

AGENDA ITEM

NOV 54-131

Amendments to Legal
Specialization Immigration
Law Standards, Return
from Public Comment

DATE: October 26, 2010

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

FROM: Wesley Avery, Chair, Board of Legal Specialization
Gayle Murphy, Senior Executive, Admissions
Natalie Leonard, Director, Legal Specialization

**SUBJECT: Amendments to Legal Specialization Immigration Law Standards,
Return from Public Comment**

EXECUTIVE SUMMARY

The Board of Legal Specialization recommends that Sections 2.1 and 2.1.2 of the Standards for Certification and Recertification in Immigration and Nationality Law be amended to make the task requirements achievable for an attorney who specializes in employment-based immigration. A proposed change was also made to Section 4.1. to further identify what is meant by the use of the word "participation." The proposed amendments were circulated for a 45-day public comment period. No comments were received. The Board of Legal Specialization requests that the Board Committee recommend to the Board that the proposed amendments to the standards be approved and that the Board approve them.

BACKGROUND

The Board of Legal Specialization (BLS) considered comments from its Immigration and Nationality Law Advisory Commission (Commission) in which it was noted that attorneys who practice immigration and nationality law tend to focus on either employment-based immigration cases or removal (deportation) and family-based immigration cases. The Commission determined that the current requirements are significantly easier to meet for an attorney whose practice focuses on removal and family-based immigration, and that expanding the requirements so that an attorney specializing in employment-based immigration cases could more easily qualify for certification would be appropriate. Amendments to the Standards for Certification and Recertification in Immigration and Nationality Law to facilitate this expansion were drafted for consideration. Specifically, Sections 2.1 and 2.1.2 of the Standards were amended to make the task requirements achievable for an attorney who specializes in employment-based immigration. A

proposed change was also made to Section 4.1. of the Standards to further identify what is meant by the use of the word "participation."

The number of attorneys who apply for certification in immigration and nationality law is decreasing, and the Commission believes, and the BLS concurs, that if the amendments are adopted, the number of applicants for specialization in this area will increase.

The proposed amendments to the Standards for Certification and Recertification in Immigration and Nationality Law were approved in principle by the BLS during its April 2010 meeting, and during its July 2010 meeting, the Board Committee on Member Involvement Relations and Services approved sending the proposed amendments out for public comment. The proposed amendments were circulated for a 45-day public comment period; no comments were received. During its September 2010 meeting, the BLS adopted the proposed amendments to the Standards for Certification and Recertification in Immigration and Nationality Law, subject to approval by the Board of Governors. Attached is a copy of the proposed amendments.

FISCAL/PERSONNEL IMPACT

If the proposed amendments are adopted, more attorneys are expected to seek certification as legal specialists in the area of immigration and nationality law, which would result in additional revenue through receipt of the application and examination fees.

BOARD BOOK IMPACT

None.

RULE AMENDMENTS

If approved by the Board of Governors, the Standards for Certification and Recertification in Immigration and Nationality Law, which must be read in connection with the Rules Governing the State Bar of California Program for Certifying Legal Specialists, must be amended.

SCHEDULE OF CHARGES AND DEADLINES

N/A

EFFECTIVE DATE OF PROPOSAL

The amended Standards would become effective immediately following approval by the Board.

PROPOSED BOARD COMMITTEE RESOLUTION

If the Board Committee agrees that the proposed amendments to the Standards for Certification and Recertification in Immigration and Nationality Law should be approved, the following resolution is recommended for adoption:

RESOLVED, upon recommendation from the Board of Legal Specialization, that the Board Committee on Member Oversight recommends that the Board of Governors approve the proposed amendments to the Standards for Certification and Recertification in Immigration Law, in the form attached hereto, effective immediately following action by the Board.

PROPOSED BOARD RESOLUTION

RESOLVED, upon recommendation from the Board Committee on Member Oversight, that the Board of Governors hereby approves the proposed amendments to the Standards for Certification and Recertification in Immigration Law, in the form attached hereto, effective immediately following action by the Board.