

AGENDA ITEM

NOV 112-C

Rule 6.9 re CYLA Board
Representative, Return from
Public Comment

DATE: October 21, 2010

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

FROM: Starr Babcock, General Counsel
Dina Goldman, Staff Attorney

RE: Rule 6.9 re California Young Lawyers Board Representative,
Return from Public Comment

EXECUTIVE SUMMARY

On September 26, 2010, the Board of Governors adopted an amendment to State Bar Rule 6.9, effective immediately on an interim basis and retroactive to April 10, 2010, regarding the election of a California Young Lawyers Association (CYLA) constituent as a member of the Board of Governors. This interim rule was then released for a 45 day public comment period, which will close on November 12, 2010.

In April, the CYLA board of directors elected the CYLA representative to the Board of Governors. The CYLA board of directors believed that the candidate was qualified to serve another one-year term on the Board of Governors as long as she was a constituent at the time of her election. Rule 6.9, however, provides that a candidate must be a constituent at the time of taking office.

The proposed amendment to Rule 6.9 would change the rule to state that a candidate for office must be a constituent at the time of their election, rather than at the time of taking office. The proposed amendment is necessary to correct the error, to effectuate the intent of CYLA's board of directors and to provide continuity in the governance process.

BACKGROUND

Business and Professions Code section 6013.4 provides that one member of the Board of Governors must be elected by the CYLA board of directors from the membership of CYLA. Section 6013.4 further provides that the member of the board elected by CYLA shall serve for a term of one year, commencing at the conclusion of the annual meeting next succeeding the election and is eligible for reelection.

State Bar Rule 6.9 also provides that the CYLA board must elect one of its constituents to serve on the Board of Governors. The rule defines CYLA constituents as “active members of the State Bar until their thirty-seventh birthday or the end of their fifth year of active status, whichever is later.” Rule 6.9 further provides that a candidate for the CYLA position on the Board of Governors must be a constituent at the time of taking office.

SUMMARY OF PROPOSAL

The amendment to Rule 6.9 changes the rule to state that a candidate for the CYLA position on the Board of Governors must be a constituent at the time of their election, rather than at the time of taking office. Since the CYLA Board often elects the CYLA member to the board well in advance of the State Bar’s annual meeting, this amendment would provide clarity regarding the qualifications of the CYLA candidate for the Board of Governors at the time that the election is taking place.

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 of Governors on an interim basis on September 26, 2010, retroactive to April 10, 2010. The Board of Governor’s adoption of the amendment at this meeting should be effective immediately.

FISCAL AND PERSONNEL IMPACT

None.

RULE AMENDMENTS

Rule 6.9

BOARD BOOK/ADMINISTRATIVE MANUAL IMPACT

Tab 4, Article 2, Section 1

BOARD COMMITTEE RECOMMENDATION

The Board Committee on Operations recommends that the Board adopt the proposed amendment to Rule 6.9.

PROPOSED BOARD COMMITTEE RESOLUTION

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 6.9, 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 6.9, in the form attached, retroactive to April 10, 2010.