



The State Bar of California

Overview and Recommendations of Five-Year Sunset Review for the California Board of Legal Specialization

OVERVIEW AND BACKGROUND

[Board Policy Manual \(BPM\) Section 4.8](#) requires all subentities, except those that are statutorily mandated, to undergo a sunset review every five years beginning in 2023¹. This BPM provision stems from recommendations of the 2017 Governance in the Public Interest Task Force, and subsequent action by the Board of Trustees to codify [those recommendations](#), including ones regarding centralization and standardization of the appointments process and a cyclical zero-base review of each subentity.

In September 2023, the Board Executive Committee initiated this review. The review effort has reflected the following policy statement, shared with the Executive Committee on November 14, 2024:

Recognizing the substantial workload involved in managing the appointments and terms of 185 volunteers annually, and in light of the State Bar's need to adapt its business processes to accommodate a reduced headcount starting in 2025, the 2023–2024 Subentity Review will adopt the elimination of all nonstatutory subcommittees as a baseline position. This baseline may be adjusted based on a thorough functional and policy analysis.

Information about specific review criteria can be found [here](#).

This report provides an overview of the subentities subject to the subentity review requirement and prior Board consideration of operation and scope issues related to these bodies, a summary of activities done to effectuate the review, and final staff recommendations with respect to each subentity reviewed. In addition, the report includes a global recommendation regarding subentity workplans.

The State Bar's appointments process involves managing approximately 200 applications per cycle, with one cycle held each year and around 30 vacancies to fill annually. Two full-time staff members from the offices of the Executive Director and Strategic Communications & Stakeholder Engagement spend about 87 hours monthly combined of their time on tasks related to appointments throughout the year. These tasks include coordinating meetings, developing timelines, ensuring accurate website information, creating and executing a strategic outreach plan, preparing a demographic breakdown of the composition of each committee, communicating with applicants, drafting congratulatory and regret letters, and maintaining

¹ California Board of Legal Specialization, Client Security Fund Commission, Council on Access and Fairness, Committee on Professional Responsibility and Conduct, and Committee of State Bar Accredited and Registered Schools.

appointee terms and information. Expanded outreach and engagement efforts directed by the Board have had positive results, increasing both the number and diversity of attorney and nonattorney applicants; these efforts have also generated an increased workload for appointments staff. Compliance tasks, executed in part by the Office of Human Resources, include ensuring that Form 700s (assuming, annual, and departing) and Rule 2201 questionnaires are timely completed. Human Resources also adds Board and subentity members to the State Bar's financial and people management system to enable the Board Secretary to add questionnaires for volunteers. The Office of General Counsel reviews Form 700 submissions to ensure completeness and accuracy, may reach out to Trustees for clarification, and provides guidance to Board and subentity members on completing their forms. Human Resources audits Form 700s to ensure timely filing, while Office of Compliance staff runs periodic reports to ensure accurate data is posted on the State Bar's Transparency and Accountability webpage.

The Board of Trustees has established liaisons to oversee the appointments function and to review comprehensive materials for each appointment. The Board liaison review process typically includes 1–3 meetings per cycle, each lasting 1–4 hours, along with interviews for officer candidates. Initial meetings with individual committee staff are held to understand vacancies. Meetings are coordinated to facilitate the appointments process, with both Executive Director and Strategic Communications & Stakeholder Engagement staff attending and assisting with coordination.

In addition to the centralized work conducted by staff in the offices of the Executive Director and Strategic Communications & Stakeholder Engagement, programmatic staff support each subentity.

A decrease in the total number of State Bar volunteers will therefore impact staff in the Offices of Compliance, Executive Director, General Counsel, Human Resources, Strategic Communications & Stakeholder Engagement, and supporting programmatic offices. In addition, the workload of the Board's appointments liaisons would be reduced.

CALIFORNIA BOARD OF LEGAL SPECIALIZATION (CBLS) OVERVIEW AND BACKGROUND

California Rule of Court rule 9.35, requires the State Bar to establish and administer a program for certifying legal specialists, and additionally allows the State Bar to provide certification through the CBLS “or any other entity approved by the State Bar to designate specialists.”²

Established in 1970 and approved by the California Supreme Court in 1985, CBLS oversees the State Bar’s legal specialization program, certifying legal specialists across 11 areas of law.

The board consists of seven members with a maximum of two being nonattorneys. Attorney members may be a combination of certified specialists and non-specialists. If attorney members are specialists, recusal from certain topics, particularly financial matters, may be required. Members serve four-year terms, while officers, serve one-year terms with the possibility of reappointment.

During the 2017 Governance in the Public Interest Task Force deliberations, differing views emerged on whether the legal specialization certification program served primarily as a public protection function or as a means for attorneys to develop their law practices. No conclusive determination was made. Follow-up exploration for the Board related to three questions:

- Should certification be characterized as a public protection function or as an associational activity?
- Should the certifications offered by the State Bar be discontinued and the function outsourced to accredited providers of certification?
- Could certification of legal specializations be streamlined by redesigning the work and altering the division of labor among State Bar staff, subject matter experts, and paid consultants?

The Board ultimately took action on these questions in September 2018 pursuant to a report, [Opportunities for Improving Governance and Service Delivery](#), specifically opting to: (1) retain the legal specialization function in the State Bar; (2) eliminate the Advisory Commissions that had theretofore been part of the Commission; and (3) professionalize the test development and administration process, aligning it more squarely with that used for the California Bar Exam. The relevant Board resolution read in part:

regarding the work of the California Board of Legal Specialization, the Board of Trustees approves Option 1 as summarized on p. 40 of the [Opportunities for Improving Governance and Service Delivery](#) report and requests that staff identify legal specializations that increase access to justice (emphasis added).

Workflow and Efficiency

The CBLS conducts 4–6 meetings annually and is supported by 3–4 staff in the Office of Admissions. In total, these staff provide 4–8 hours monthly to CBLS-related support.

² Rule 9.35 of the California Rules of Court, http://www.courts.ca.gov/documents/title_9.pdf (as of July 24, 2018).

CBLS’s 2024 budget totals \$6,000. This amount does not include the personnel costs outlined above.

In 2025 CBLS is expected to propose one new area of specialization to the Board of Trustees, the first such proposal in 16 years. The last specialties to be introduced were Maritime and Legal Malpractice, each in 2008.

Functions

Table 1 below outlines key CBLS functions and the role of CBLS and other entities in relation to those functions. Each year, CBLS prepares a work plan, generally aligned with these functions, for Board Executive Committee approval.

Table 1. Key Functions and Responsibilities of CBLS

Function	Responsible	CBLS Role	Board of Trustees Role
Exam Development			
Develop questions	Paid consultants (LSEDG)	None	None
Review questions	Paid consultants (LSEDG)	None	None
Evaluate grading	Psychometrician	None	None
Grading	Paid consultants (LSEDG)	None	None
Exam violation appeals	CBLS reviews appeals	Full responsibility	None
Challenges to exam questions	Paid consultants (LSEDG and staff)	None	None
Set exam fee	Staff	None	Board approves as part of the schedule of charges and deadlines.
General Program Administration			
Create additional areas of legal specialization	CBLS creates a working group to study new areas of specialization and makes recommendations to the Board for the creation of new specialty areas.	Staff vets new specialties and presents results to CBLS; CBLS develops recommendations for Board consideration.	Board to approve upon recommendation from CBLS to create a new legal specialization area.
Develop outreach efforts to increase awareness of the program	CBLS and staff	CBLS contributes ideas and input for outreach initiatives, while staff are responsible for executing these activities.	None
Recommend program updates (to application, rules, etc.)	CBLS and staff	CBLS reviews and provides input on any program updates.	None
Review application denials	CBLS	Full responsibility	None
Review waiver of rules denials	CBLS	Full responsibility	None
Testing Accommodations			

Function	Responsible	CBLS Role	Board of Trustees Role
Policy development	Staff and CBE	None	Board has no involvement in policy development; however, the Board does approve rule changes.
Review petitions	Staff in consultation with consultants and testing accommodations medical doctors	None	None
Review appeals	Two-person working group (members of the CBLS)	Limited responsibility. This function is confined to a two-person working group.	None

A survey was issued to current CBLS staff and focused on the specific functions currently performed by CBLS. A majority of the six respondents indicated that most of the functions currently performed by CBLS are necessary. Respondents generally expressed a view that these functions could be more efficiently and perhaps effectively performed by staff or paid consultants, as opposed to by the committee itself, although some indicated that the unique experience of CBLS members as active licensees and in some instances specialists, is beneficial to the program.

A survey was also sent to 15 current and former CBLS members; 8 responses were received. Respondents generally felt that CBLS performs the duties outlined in table 1 above well or very well, highlighting CBLS’s value in upholding public trust, designating qualified specialists, and promoting attorney competence. Concerns were raised regarding the removal of advisory commissions pursuant to 2018 Board action; respondents indicated that this change had reduced program effectiveness and specialist involvement. Top themes that emerged from the survey are as follows:

- 1. Importance of CBLS**
 Respondents highlighted CBLS’s critical role in certifying legal specialists and ensuring public confidence in the profession. Many believe that CBLS plays a key role in attorney training and consumer protection.
- 2. Public Awareness**
 Several respondents noted that the public is generally unaware of attorney specialization certification, drawing comparisons to public recognition of board-certified physicians. Increasing public awareness could enhance the program’s impact.
- 3. Program Promotion**
 Participants expressed interest in expanding outreach efforts to both attorneys and the public, suggesting that additional promotional initiatives could improve program visibility and participation.

4. Structural Changes

Concerns were raised about the impact of eliminating advisory commissions. Respondents felt that this change reduced the effectiveness of the program and specialist involvement.

5. Historical Success

Long-term CBLS members emphasized the program's historical success and national recognition, stating that it has been one of the most well-regarded and financially stable initiatives of the State Bar.

6. Program Independence

A majority of respondents advocated for CBLS to operate with a level of independence from the State Bar. They argued that the program has been self-sustaining and financially viable, and that maintaining autonomy is critical to its continued success.

Preliminary CBLS Recommendations

Options for conducting CBLS functions in a manner other than the status quo include:

Reviewing examination violation appeals:

1. The Committee of Bar Examiners (CBE) absorbs responsibility.
 - a. Pros:
 - i. The CBE already performs this function in relation to the California Bar Exam. A similar skillset and knowledge base is needed for legal specialization exam purposes.
 - ii. This approach would expedite review of these appeals as the CBE meets more frequently than does CBLS.
 - b. Cons:
 - i. Increased CBE workload.
2. Staff performs this function.
 - a. Pros:
 - i. Faster appeals processing times.
 - ii. More consistent handling of appeals.
 - b. Cons:
 - i. A non-staff appeals avenue may be required and even if not is ideal optically.
 - ii. Increased staff workload.

Making recommendations to the Board for consideration of new specialties³:

³ No new specialty areas have been added in the past 18 years. The last two created were Admiralty and Legal Malpractice in 2008. In 2020, CBLS formed the Consulting Group on the Establishment of a Legal Specialization in Privacy Law. [Recommendations](#) for a privacy law specialization were presented to the CBLS in December 2024, with final recommendations to be submitted to the Board in May 2025.

1. Paid consultants absorb this responsibility.
 - a. Pros:
 - i. Paid consultants could develop a structured and comprehensive process for identifying potential new specialties.
 - ii. The process for identifying new specialties could be data-driven and informed by the State Bar's mission.
 - b. Cons:
 - i. Cost.
 - ii. It is unclear if there are appropriately experienced and skilled consultants available for this type of engagement.

2. Staff performs this function.
 - a. Pros:
 - i. The process for identifying new specialties could be data-driven and informed by the State Bar's mission.
 - ii. The process for identifying new specialties could be standardized and expedited.
 - iii. This transition of responsibilities was contemplated at least in part by the Board's 2018 action, but has not yet been fully implemented. Staff currently participate in the vetting of new specialties prior to presentation to the CBLs.
 - b. Cons:
 - i. Increased staff workload.

Developing outreach efforts to increase awareness of the program:

1. Paid consultants perform this function.
 - a. Pros:
 - i. The process for approving and issuing outreach communication materials could be expedited.
 - ii. Paid consultants would have more experience and knowledge regarding effective outreach than the CBLs.
 - b. Cons:
 - i. Cost.
 - ii. Paid consultants may lack the personal connections within the legal specialization community that could be important for effective outreach.

2. The State Bar's Office of Strategic Communications & Stakeholder Engagements performs this function (staff).
 - a. Pros:
 - i. The process for approving and issuing outreach communication materials could be expedited.

- ii. State Bar communications staff have significant expertise with outreach efforts which would benefit the legal specialization program overall.⁴
- b. Cons:
 - i. Increased staff workload.
 - ii. Staff lacks the personal connections within the legal specialization community that could be important for effective outreach.

Recommending program updates:

1. Staff absorbs this function.
 - a. Pros:
 - i. There are staff who are more familiar with the program than current members of CBLS; these staff may be more readily able to identify needed program updates.
 - b. Cons:
 - i. Increased staff workload.
 - ii. An active attorney with the specialization at issue may have the most up-to-date insight on standards and rules that need to be amended.

Reviewing testing accommodation appeals:

1. CBE absorbs this responsibility.
 - a. Pros:
 - i. The CBE already performs this function in relation to the California Bar Exam. A similar skillset and knowledge base is needed for legal specialization exam purposes.
 - b. Cons:
 - i. Increased CBE workload
2. Staff performs this function.
 - a. Pros:
 - i. Faster appeals processing times.
 - ii. More consistent handling of appeals.
 - b. Cons:
 - i. A non-staff appeals avenue may be required and even if not is ideal optically.
 - ii. Increased staff workload.

Staff Recommendations

Disband CBLS in accordance with the subentity review policy statement and in recognition of the efficiency and outcome benefits to be gained by transferring its current functions to State Bar staff and other subentities as follows:

⁴ There were approximately 5,150 legal specialists at the time the 2018 report was published; there are an estimated 4,750 today, reflecting a reduction of approximately 8 percent. More effective marketing and outreach efforts could reverse this downward trajectory.

Functional Area	Current	Proposed
Exam Violation Appeals	CBLS	CBE
Testing Accommodations Appeals	CBLS	CBE
Recommendations for New Specialties	CBLS	Staff in partnership with CLA, local and affinity bars, and working groups convened for this purpose
Outreach	CBLS	Strategic Communications
Program Updates	Primarily staff	Staff

This recommendation will result in CBLS staff savings of 4–8 hours monthly, appointments staff savings of 16–24 hours annually, and \$6,000 in annual travel and catering expense savings.

If the Board Executive Committee agrees with this recommendation staff will develop a proposed implementation plan, likely to reflect a phase-out of CBLS over time, and will engage the Committee of Bar Examiners to mindfully plan for that body’s assumption of new responsibilities.

Implementation of this recommendation would require amendments to Title 3, Division 2, Chapter 2 of the State Bar Rules governing legal specialization.