

Item A

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TO: MEMBERS, BOARD OF GOVERNORS

FROM: COMMITTEE ON HUMAN RIGHTS

RE: RECOMMENDATION FOR AMENDMENT TO CURRENT STATE BAR POLICY PROHIBITING USE OF DISCRIMINATORY FACILITIES FOR STATE BAR EVENTS.

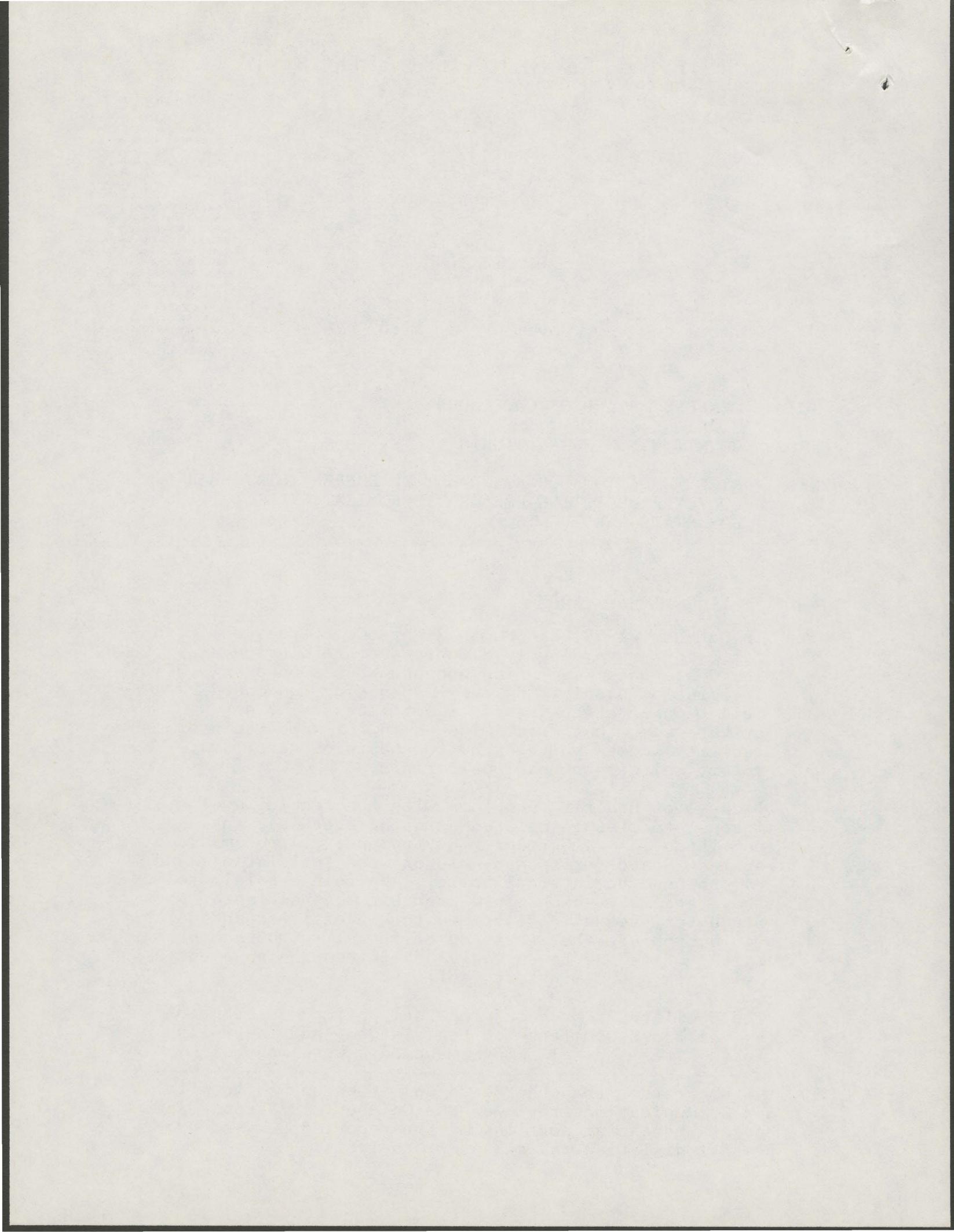
## I. Introduction/History:

In October, 1979, the Human Rights Committee submitted its report regarding 1978 Conference Resolution 2-2. The Conference Resolution proposed bar sponsorship of legislation prohibiting the issuance or continued retention of state-issued liquor licenses by any private club that discriminated in its membership or facility access policies on the basis of race, sex, color, religion or national origin.

Because of drafting problems with the resolution and inconsistencies in related existing statutes, the Committee in its October, 1979 report: 1) recommended against State Bar sponsorship of such legislation, and 2) proposed an internal policy, applicable solely to the State Bar, which would prohibit the holding of State Bar events in discriminatory facilities and which would prohibit the provision of travel reimbursement by the State Bar to an individual attending an event held in a discriminatory facility.

The Committee's proposed internal policy was adopted by the Board Committee on Legislation<sup>1</sup> and the full Board after the following amendments were made:

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- 1) B.C.L., rather than the Board Committee on Public Affairs and Communications, reviewed the October, 1979 report because substantial portions of the report discussed proposed legislation and statutory analysis.



1. The Committee had urged that the State Bar attempt to persuade other statewide legal organizations and local and speciality bars to adopt a similar policy.

This provision was amended by the Board to only require that such organizations be informed of the State Bar's action.

2. "Age" and "medical condition" discrimination were dropped from the Committee's 1979 proposed policy.

The policy has now been in effect for almost a year. The Committee has some ongoing concerns with loopholes and omissions in the policy.

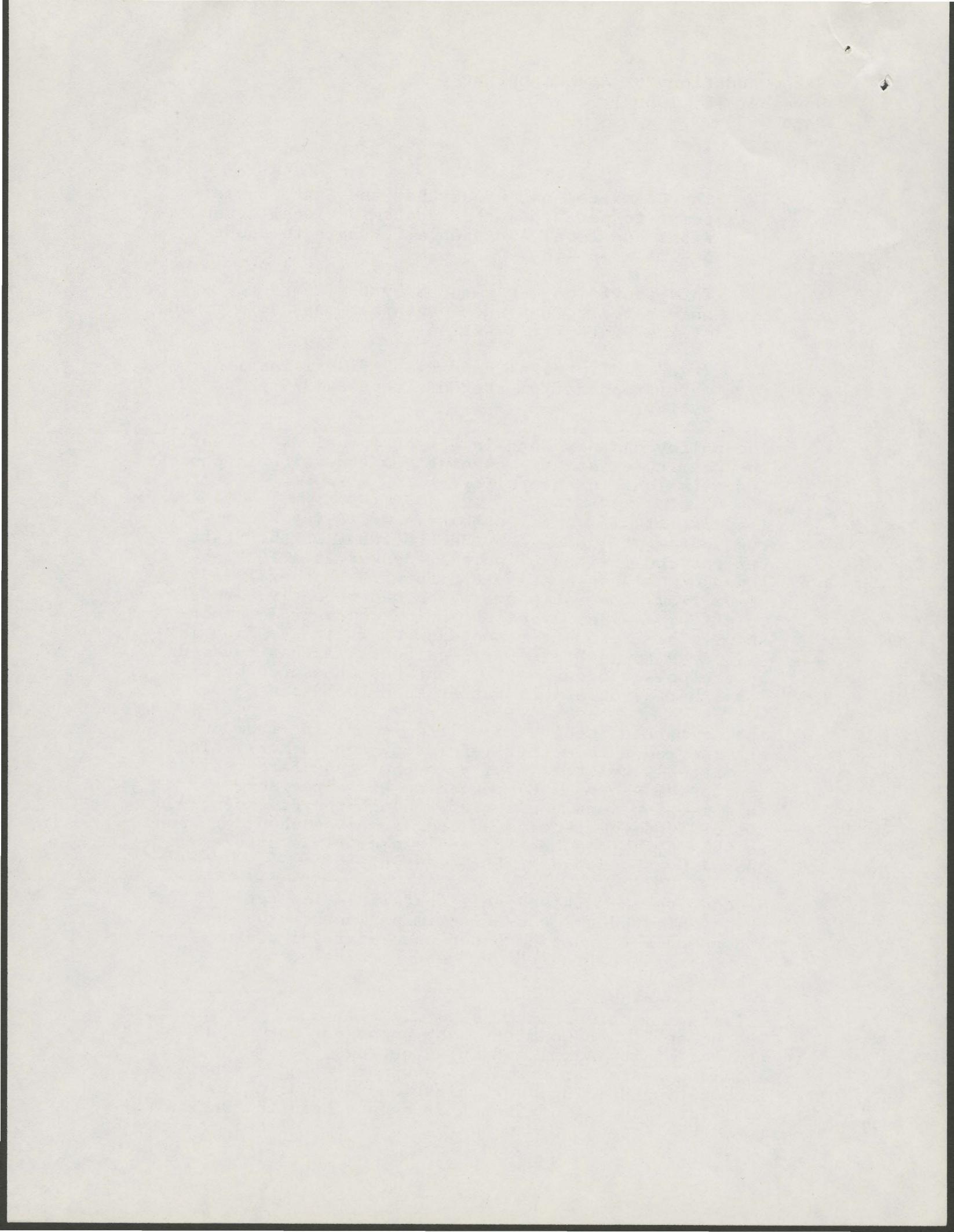
The most significant loophole in the policy became apparent in the Spring of 1980, when the President of the State Bar was the invited principal speaker at a local bar luncheon held at a private club which has excluded women from membership and which had recently voted to re-affirm its policy of excluding women from membership. The President's appearance, which was made in his capacity as State Bar president, was not covered by the policy because the event was sponsored by a local bar association, rather than the State Bar.

The Committee received a written complaint from one attorney on this matter (enclosed, Appendix B). The Committee's written inquiry to the State Bar President (enclosed, Appendix C) regarding his appearance at this meeting went unanswered, though the President did solicit the Committee's advice as how he should respond to the objections he had received over the site chosen by the Pasadena Bar Association.

Second, the Committee feels that it is imperative that the prohibited forms of discrimination be expanded to include discrimination based upon "marital status," "sexual orientation," "age," and "medical condition."

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II. Recommendation:

The Human Rights Committee, by unanimous vote of members present at its April and July meetings, recommends that the State Bar Board of Governors amend its policy prohibiting holding, participation, scheduling and travel reimbursal of State Bar events held in discriminatory facilities.



The recommended amendments to be as follows:

1. Extend the definition of prohibited discriminatory facilities to facilities which discriminate on the basis of marital status, sexual preference, age or medical condition. These amendments would conform the policy to the State Fair Employment Practices Act.
2. To extend the policy to preclude: a) State Bar co-sponsorship of an event held in a discriminatory event; b) participation of a State Bar official in his or her State Bar capacity in an event sponsored by another entity which is held in a discriminatory facility.
3. That the State Bar urge other statewide legal organizations and local bar associations to adopt similar policies.

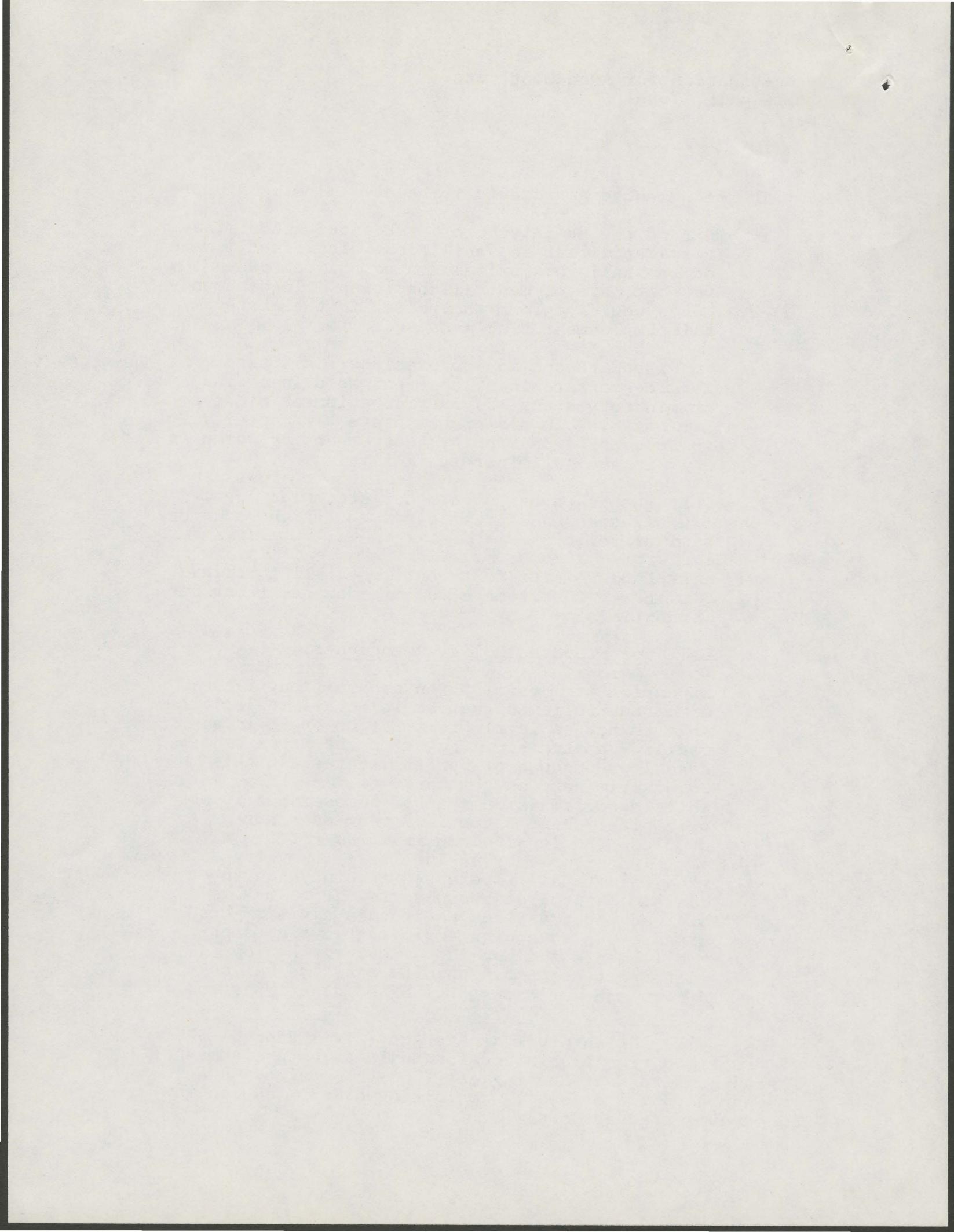
NOTE: APPENDIX A sets forth entire existing policy with the Committee's recommended deletions and additions.

III. Rationale for Proposed Policy Amendments:

- A. Expansion of discrimination prohibition: The Committee believed that it is equally objectionable to hold a legal organization event in a facility that discriminates on the basis of age, sexual preference or marital status as it is to discriminate on the basis of race, sex, etc. While discrimination against homosexuals is not prohibited under State law, that does not preclude the legal community from setting a positive example by making legal community activities open to all interested attorneys on an equal basis. Marital status discrimination is prohibited under various California civil rights statutes,<sup>2</sup> governing employment, business establishments and housing. The Fair Employment Practices Act prohibits age, medical condition and marital status-based discrimination.

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2) See, e.g., Unruh Civil Rights Act (Civil Code 51-52, : discrimination prohibited for business establishments) and Rumford Fair Housing Act (Health & Safety Code Section 35700 et seq., prohibiting discrimination in housing transactions).



B. Co-sponsorship and participation prohibitions:

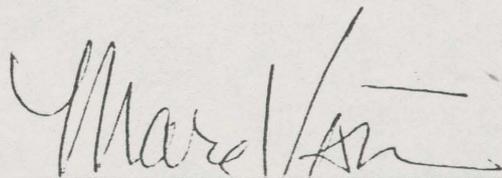
The existing policy can be rendered ineffective if the State Bar and its entities can hold co-sponsored events in discriminatory facilities. In addition, it was felt that the spirit of the existing policy is violated when State Bar officials speak for the State Bar and/or represent the State Bar at events sponsored by other organizations at a discriminatory facility. Such a State Bar "presence" regardless of intent, lends credibility or implicit approval to other legal organizations holding their events in discriminatory facilities.

C. State Bar advocacy of non-discriminatory event site policies:

With reference to this change, the Committee felt that the State Bar should both set an example in this area and actively urge local and statewide legal organizations to hold their events in non-discriminatory facilities.

Adopting this amendment would not mean that the State Bar would be regulating the internal policies of the local bars or other statewide legal organizations, but it require the State Bar to publicly encourage that all legal organizational events be held in non-discriminatory facilities.

Report prepared by Staff  
Attorney; resolution & policy  
amendments prepared by  
Committee members:



MARY VAIL, Staff Attorney  
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Enclosures

