

AGENDA ITEM

MARCH 54-111

State Bar Rule 6.9
Election of CYLA Board Of
Governors Member, Return from
Public Comment

DATE: February 10, 2009

TO: Members of the Board of Governors;
Members of the Board Committee on Operations

FROM: Patricia Lee, Director of the Office of Legal Services Access & Fairness
Program;
Carol Madeja, Director of Bar Relations Outreach;
Mary Yen, Assistant General Counsel

RE: State Bar Rule 6.9 Election of CYLA Board Of Governors Member,
Return From Public Comment

EXECUTIVE SUMMARY

This item requests approval of a new rule 6.9 of the State Bar Rules to implement policy for election of the CYLA member of the Board. The proposed rule results from the change in the governance structure of the California Young Lawyers Association as approved by the Board at the May 2008 meeting. The change was made to achieve the vision of a fully engaged State Bar entity that would champion the interests and needs of new lawyers. In changing CYLA's governance structure, the Board retained the name California Young Lawyers Association and approved transitioning the selection of CYLA members from an election process to an appointment process. CYLA is expanded to 20 members with 9 seats reserved, one for each State Bar District, and the remaining seats appointed consistent with the State Bar's Appointments Policies and Procedures. The Board also approved that the appointed CYLA governing body will elect one lawyer representative to a voting seat on the Board of Governors.

Proposed rule 6.9 was sent out for a 30-day public comment period that expired February 10, 2009. No comments were received.

Board members with questions may contact Mary Yen at (415) 538-2369 or mary.yen@calbar.ca.gov or Patricia Lee at (415) 538-2240 or patricia.lee@calbar.ca.gov.

BACKGROUND

In order to achieve the vision of a fully engaged State Bar entity that would champion the interests and needs of new lawyers, in May 2008 the Board approved the following structural changes to the California Young Lawyers Association:

1. That CYLA and the State Bar take appropriate steps to transition selection of CYLA members from an election process to an appointment process, with 9 seats reserved, one for each State Bar District, and the remaining seats appointed consistent with the State Bar Appointments Policies and Procedures. Current members of the CYLA board will continue serving on the new entity until their current terms expire. The Board of Governors will fill the vacated seats through appointment.
2. CYLA will be expanded to 20 members, who are representative of the new lawyer constituents and who are interested in supporting the mission and charge of CYLA.
3. CYLA will convert the current CYLA bylaws into an official Mission and Charge, consistent with State Bar structure and format for other appointed entities, subject to Board of Governors approval.
4. CYLA will elect one new lawyer representative to a voting seat on the Board of Governors.
5. It will be understood that the current reference to new or young lawyers in all materials, rules, and procedures as "members" will refer to new and young lawyer "constituents," and changes to specific language will be made, as needed. The new lawyer "constituents" will be defined using the current criteria, e.g. attorneys age 36 and under or attorneys in practice for 5 years or less.
6. California Young Lawyers Association will retain its current name.

At the Board's September 2008 meeting, the Board converted the CYLA bylaws into a Mission and Charge for the new appointed entity.

CYLA's election of one lawyer representative to a voting seat on the Board of Governors is consistent with Business and Professions Code section 6013.4. This statute states in relevant part: "Notwithstanding any other provision of law, one member of the board [of governors] shall be elected by the board of directors of the California Young Lawyers Association, from the membership of that association. Such member shall serve for a term of one year, commencing at the conclusion of the annual meeting next succeeding the election..." The CYLA member of the Board of Governors can be any constituent, and need not be a member of the appointed governing body that continues to be called California Young Lawyers Association.

It is proposed that Rule 6.9 would read as follows:

Rule 6.9 California Young Lawyers Governor

Subject to the supervision of the Board and the Secretary, the governing body of the California Young Lawyers Association (CYLA) must elect as a member of the Board of Governors one of its constituents. CYLA constituents are active members of the State Bar until their thirty-seventh birthday or the end of their fifth year of active status, whichever is later. Candidates for office are subject to the information provisions of rule 6.3 and must be a constituent at the time of taking office.¹

PUBLIC COMMENT

At the Board's January 10, 2009 meeting, a 30-day public comment period was authorized for a new State Bar Rule 6.9, which will implement the policy for election of the CYLA member of the Board. The 30-day period expired February 10, 2009. No comments were received.

Board action at the March 2009 meeting will make the rule in effect in time for the 2009 Board election cycle.

EFFECTIVE DATE OF PROPOSAL

The proposed rule will be effective on the date the Board acts.

FISCAL AND PERSONNEL IMPACT

There is no known fiscal or personnel impact.

BOARD BOOK/ADMINISTRATIVE MANUAL IMPACT

Tab 4 (Election and Appointment of the Board of Governors), Article 2 (Election of Attorney Members), Section 1 (Statutes and Rules): add the substance of Rule 6.9.

RULES AMENDMENTS

If adopted, new Rule 6.9 would be added to Division 1, Chapter 1 of Title 6 of the State Bar Rules.

¹ Rule 6.3 of the State Bar Rules deals with Board candidate information. The information provisions of rule 6.3 require 1) biographic information including education, date admitted to practice, any public record of discipline and other information in the official membership records of the State Bar, and 2) a candidate to disclose membership in a club that discriminates in its membership policies on the basis of race, color, creed, national ancestry, sex, or sexual preference, but is not required to disclose the name of the particular club.

PROPOSED RESOLUTION

Board Committee on Operations:

Should the Board Committee on Operations agree with the proposed addition of new Rule 6.9 to the State Bar Rules, adoption of the following resolution would be appropriate:

RESOLVED, following publication for comment and no comments having been received, that the Board Committee on Operations recommends that the Board of Governors of the State Bar of California adopt new Rule 6.9 (California Young Lawyers Governor) in the Rules of the State Bar in the form attached.

Board of Governors:

Should the Board of Governors agree with the recommendation of the Board Committee on Operations to adopt new Rule 6.9, adoption of the following resolution would be appropriate:

RESOLVED, following publication for comment and no comments having been received, and upon the recommendation of the Board Committee on Operations, that the Board of Governors of the State Bar of California hereby adopts new Rule 6.9 (California Young Lawyers Governor) in the Rules of the State Bar in the form shown below.

Rules of the State Bar of California

Proposed New Rule

For Board of Governor adoption on March 6, 2009

Rule 6.9 California Young Lawyer Governor

(A) Subject to the supervision of the Board and the Secretary, the governing body of the California Young Lawyers Association (CYLA) must elect as a member of the Board of Governors one of its constituents.² CYLA constituents are active members of the State Bar until their thirty-seventh birthday or the end of their fifth year of active status, whichever is later. A candidate for office is subject to the information provisions of rule 6.3 and must be a constituent at the time of taking office.

² Bus. & Prof. Code § 6013.4