. The CPO will provide a broader spectrum of data and accountability that the Inspector can use to enhance the State Bar's organizational accountability to all of its constituents.

The Solution: The State Bar's lawyer discipline operations fall under the direction of the Chief Trial Counsel, a statutory position created. The proposed legislation would provide oversight of the State Bar as an organization. It would provide a permanent and independent internal affairs office to receive and investigate incidents of alleged managerial misconduct, financial mismanagement, or failure to apply policy directives that arise from all of its operations. The position is modelled on the prior monitor appointments and similar job descriptions for public Inspectors General, but provides permanent and more comprehensive oversight reporting directly to the Supreme Court, not only on lawyer regulation, but also on all of the other programs that relate to the bar's effectiveness and efficiency in its new role. The State Bar's Office of the Inspector General should provide a formal independent resource for the investigation of internal affairs where aggrieved parties have no independent recourse other than the civil courts or direct appeal to the California Supreme Court as the plenary authority over the admission and discipline of lawyers in California. The OIG would report directly to the Chief Justice of the Supreme Court and would also provide annual public reports and such other independent investigations, reports, and recommendations as may be required of and about the State Bar in the discharge of its public protection mission. Because the OIG would be permanent rather than ad hoc, it would have continuous access to critical information, which would both improve the quality of independent reporting as well as reduce the cost of periodic hiring of special personnel to address specialized concerns.

## TEXT OF RESOLUTION

**RESOLVED** that the Conference of California Bar Associations recommends that legislation be sponsored to add Business and Professions Code section 6075.1 to read as follows:

1 § 6075.1

2 (a)(1) The Chief Justice of the California Supreme Court shall appoint a State Bar  
3 Inspector General prior to January 1, 2019. The Chief Justice of the California Supreme Court  
4 shall advertise the availability of the position and conduct interviews of candidates for the  
5 position. The applicant for the position shall have investigative experience, shall be familiar with  
6 California laws and procedures, and, preferably, shall be familiar with the rules, procedures, and  
7 programs of the State Bar lawyer discipline system and relevant administrative procedures. The  
8 Inspector may be a state employee or his or her services may be provided pursuant to contract.  
9 The Supreme Court shall compensate the Inspector and shall provide the Inspector with  
10 sufficient support staff to carry out his or her duties. The State Bar shall annually reimburse the  
11 Supreme Court for the expense of the Inspector, including salaries, contract expenses and any  
12 related costs.

13 (2) The Chief Justice of the California Supreme Court shall supervise the inspector and  
14 may terminate or dismiss him or her from this position.

15 (b)(1) The inspector shall monitor and evaluate the disciplinary system, programs, and  
16 procedures of the State Bar. The inspector general shall make his or her highest priority the  
17 effectiveness and efficiency of the State Ba of the State so that the State Bar is successfully and  
18 consistently protecting the public.

19 (2) This inspection duty shall include, but not be limited to, providing contemporaneous  
20 oversight of internal affairs investigations, and the human resources disciplinary process of the  
21 State Bar; when authorized by the Supreme Court, the Governor, the State Assembly, or the State  
22 Senate, conduct reviews of State Bar policies and practices and, when completed, report back to  
23 the authorizing agency with findings and recommendations; maintain a state-wide intake  
24 function and process to receive communications from any individual regarding allegations of  
25 improper activity by the State Bar and initiate a review of such activity; conduct assessments of  
26 retaliation complaints submitted by State Bar employees against a member of State Bar  
27 management; review allegations of mishandling of incidents of discrimination, sexual abuse, or  
28 sexual harassment by the State Bar; and annually report to the Supreme Court a summary of the  
29 Inspector's reports and the State Bar's responses to the Inspector's recommendations.

30 (3) The inspector shall exercise no authority over the State Bar's operations or staff,  
31 however, the State Bar and its staff shall cooperate with the Inspector and the State Bar shall  
32 provide data, information, and case files as requested by the Inspector to perform all of his or her  
33 duties. The Inspector shall have the same access to documents as the Chief Justice of the  
34 California Supreme Court.

35 (c) The Inspector shall submit an initial written report of his or her annual report to the  
36 State Bar, the Supreme Court, and the Legislature no later than January 1, 2020, and be available  
37 to make oral reports to each if requested to do so. The inspector may also provide additional  
38 information to either the Supreme Court, the State Bar, or the Legislature at his or her discretion  
39 or at the request of the Supreme Court, the State Bar, or the Legislature. The Inspector general  
40 shall make his or her reports available to the public or the media. Pursuant to the amendment of  
41 Business & Professions Code section 6031.5, the Inspector shall make every effort to provide the

42 State Bar with an opportunity to reply to any facts, findings, issues, or conclusions in his or her  
43 reports with which the State Bar may disagree.  
44 (d) This section shall remain in effect until it is repealed.

(Proposed new language underlined; language to be deleted stricken)

**PROPONENT:** Los Angeles County Bar Association

**IMPACT STATEMENT**

This resolution does not affect any other law, statute or rule other than those expressly identified.

**CURRENT OR PRIOR RELATED LEGISLATION**

None known.

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