

AGENDA ITEM

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Proposed Amendment to
Section Rules Request for
Public Comment

DATE: February 20, 2008

TO: Members, Board Committee on Member Oversight

FROM: Marie Moffat, General Counsel
Cynthia R. Abramov, Assistant General Counsel

SUBJECT: State Bar Rule Revision Project: Title 3 Newly Rewritten Section
Rules- Request for Public Comment

ATTACHMENTS: Attachment A: New Chapter 2 of Division 2 of Title 3 of the Rules
of the State Bar of California
Attachment B: Article XIII of the Rules and Regulations of the State
Bar of California

EXECUTIVE SUMMARY

Authorization of the board committee is sought to release for public comment the proposed revisions to rules governing State Bar Sections (Attachment A) and their incorporation into Title 3 of the new State Bar Rules as part of the continuing Rules Revision Project begun in 2006: The comment period would run forty-five days from March 10, 2008 through April 23, 2008. This will allow the board to consider adoption of the rules at its May 2008 meeting.

BACKGROUND

The objective of the State Bar rule revision project is to integrate the bar's more than two dozen sets of rules into one comprehensive structure and to make the rules simpler, clearer, and more uniform. The revised rules would be contained in a single set of rules entitled "Rules of the State Bar of California" (or by its short title, "State Bar Rules"). Revising all State Bar rules requires the collaboration of many subject matter experts and is being undertaken in stages.

In July 2007, the Board of Governors adopted new Title 1 of the State Bar Rules. Entitled as “Global,” Title I included provisions that set the structural framework for the revised rules. Title 1 became effective July 20, 2007. In August 2006, the Board adopted revised existing rules on membership rights and responsibilities and made them part of new Title 2. With the exception of rules for trust accounts under the Legal Services Trust Fund program (Bus. & Prof. Code §§ 6210-6228), Title 2 rules became effective June 17, 2006, and July 20, 2007. The Board has adopted newly rewritten rules for the emeritus attorney program, which became effective July 20, 2007, and MCLE providers, which became effective January 2008, and added these provisions to Title 3 (“Programs and Services”). Rules regarding unaccredited law schools were approved by the Board in July 2007, effective January 2008, and have been added to Title 4 (“Admissions and Educational Standards”).

This item pertains to the rules governing State Bar Sections, which will become part of Title 3.

DISCUSSION – SECTIONS RULES

Section rules are currently in Article XIII of the Rules and Regulations of the State Bar (Attachment B). The revisions attempt to improve organization and style rather than make substantive changes, with one exception.

- Art. XIII, § 1 of the Rules and Regulations addresses the establishment of the section and refers to it as a “pilot” program. Since Sections has been well-established and this was an apparent residual from when Sections were first created in the 1930’s, this rule would be replaced with proposed rule 3.120 which defines the term “Sections” and deletes the arcane reference to “pilot” program.
- Art. XIII, § 2 of the Rules and Regulations simply states that the “purposes of the Sections shall be stated in its bylaws.” Since each section has bylaws enacted by the respective executive committee subject to Board approval, as provided for in Art. XIII, § 7 (proposed rule 3.128), and those bylaws contain the purpose of its respective section, this rule seems redundant. There is, however, nothing said about the purpose of Sections as a whole. Therefore, this Art. XIII, § 2 would be replaced by proposed rule 3.121 which provides a more informative description of Sections as a whole.
- Article XIII, § 3 of the Rules and Regulations describes membership requirements. This rule would be re-organized into two rules. Proposed rule 3.122 would address membership and would more clearly state who can join. Proposed rule 3.123 would address Section membership fees. The term “Section Membership Fee” is used to distinguish it from the Bar’s mandatory annual “membership fee” that is used elsewhere in the State Bar rules.

- Art. XIII, § 4 of the Rules and Regulations describes the Executive Committee. This rule would be re-organized into two rules. Proposed rule 3.124 would describe the makeup and appointment of the executive committees. Art. XIII, §§ 4A and parts of 4B would be incorporated into subsection (A) of proposed rule 3.124. The last paragraph of Art. XIII, § 4B would be placed in subsection (C) of proposed rule 3.124. Art. XIII, §4(C) would be placed in subsection (B) of proposed rule 3.124. Art. XIII, § 4D would be divided between proposed rules 3.124(D) and 3.128(A). Art. XIII, § 4E would be placed in proposed rule 3.124(E).
- Art. XIII, § 4E of the Rules and Regulations describes the selection of officers of the section executive committee and would be placed in a separate rule, proposed rule 3.125
- Art. XIII, § 5 of the Rules and Regulations would be proposed rule 3.126. Since each section's bylaws would cover how members are selected, the last sentence of Art. XIII, § 5 would be deleted.
- Art. XIII, § 6 of the Rules and Regulations would be proposed rule 3.127. A substantive change would be made to this rule. Currently, Art. XIII, §6 requires that notice of section meetings be given at least 20 days prior to the meeting. This provision conflicted with the existing "Rules Governing Open Meetings, Closed Sessions and Records of Regulatory and Special Committees," which expressly apply to executive committees of the Sections and required a shorter notice period of only 10 days.¹ Proposed rule 3.127(A) would eliminate this conflict by providing that executive committees of sections, section committees and sections are subject to the rules governing open meeting of State Bar entities. Staff believes that such a reduction is appropriate since all notices are now communicated electronically.
- Art. XIII, § 7 of the Rules and Regulations would be in proposed rule 3.128.

FISCAL IMPACT

No fiscal impact is anticipated

BOARD BOOK IMPACT

Tab 20, Article 2.

STATE BAR RULES IMPACT

¹ In a separate item to the Board Committee on Operations this month requesting publication for public comment on proposed revisions to the open meeting rules applicable to the Board of Governors and other State Bar entities, this period would be shortened to a five day period.

Article XIII of the Rules and Regulations would be superseded and replaced by the proposed revisions to the Sections rules and placed in Chapter 2 of Division 2 of Title 3 of the new State Bar Rules.

STRATEGIC IMPACT

There is no strategic impact.

RESOLUTIONS

Should the Board Committee accept the recommendation of staff, adoption of the following resolution would be appropriate:

RESOLVED, that the Board Committee on Member Oversight authorizes for publication, in the form attached, for a forty-five day comment period from March 10, 2008 to April 23, 2008 the proposed revisions to the sections rules that, if adopted, would be placed in Chapter 2 of Division 2 of Title 3 of the new State Bar Rules.