

AGENDA ITEM

MARCH 54-133

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

DATE: February 20, 2008

TO: Members of the Board Committee on Member Oversight
Members of the Board of Governors

FROM: Richard Carlton
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 —
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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 is proposing 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 proposed changes came before this Board Committee on November 9, 2007. The Board Committee authorized the distribution of the proposed changes for a public comment period of thirty days. The public comment period ended on December 31, 2007. No public comment was received. It is now appropriate for the Board of Governors to approve the proposed revisions to Section 7. Board members with questions or concerns may contact Richard Carlton, 415/538-2355 or richard.carlton@calbar.ca.gov.

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 on the loan 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 AND PERSONNEL 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.

BOARD BOOK / ADMINISTRATIVE MANUAL IMPACT

None.

RULE AMENDMENTS IMPACT

The proposed changes would amend Section 7 of the Rules Governing the Financial Assistance Plan of the State Bar of California Lawyer Assistance Program.

PROPOSED BOARD COMMITTEE RECOMMENDATION

Should the Board Committee on Member Oversight agree with the proposed recommendation, adoption of the following resolution would be appropriate.

RESOLVED, following publication for comment and no comments having been received, that the Board Committee on Member Oversight recommends that the Board of Governors of the State Bar of California amend Section 7 of the Rules Governing the Financial Assistance Plan of the State Bar of California Lawyer Assistance Program, to read as set forth below; and that the modifications be effective immediately.

PROPOSED BOARD RECOMMENDATION

RESOLVED, following public comment period and no comments having been received, and upon recommendation of the Board Committee on Member Oversight, that the Board of Governors of the State Bar of California hereby amends Section 7 of the Rules Governing the Financial Assistance Plan of the State Bar of California Lawyer Assistance Program, to read as set forth below; and that the modifications be effective immediately.

The Rules Governing the Financial Assistance Plan of the State Bar of California Lawyer Assistance Program

7. Cessation of Payments, Revocation of Benefits

In the event that the Applicant ceases to participate in the PROGRAM either by complete cessation, or cessation in any other manner as determined by the COMMITTEE, the COMMITTEE reserves the right to discontinue further payments, and the total amount of any loans or advances will be immediately due and payable by the Applicant. Interest will begin to accrue at the rate of seven percent (7%) per annum from the date of cessation or revocation. The COMMITTEE may, at its discretion, allow the Applicant to repay the loan balance in installment payments, amortized at the rate of seven percent (7%) per annum, and assess an administrative fee to offset the cost associated with processing the installment payments.