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The State Bar of California

It Is Not Effectively Managing Its System for Investigating and Disciplining Attorneys Who Abuse the Public Trust

Background

To protect the public from attorneys who would abuse the public's trust, with limited exceptions, state law requires that every person admitted and licensed to practice law in California must be a member of the State Bar of California (State Bar). The State Bar licenses attorneys, enforces rules of professional conduct for attorneys, disciplines attorneys when necessary, and supports greater access to the legal system. The Board of Trustees of the State Bar (board) governs and oversees the State Bar's management of the attorney discipline process and other functions. The Legislature annually approves license fees.

Key Recommendations

- The Legislature should amend the date the discipline report is due to ensure it has sufficient time to consider the discipline report before reviewing proposed license fees.
- The board should ensure that the State Bar's discipline report is adequately reviewed, evaluated, and approved before it is issued to ensure the information presented is complete and consistent.
- The State Bar should assess the impact of its discipline system reorganization to ensure the system operates efficiently, and secure the best value for the money it spends by enforcing protocols for selecting bar exam vendors.

Key Findings

- In 2016 the State Bar reorganized its discipline system for investigating and prosecuting attorney misconduct, but its actions did not satisfy all of the relevant statutory requirements or audit recommendations, and some results have been negative.
 - » Case processing times in the investigative phase for attorney discipline cases increased by 56 percent and the backlog of unresolved cases increased by 87 percent, which increases potential harm to the public since attorneys continue to practice law while their cases are pending.
 - » The State Bar appears to be disciplining attorneys at a dramatically lower rate for reasons it cannot adequately explain—the total number of cases that resulted in discipline declined by 54 percent.
 - » It does not measure the performance of its discipline system staff against benchmarks, which has hampered its ability to detect problems in its discipline system.
- The State Bar omitted some required information such as certain types of cases from its caseload metrics and certain past data needed for year to year comparisons in its 2019 discipline report to the Legislature, and the statutory deadline for the report limits the Legislature's time to review it before making license fee decisions.
- The State Bar entered into multimillion dollar agreements without adequately justifying the vendor it selected to administer the bar exam.

