

CALIFORNIA BOARD OF LEGAL SPECIALIZATION OF THE STATE BAR OF CALIFORNIA

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DATE: April 15, 2008

TO: Members of the Board Committee on Member Oversight

FROM: Alice W. O'Sullivan, Chair, Board of Legal Specialization
Phyllis J. Culp, Director, Office of Special Admissions and Specialization

SUBJECT: Proposed Alternative to Written Examination for Franchise and Distribution Law – Request for Public Comment

ATTACHMENT: Proposed Standards for Certification and Recertification in Franchise and Distribution Law

EXECUTIVE SUMMARY

On the May 2008 agenda, the Board Committee has before it an item requesting that it recommend that the Board of Governors approve amendments to the Legal Specialization Rules. One of those amendments is the addition of new section 8.6, which provides that, within the first two years of a new specialty, applicants may satisfy additional requirements in lieu of passing a written exam. It also provides that the alternative requirements will be found in the standards for certification for that specialty.

Contingent upon the Board Committee recommending and the Board of Governors approving the amendments to the Legal Specialization Rules, the Board of Legal Specialization (BLS) requests that the Board Committee authorize publication of proposed amendments to the Standards for Certification and Recertification in Franchise and Distribution Law (Standards), which set forth in the attachment to this memorandum the additional requirements that applicants may satisfy in lieu of passing a written exam, for a 45-day public comment period.

Board members with questions on this item may contact Phyllis Culp at (415) 538-2118 or phyllis.culp@calbar.ca.gov.

BACKGROUND

In May 2007, the Board Committee authorized the publication of proposed amendments to the Legal Specialization Rules for public comment. One of those amendments is the addition of new section 8.6, which provides that, within the first two years of a new specialty, applicants may satisfy additional requirements in lieu of passing a written exam. To be certified as a specialist currently, an attorney must pass a written examination, demonstrate experience based on performance of a variety of activities related to the specialty area, complete continuing education in the specialty area, and be favorably evaluated by other attorneys and judges familiar with the attorney's work. If the proposed

amendment is approved, applicants will still have to satisfy all of those requirements with the exception of the written exam. In lieu of the exam, they must meet additional objective criteria as set forth in the Standards.

The proposed alternative requirements to the written exam were determined by the Franchise and Distribution Law Advisory Commission, incorporated into the Standards, and approved by the BLS at its March 14, 2008 meeting. The BLS requests that the Board Committee authorize publication of the revised Standards for public comment.

FISCAL AND PERSONNEL IMPACT

The Legal Specialization program fund has sufficient revenue to cover any administrative costs. There is no fiscal and personnel impact on the general fund.

BOARD BOOK/ADMINISTRATIVE MANUAL IMPACT

None.

RULE AMENDMENTS IMPACT

The proposed changes impact the Legal Specialization program's Standards for Certification and Recertification in Franchise and Distribution Law.

PROPOSED BOARD COMMITTEE ACTION

Should the Board Committee determine to adopt the recommendation of the BLS, and contingent upon the Board Committee recommending and the Board of Governors approving the amendments to the Legal Specialization Rules, it would be appropriate to adopt the following resolution:

RESOLVED, that the Board Committee on Member Oversight authorizes the publication of proposed amendments to the Standards for Certification and Recertification in Franchise and Distribution Law, in the form attached to these minutes and made a part hereof, for a 45-day comment period; and it is

FURTHER RESOLVED that publication of the foregoing is not, and shall not be construed as, a recommendation by the Board Committee.