

AGENDA ITEM

NOV 112-A
JNE Rule 7.8
Return from Public Comment

DATE: November 3, 2010

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

FROM: Dina Goldman, Staff Attorney
Office of General Counsel

RE: State Bar Rule 7.8 JNE Records, Amendments,
Return from Public Comment

EXECUTIVE SUMMARY

Rule 7.8 of the Rules of the State Bar (superseding former Rules and Procedures of the Commission on Judicial Nominees Evaluation, rule III, section 4), has always required outgoing commissioners to return all JNE documents to the State Bar when they leave office. Given this year's new "paperless" electronic procedures for JNE, it is necessary to amend Rule 7.8 to clarify that the rule applies to electronic records as well as paper records.

In August, the Board Operations Committee, acting on behalf of the full Board between regular meetings, adopted an amendment to State Bar Rule 7.8, effective immediately on an interim basis, regarding the return of electronic information related to the JNE process when commissioners leave office. The interim rule was then circulated for a 45 day public comment period which closed on October 25, 2010. To date, no comments have been received. This item recommends that the Board Operations Committee recommend that Board of Governors adopt the amendment to Rule 7.8.

BACKGROUND

State Bar Rule 7.8 currently provides that, upon completion of their term, JNE commissioners must forward all Confidential Comment Forms and other records related to commission investigations and activities to the State Bar. During the

past year, the JNE Commission began sending electronic versions of Confidential Comment Forms. Since this new “paperless” initiative will result in JNE Commissioners having possession of electronic as well as paper records related to JNE activities, staff recommends that Rule 7.8 be amended to clarify that electronic records are included in the scope of the rule.

SUMMARY OF PROPOSAL

The proposed amendment to Rule 7.8 adds a sentence that clarifies that the rule requires JNE Commissioners who have completed their term to transfer all electronic records in their possession to the State Bar and also delete any records from electronic devices not issued by the State Bar.

REPORT OF PUBLIC COMMENTS RECEIVED

To date, no public comments have been received. Staff will report any comments that arrive before the close of the comment period to the Board prior to the meeting.

EFFECTIVE DATE OF PROPOSAL

The rule amendment was passed by the Board Operations Committee on an interim basis on September 2, 2010. The Board of Governor’s adoption of the amendment should be effective immediately.

FISCAL AND PERSONNEL IMPACT

None.

RULE AMENDMENTS

Rule 7.8

BOARD BOOK/ADMINISTRATIVE MANUAL IMPACT

None.

BOARD COMMITTEE RECOMMENDATION

The Board Committee on Operations recommends that the Board adopt the amendment to State Bar Rule 7.8.

PROPOSED BOARD COMMITTEE RESOLUTION

It is recommended that the Board Committee on Operations recommend that the Board of Governors adopt the amendment to State Bar Rule 7.8. If the Board Committee agrees with the recommendation, adoption of the following resolution would be appropriate:

RESOLVED, that the Board Committee on Operations recommends that the Board of Governors adopt the amendment to State Bar Rule 7.8, in the form attached.

PROPOSED BOARD RESOLUTION

If the Board of Governors concurs with the recommendation, adoption of the following resolution would be appropriate.

RESOLVED, that upon recommendation of the Board Committee on Operations, the Board of Governors hereby adopts the amendment to State Bar Rule 7.8, in the form attached.