



THE STATE BAR OF CALIFORNIA

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DATE: September 23, 2010

TO: Members of the Board of Governors

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

RE: State Bar Rule 6.9 re CYLA Governor, Proposed Amendment

EXECUTIVE SUMMARY

This item recommends that the Board of Governors adopt an amendment to State Bar Rule 6.9, effective immediately on an interim basis 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 would be subject to a 45 day public comment period before final action by the board.

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 and 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 proposed 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.

LENGTH OF PUBLIC COMMENT PERIOD & REASON

Under State Bar Rule 1.10(C), the Board may adopt a rule on an interim basis without circulating for public comment if it finds that an emergency exists.

The candidate, who is the current CYLA representative to the Board of Governors, sought re-election to a third one-year term. The CYLA board met in April and re-elected her under the mistaken belief that the candidate was qualified since the election was held in advance of her 37th birthday. This error was not discovered until two days before the annual meeting.

In order to provide continuity on the Board of Governors and to effectuate the intent and vote of the CYLA board of directors, staff recommends that the Board adopt the rule amendment immediately on an interim basis, retroactive to April 10, 2010 and simultaneously circulate the amended rule for a 45 day public comment period.

EFFECTIVE DATE OF PROPOSAL

The rule amendment will be effective immediately, retroactive to April 10, 2010, on an interim basis upon approval by the Board of Governors. Following public comment, the rule amendment will return to the full board for ratification.

FISCAL AND PERSONNEL IMPACT

None.

RULE AMENDMENTS

Rule 6.9

BOARD BOOK ADMINISTRATION MANUAL IMPACT

Tab 4, Article 2, Section 1

BOARD COMMITTEE RECOMMENDATION

Staff recommends that the board of governors adopt the proposed amendment on an interim basis effective immediately retroactive to April 10, 2010 and simultaneously circulate the amended rule for a 45 day public comment period.

PROPOSED BOARD COMMITTEE RESOLUTION

Should the Board agree with the proposed recommendation, adoption of the following resolution would be appropriate.

RESOLVED, that the Board of Governors hereby adopts on an interim basis retroactive to April 10, 2010 the proposed revisions to State Bar Rule 6.9 in the form attached; and it is

FURTHER RESOLVED, that the Board of Governors hereby authorizes staff to make available for public comment for a period of 45 days the revisions to State Bar Rule 6.9 in the form attached.

Amendment to Rules of the State Bar

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. 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 his or her election.

Rule 6.9 adopted effective March 6, 2009, amended_____.