

**The State Bar of California**  
**FY 2008 Board of Legal Specialization Committee Work Plan**

**Background**

Committee Name: Board of Legal Specialization
Chair: Alice W. O'Sullivan
State Bar Staff: Phyllis J. Culp, Lorna Maynard, Office of Special Admissions and Specialization
Date: November 2007
<p>Committee Background: In 1970 California became the first State to establish a system for “certifying” legal specialists.<sup>1</sup> The California Legal Specialization program has both public protection and regulatory aspects. Certification tends to protect the public by identifying for the public attorneys that have demonstrated proficiency in a particular area of law. The program ensures for the public that when an attorney holds himself/herself out as a “certified specialist,” that attorney has substantial knowledge and experience in the identified area of law.<sup>2</sup> Certification for the attorney validates specialized knowledge.</p> <p>The Legal Specialization program operates pursuant to the following regulatory structure:</p> <ul style="list-style-type: none"><li>• Rule 9.35, adopted by the Supreme Court, which contains a provision authorizing the State Bar to adopt rules to establish and administer a program to certify legal specialists;</li><li>• Rules Governing the State Bar of California Program for Certifying Legal Specialists (Rules) [Adopted by the State Bar of California Board of Governors];</li><li>• Individual Standards for Certification and Recertification in the nine specialty areas of law. [Adopted by the State Bar of California Board of Governors]</li></ul>

<sup>1</sup> Since the inception of the Legal Specialization program, costs of the program have been covered in their entirety from revenue generated by the program. Examples include annual fees, application fees for certification and recertification, education course and provider fees, and accreditation fees.

<sup>2</sup> California Rule of Professional Conduct 1-400(D)(6) prohibits an attorney from advertising as a “certified specialist” unless the member is certified by the BLS or another entity accredited by the State Bar to designate specialists. There are currently five accredited entities certifying specialists in Business Bankruptcy Law, Consumer Bankruptcy Law, Creditors’ Rights Law, Civil Trial Advocacy, Criminal Trial Advocacy, Family Law Trial Advocacy, Social Security Disability Advocacy, Elder Law, Accounting Malpractice, Legal Malpractice, Medical Malpractice, and Juvenile Law (Child Welfare).

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The legal specialization program is administered by the California Board of Legal Specialization (BLS).<sup>3</sup> The BLS is assisted by an advisory commission in each of the nine areas of law where certification is available.<sup>4</sup>

In order to receive a certificate as a specialist, an attorney must: be an active member of the State Bar, pass a written examination in the specialty area, demonstrate a high level of experience in the specialty area based on performance of a variety of activities related to that area, fulfill ongoing education requirements in the specialty area, and be favorably evaluated by other attorneys and judges familiar with the attorney's work in the specialty area. Certification is valid for a five-year period, during which time specialists must continue to meet task and education requirements similar to those for certification.

**Activities**

<b>Activity</b>	<b>Status/Time frame</b>
Examination in 9-11 areas of law	Exam will be held at northern and southern CA sites in August 2009.
Approval of Specialization Education Providers	Ongoing – providers are approved for three years. Renewals are ongoing.
Approval of Individual Education Activities for Specialization Credit	Ongoing – Applications are submitted throughout the year.
Certification/Recertification of Specialists	Ongoing – Applications are reviewed and a monthly agenda is submitted to the BLS. Specialists are certified for a five-year period and must thereafter submit an application for recertification.
Outreach to develop new specialty areas of certification	Ongoing – A subcommittee of the BLS.
Enhance both Public and Attorney awareness of the Specialization Program	Ongoing – A subcommittee of the BLS.

<sup>3</sup> The Board of Legal Specialization is composed of 11 members and one advisor (traditionally the previous year's chair) appointed by the Board of Governors. In addition, the chairs of the Advisory Commissions serve as voting members. At least three members must be non-attorneys.

<sup>4</sup> Each Advisory Commission is composed of nine members appointed by the Board of Governors. Members must be certified specialists in the area of law (except where certification has been available for less than six years); at least one must be a non-attorney. The areas are: 1) Appellate Law, 2) Bankruptcy Law, 3) Criminal Law, 4) Estate Planning, Trust and Probate Law, 5) Family Law, 6) Franchise and Distribution Law, 7) Immigration and Nationality Law, 8) Taxation Law, and 9) Workers' Compensation Law.

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Activity	Status/Time frame
<p>Raise public awareness in California of the benefits of using a certified legal specialist by relying on the certification designation to help make an informed decision when finding and hiring an attorney.</p> <ul style="list-style-type: none"> <li>• Program’s website provides a search function allowing the public to search by geographic area, specialty area and/or name.</li> <li>• Brochures describing the Program and areas of specialization have been developed and are available in English and Spanish.</li> <li>• The names and area(s) of specialization for all certified specialists are provided to the <i>Parker Directory</i> for publication in its attorney directory.</li> <li>• Financial Support for the public radio broadcast, “Your Legal Rights,” hosted by Chuck Finney. Twice a month a certified specialist makes an appearance on this statewide program, along with call-a-lawyer night participants.</li> </ul>	<p>Ongoing – updated continuously.</p> <p>Ongoing – updated as needed.</p> <p>Ongoing – published annually at the end of the year.</p> <p>Ongoing – monthly.</p>
<p>Raise attorneys’ understanding of the value of certification to their professional growth and practice development, and encourage them to seek certification in an area of law in which they specialize.</p> <ul style="list-style-type: none"> <li>• Monthly ad in the <i>California Bar Journal</i> (encouraging attorneys to investigate the program).</li> <li>• Encourage publication of articles by certified specialists. Publication of the <i>Legal Specialization Digest</i>, sent to all specialists twice yearly.</li> <li>• Appearances at education activities to answer questions about the program and distribute information.</li> </ul>	<p>Ongoing – monthly.</p> <p>Ongoing – monthly.</p> <p>Ongoing – annual meeting, conferences, section events.</p>

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**Performance Indicators**

List major activities/products with benchmark dates for this year.

1. Certified specialists monitored.  
(Dec 2007 → 4,091 plus approximately 150 on judicial service)
2. Pending Certification Applications  
(Dec 2007 → 102<sup>5</sup>)
3. Applicants tested by written examination.  
(2007 → 516)
4. Legal Specialization Approved Providers.  
(Dec 2007 → 86)
5. Board, Commission and Consulting Group meetings staffed.  
(2007 → 66)
  
6. Other key indicators:  
  
Number of visits to the website – Legal Specialist Search (2007 YTD → 70,920)  
Number of visits to the website – Legal Specialization pages (2007 YTD → 42,538)  
Number of Brochures sold (2007 YTD → 4,500)  
Number of Specialty Certification Programs Accredited (2007 YTD → 12)  
Number of Attorneys Certified by Accredited Entities (2006 → 266)

**How Do Activities Further Completion of the Committee's Charge?**

The activities of the Legal Specialization Program are mandated by rule 9.35, California Rules of Court, the Rules Governing the State Bar of California Program for Certifying Legal Specialists, and the standards of the individual specialty areas. See the activities chart for a list of the current Board of Legal Specialization activities.

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<sup>5</sup> The Certification process is cyclical because of the biennial exam. The number of pending applications increase somewhat after exam results are released and increase dramatically after each application deadline.

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**State Bar Strategic Goals and Strategies Furthered by Activities**

The Board of Legal Specialization furthers the following goals and strategies:

Goal 1: The public is protected and served by attorneys and other legal service providers that meet the highest standards of competency.

The Legal Specialization program furthers the goal by:

Strategy 1.3 Competence and Ethical Standards

- Certifies specialists who have demonstrated proficiency in an area of law;
- Certifies specialists with extensive knowledge in an area of law;
- Exam verifies knowledge of procedures and substantive knowledge in an area of law; and
- 45 hours of approved education in the specialty area for initial certification and 60 hours of approved education every five years for recertification, thereby encouraging attorney competence and education.

Goal 2: The State Bar provides a wide array of services and benefits to members that meet their professional development, business, and personal needs.

The Legal Specialization program furthers the goal by:

Strategy 2.1 Communication with Members

- Publishes a biannual *Digest* of news and information;
- Supports a public radio program, *Your Legal Rights*, where specialists appear and answer questions about a particular area of law;
- Specialists speak at continuing education programs; and
- Maintains a website with information for certified specialists and those interested in becoming certified specialists.

Strategy 2.2 Professional Development Services:

- Certification as a legal specialist is a credential demonstrating to peers in the area of specialization the specialist's knowledge;
- Encourages the creation of specialist-level education activities by outside providers and State Bar Sections.
- The specialization program provides a method for members to demonstrate their professional development.

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Goal 3: All people have access to high quality legal services regardless of financial or other circumstances.

The Legal Specialization program furthers the goal by:

Strategy 3.1 Pro Bono Representation

- BLS has adopted a proposal to provide Pro Bono services by certified legal specialists as trainers and mentors.

Goal 4: The State Bar fulfills its mission through effective and supportive relationships with all stakeholders.

The Legal Specialization Board program furthers the goal by:

Strategy 4.1 Develop Relationships with Member Groups

- Staff regularly communicates by e-mail, telephone and in writing with members who are certified or seeking certification; and
- The Advisory Commissions are constituted to ensure diverse representation for the widest body of attorneys possible.

Strategy 4.3 Public Information

- The Legal Specialization program provides information to the public on the web. The public can obtain a list of specialists by county and by area of law.
- Staff regularly communicates by e-mail, telephone and in writing with the public about the program.

Strategy 4.4 Media Relations

- Staff and volunteers regularly communicate with the media to provide a clear description of the program and its benefits to the public and membership.

Goal 5: The State Bar is recognized and respected as a contributing and accountable leader in improving the administration of justice and ensuring the rule of law in our civil society.

The Legal Specialization program furthers the goal by:

Strategy 5.2 Strategic Planning

- The BLS engages in ongoing planning and is charged with identification of proposed new fields of law for the program.

Strategy 5.3 Obtain and Account for Resources

- The BLS is a self-funded program that monitors its own funds and expenditures. The BLS helps support the State Bar through substantial interfund contributions.

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Goal 6: The State Bar uses technology effectively and efficiently to support all aspects of its operations, facilitate communication, and enhance the administration of justice in California.

The Legal Specialization program furthers the goal by:

Strategy 6.1 Quality Services for Members and the Public;

Strategy 6.2 Enhanced Management Efficiency; and

Strategy 6.3 Infrastructure

- The Legal Specialization website provides valuable and low-cost information to attorneys, the public, and educational providers;
- Exam information is available online. Attorneys are able to register for the exam online and pay by credit card;
- The Legal Specialization program is automating the creation and distribution of routine items such as correspondence, meeting notices and agenda materials;
- Current and back issues of the *Legal Specialization Digest* are available online;
- Consumer brochures can be ordered online and paid for by credit card; and
- The Legal Specialization program intends to continue the use of technology by accepting online payments for fees, education applications and eventually all monetary transactions.

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**Recommended New Strategic Initiatives for Board Consideration**

Name of Initiative: Creation of a limited number of new specialties based on stakeholder requests.

Purpose: Implementing new specialty areas provides the public with a better match between the client's needs and the attorney's qualifications and allows attorneys to identify themselves as proficient specialists in a particular area of law. It also encourages the creation of specialist-level education in those areas.

Responsible Entity (committee/staff, etc.): The Board of Legal Specialization

Connection to the Strategic Plan: Creation of new specialty areas protects the public by providing them with attorneys who meet the highest standards of competency (Goal 1) and provides attorneys with professional development services by demonstrating their professional development to their peers and to the public (Goal 2). With the creation of new areas of specialization, new legal education programs designed for the most sophisticated practitioners are also created. These courses are open to all members of the bar and allow all members of the bar, whether general practitioners or specialists, to have access to more detailed information in the specialty area. The result is a bar that continues to improve itself as all attorneys partake of the expert knowledge shared by certified specialists.

Desired Outcome(s): Increase the number of areas of specialization and also increase the number of certified specialists by creating new specialties in areas where there is strong interest.

Proposed Performance Measures: Creation of new specialty areas and the increased number of Certified Legal Specialists participating in the new areas.

Fiscal and Staff Implications: None. The Legal Specialization Program is self-funded.

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Name of Initiative: Legal Specialization Recruitment Drive

Purpose: To increase participation in the legal specialization program through increased awareness of the Legal Specialization examination and the Legal Specialization Program. Increased awareness will be accomplished by:

- Cooperation with other state bar associations and the ABA;
- Examination information mailed to volunteer bar sections in specialty practice areas; notice of the exam placed in section newsletters and on section web pages
- Attendance at education and trade events in specialty areas.

Responsible Entity: The Board of Legal Specialization

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Connection to the Strategic Plan: Increasing the number of Certified Legal Specialists protects the public by providing them with attorneys who meet the highest standards of competency. (Goal 1) Heightening attorney awareness of the Legal Specialization Program makes them aware of a service available to meet their professional development needs. (Goal 2)

Fiscal and Staff Implications: None. The Legal Specialization Program is self-funded.

Proposed Performance Measures: Increase in the number of examinees and in the number of Certified Legal Specialists across all areas of law in which certification is available.

Name of Initiative: Serve as a statewide source of information on legal specialization.

Purpose: To provide all stakeholders with information about the legal specialization program by communicating information on the program to attorneys and providing the public with education on the legal specialization programs and with lists of Certified Specialists in their area.

Responsible Entity: The Board of Legal Specialization.

Connection to the Strategic Plan: Serving as a resource for information helps build effective and supportive relationships with attorneys and provides the public with valuable information. (Goal 4)

Desired Outcomes: Increase attorney awareness and participation in the program and increase public awareness and use of Certified Specialists.

Fiscal and Staff Implications: None. The Legal Specialization Program is self-funded.

Proposed Performance Measures: Increase in website traffic, increase in requests for certified specialists as speakers or contributors to publications, increased participation in the legal specialization program.

Name of Initiative: Continuum of Professional Development

Purpose: To establish a program through supported stages of learning that would allow attorneys who so desire to incorporate certification into their career plans and to obtain certification after meeting specific standards achieved through a combination of practice experience, legal education, examination and peer review. The program would provide all attorneys who wish to become certified specialists as part of their career plan with a specific plan for professional development. This education component would be in three parts or stages: basic, intermediate and advanced levels.

Responsible Entity: The Board of Legal Specialization working with State Bar Sections and others.

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Connection to the Strategic Plan: Creation of an education program protects the public by providing them with attorneys who meet the highest standards of competency (Goal 1) and provides attorneys with professional development services by demonstrating their professional development to their peers and to the public (Goal 2).

Desired Outcomes: With the creation of such an education program, new legal education programs designed for the beginning, intermediate and most sophisticated practitioners are also created. These courses are open to all members of the bar and allow all members of the bar, whether general practitioners or specialists, to have access to more detailed information in the practice area. The result is a bar that continues to improve itself as all attorneys gain or improve their knowledge in an area of law.

Fiscal and Staff Implications: The Legal Specialization Program is self-funded and work that is required is budgeted.

Proposed Performance Measures: Increase in education programs in the identified subject area of law, increase in requests for certified specialists as speakers at all levels of education programs, increased participation in the legal specialization program.

**Are activities within legislative and judicial restrictions imposed on the State Bar (Keller, Hudson, Brosterhous, etc.)?**

Yes  No  If no, please explain.

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**Resources (enter applicable figures)**

<b>Items</b>	<b>2007 Budgeted</b>	<b>2007 Outlook</b>	<b>2008 Proposed</b>	<b>2009 Proposed</b>
<b>A. Estimated Staff time Required</b> FTE: 20% Temporary Consultant				
<b>B. Travel Staff</b>				
<b>C. Travel Volunteer</b>				
<b>D. Travel Others</b> (e.g., speakers at Annual Meeting MCLE presentations)				
<b>E. Meeting room rental</b>				
<b>F. Catering</b>				
<b>G. Telephone</b>				
<b>H. Copier Allocation</b>				
<b>I. Total</b>				