

Attachment A: Proposed Limited Liability Partnership Rules

RULES OF THE STATE BAR OF CALIFORNIA

Title 3. Programs and Services
Division 2. Attorney Members

Chapter 3. Limited Liability Partnerships

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Rule 3.170 Scope

Under California law, a limited liability partnership that provides professional legal services is not entitled to limitation of liability for acts, errors, or omissions arising out of the rendering of such services unless the partnership has a currently effective certificate of registration issued by the State Bar.¹ These rules apply to California limited liability partnerships issued a certificate of registration by the State Bar in accordance with these rules. These rules refer to such certified partnerships as “limited liability partnerships.”

Rule 3.171 Eligibility²

- (A) A limited liability partnership certified by the California Secretary of State pursuant to Corporations Code Sections 16953 or 16959 may apply for State Bar certification as a limited liability partnership, provided each partner is an active member of the State Bar,³ licensed and entitled to practice law in another jurisdiction, or a law corporation that is licensed or entitled to practice law.
- (B) A partner or an employee of a limited liability partnership who practices law in California must be an active member of the State Bar or otherwise authorized to practice law in California.
- (C) The name proposed for the limited liability partnership must include "Registered Limited Liability Partnership," "Limited Liability Partnership," "L.L.P.," "LLP," "R.L.L.P.," or "RLLP."

Rule 3.172 Application for certification as a limited liability partnership⁴

- (A) To apply to be certified as a limited liability partnership an applicant must
 - (1) submit an Application for Certification as a Limited Liability Partnership with the application fee set forth in the Schedule of Charges and Deadlines;
 - (2) submit on a separate State Bar form a statement that the limited liability partnership has complied with any security requirement prescribed by statute and these rules; and
 - (3) verify compliance with the eligibility requirements of these rules; a partner licensed in a foreign country but not in California or any other United States jurisdiction must provide by a certificate issued by the authority having final jurisdiction over the practice of law verifying admission to the practice law, the

¹ Corporations Code § 16306(f).

² See current rule 3.0, *Eligibility for certification*.

³ Business and Professions Code § 6125.

⁴ See current rule 4.0, *Application for certification*.

date of admission, and current good standing, along with an English translation if the certificate is not in English.

- (B) The effective date of certification as a limited liability partnership is the date the State Bar receives a complete application.⁵ The State Bar has discretion to grant a later effective date requested by the applicant.⁶

Rule 3.173 Amendment or abandonment of incomplete application⁷

If the State Bar notifies an applicant that an Application for Certification as a Limited Liability Partnership is incomplete or otherwise fails to comply with application requirements, it must provide the applicant at least sixty days to amend the application. If the applicant fails to meet application requirements within this time, the application is deemed withdrawn.

Rule 3.174 Duties of a limited liability partnership⁸

- (A) To maintain certification as a limited liability partnership in California, a limited liability partnership must have a currently effective certificate of registration issued by the State Bar, submit an Annual Renewal with any required fee,⁹ and otherwise comply with these rules and applicable law.
- (B) The limited liability partnership may practice law only under the name certified by the Secretary of State and approved by the State Bar.¹⁰ Use of the name must comply with the requirements of the Rules of Professional Conduct.¹¹

⁵ See Rule 1.24. This rule provides that “When a rule refers to a form, the State Bar reserves the right to reject a form that is altered in language or structure or that is not completed and submitted according to instructions.”

⁶ See current rule 7.1, which gives the State Bar discretion to certify as of an earlier date if an applicant “has registered as a limited liability partnership with the Secretary of State prior to the effective date of these Rules.” Proposed rule 3.172(B) eliminates the alternative for an earlier date. In practice, the State Bar has not issued a certification for a date earlier than that on which it has received a complete application.

⁷ Cf. current rule 6.0, Denial of application.

⁸ See current rule 2.1 (an LLP by definition “has a currently effective certificate of registration as a limited liability partnership from the State Bar”); current rule 10, which deals with the Annual Renewal; and current rule 3.5 (an LLP must “Agree to comply with the laws of the State of California, the California Rules of Professional Conduct, the Rules and Regulations of the State Bar, and these Rules, insofar as they are applicable to partners and employees of an applicant”).

⁹ Rule 3.176. See current rule 3.0.

¹⁰ Corporations Code § 16952.

¹¹ See especially Rules of Professional Conduct, Rule 1-400.

- (C) A limited liability partnership employing an attorney who has resigned, been disbarred, been suspended from the practice of law, or resigned with charges pending¹²
- (1) may not permit the attorney to practice law or represent that he or she is available to practice law and must supervise the performance of any duties assigned to such an attorney;¹³ and
 - (2) must remove the name of any attorney who is disbarred or resigned with charges pending from its business name, signs, advertisements, letterhead, and other materials within sixty days of the disbarment or resignation.¹⁴

Rule 3.175 Special reports¹⁵

A limited liability partnership must report within forty-five days any change in name used for the practice of law, partner authorized to act on its behalf, address, or e-mail address.

Rule 3.176 Annual renewal¹⁶

- (A) A limited liability partnership must annually renew its certification as a limited liability partnership by submitting an Annual Renewal with the fee set forth in the Schedule of Charges and Deadlines. The Annual Renewal must report any changes to the information last provided in an Annual Renewal or Special Report. The deadline for submission of the Annual Renewal and the amount of the fee are set forth in the Schedule of Charges and Deadlines.
- (B) A limited liability partnership that fails to submit a complete Annual Renewal and fee is suspended and loses its status as a limited liability partnership. It may be reinstated upon submission within one year of the renewal, fee, and any penalty. If the suspension lasts more than one year, the certification of the limited liability partnership is involuntarily terminated.¹⁷

¹² Rule 3.154(D) adds to the group of attorneys who may not practice law for a limited liability partnership those who have resigned with charges pending. The proposed rule conforms to the State Bar practice of prohibiting a resigned attorney from practicing law. See B&P §§ 6132 and 6133.

¹³ Business & Professions Code § 6133. See Rule 1-311, Rules of Professional Conduct of the State Bar of California.

¹⁴ Business & Professions Code § 6132. Current rules do not reference this statutory requirement.

¹⁵ See current rule 11.0, Special reports.

¹⁶ See current rule 10.0, Annual renewal.

¹⁷ Current rule 10.0 provides that “failure to timely file a completed Annual Renewal shall result in termination of the limited liability partnership.” The rule proposed here provides a one-year grace period.

Rule 3.177 Security¹⁸

- (A) A limited liability partnership must maintain security for claims against it for acts, errors, and omissions arising out of the practice of law as required by Corporations Code Section 16956(a)(2).
- (B) The security for claims required by Corporations Code Section 16956(a)(2) includes
 - (1) any person, law corporation, or other entity that practices law on behalf of the limited liability partnership or that the limited liability partnership holds out as being of counsel or otherwise available to practice law on its behalf; and
 - (2) any association that has a continuous relationship with the limited liability partnership for the practice of law or that holds out the limited liability partnership, with the consent of the limited liability partnership, as being of counsel or otherwise available to practice law on behalf of the association.

Rule 3.178 Voluntary termination of certification¹⁹

To terminate State Bar certification, a limited liability partnership must provide the State Bar with a document certified by the Secretary of State showing that the limited liability partnership is no longer a limited liability partnership. The termination is effective as of the date that the Secretary of State dissolved the limited liability partnership.

Rule 3.179 Involuntary termination of certification²⁰

- (A) The State Bar must terminate certification of a limited liability partnership if there is only one partner in the limited liability partnership or it is notified that the limited liability partnership has been suspended by the California Secretary of State. Termination is effective immediately.
- (B) A limited liability partnership that is suspended for more than one year for failure to submit a complete Annual Renewal and fee is terminated.²¹ Termination is effective the day after the one year anniversary of the suspension.
- (C) The State Bar may terminate the certification of a limited liability partnership for failure to comply with these rules or applicable law. Except as this rule provides otherwise, termination is effective sixty days after the State issues a notice to the

¹⁸ See current rule 5.0, *Security for claims against a limited liability partnership*.

¹⁹ See current rule 9.0, *Termination at request of partnership*.

²⁰ See current rule 8.0, *Involuntary termination of certificate of registration*.

²¹ Rule 3.176(B).

limited liability partnership stating the grounds for the termination. The partnership may request Supreme Court review of any termination.²²

Rule 3.180 Public information²³

State Bar records regarding the certification of a limited liability partnership are public information, except for correspondence, internal memoranda, complaints, and any other document for which there is a legal prohibition to the contrary.

²² Rule of Court 9.13(d). And see Business & Professions Code § 6170. *This statute reads, “Any action of the State Bar or the board of governors or a committee of the State Bar, or the chief executive officer of the State Bar or the designee of the chief executive officer, provided for in this article, may be reviewed by the Supreme Court by petition for review pursuant to rules prescribed by the Supreme Court.”*

²³ See current rule 12.0, Confidentiality.