

AGENDA ITEM

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Proposed Revision to
Section 7 of the Rules
Governing the Financial
Assistance Plan of the State
Bar of California Lawyer
Assistance Program—
Request for Public Comment

DATE; October 19, 2007

TO: Members of the Board Committee on Member Oversight

FROM: The Oversight Committee of the Lawyer Assistance Program

SUBJECT: Proposed Revision to Section 7 of the Rules Governing the Financial Assistance Plan of the State Bar of California Lawyer Assistance Program (Installment Payments for Delinquent Debt) – Request for Public Comment

ATTACHMENT: Exhibit A: Proposed amendment to Section 7 of the Rules Governing the Financial Assistance Plan of the State Bar of California Lawyer Assistance Program

EXECUTIVE SUMMARY

Pursuant to Section 6235 of the Business and Professions Code (Attorney Diversion and Assistance Act), the Financial Assistance Plan of Lawyer Assistance Program (“LAP”) was established to provide financial aid (loans) to those attorneys who are eligible to participate in the program (“participants”) and would otherwise be financially unable to do so. The Rules Governing the Financial Assistance Plan (“Rules”) state that the loans to attorneys who cease to participate in the program prior to completing the LAP become immediately due and payable. The Rules do not allow for due and payable debt to be repaid in installment payments. Given the financial status of Plan participants, the LAP Oversight Committee considers it unrealistic in most cases to expect that the entire amount of the loan can or will be repaid immediately.

The Oversight Committee recommends that Section 7 of the Rules be amended to allow for installment payments on due and payable debt, amortized at an interest rate of seven percent (7%) per annum, plus an administrative fee to offset the cost associated with processing installment payments.

The Member Oversight Committee is being asked to authorize the circulation of this proposal for a shortened public comment period of thirty (30) days, pursuant to §4(B) of the Procedure for Adoption, Amendment or Repeal of State Bar Regulations. Board members with questions or concerns may contact Richard Carlton, 415/538-2355 or richard.carlton@calbar.ca.gov

ISSUE

Should the Committee authorize the circulation of the proposed amendment to Section 7 of the Rules Governing the Financial Assistance Plan of the State Bar of California Lawyer Assistance Program (“Rules”) for a thirty (30) day period of Public Comment?

BACKGROUND

The Rules Governing the Financial Assistance Plan (“Rules”) provide that when a participant stops participating in the LAP for any reason, but has not achieved the status of Successful Completion, the total amount of any loans or advances become immediately due and payable and Interest begins to accrue at the rate of seven percent (7%) per annum. The Rules do not allow for such debt to be repaid in installment payments. Given the financial status of Plan participants, the LAP Oversight Committee considers it unrealistic in most cases to expect that the entire amount of the loan can or will be repaid immediately.

FISCAL IMPACT

This proposal would have a limited personnel impact that would be offset through an administrative fee added to due and payable loans being repaid in installments. It is presumed that the availability of the option of installment payments would increase the amount of repayment received and reduce bad debt.

LENGTH OF PUBLIC COMMENT PERIOD

The Member Oversight Committee is being asked to authorize the circulation of this proposal for a shortened public comment period of thirty (30) days, pursuant to §4(B) of the Procedure for Adoption, Amendment or Repeal of State Bar Regulations.

BOARD BOOK/ADMINISTRATIVE MANUAL IMPACT

None.

RECOMMENDATIONS AND RESOLUTIONS

The LAP Oversight Committee recommends that the proposed amendment of Section 7, in the form attached hereto as Exhibit A, be circulated for public comment for a period of thirty (30) days. If the members of the Board Committee concur with the Oversight Committee’s recommendation, it should adopt the following resolution:

RESOLVED, that the Board Committee on Member Oversight authorizes the proposed amendment of Section 7 of the Rules Governing the Financial Assistance Plan of the State Bar of California Lawyer Assistance Program, in the form attached hereto as Exhibit A, to be circulated for public comment for a period of) thirty (30) days, as provided for by § 4(B) of the Procedure for Adoption, Amendment or Repeal of State Bar Regulations.