

AGENDA ITEM

54-151 MAY 10 2013

DATE: April 23, 2013

TO: Members, Nominations and Appointments Committee
Members, Board of Trustees

FROM: Mary Lavery Flynn, Interim Senior Director, Administration of Justice

SUBJECT: Appointment Procedures for Legal Aid Boards

EXECUTIVE SUMMARY

The Board of Trustees adopted Appointment Procedures for Legal Aid Boards in 1983 in response to a regulatory change by the Legal Services Corporation to require that its recipient programs have a certain percentage of board members appointed by local bar associations. Those new regulations provided that multi-county programs could look to their State Bar associations to make appointments, where appropriate. [Board Book, Tab 15, Article 6, State Bar's Appointment Policies and Procedures.] The latest amendments to the Program were made in 1987. This agenda item proposes that the procedures be updated to streamline the process now that technology makes it possible to use expedited procedures to publicize available positions and to respond to the realities of the appointment procedures used by legal services programs. The staff of the Office of Legal Services has held meetings with all affected programs to obtain input from them, and recommends the proposal be adopted by the Board.

BACKGROUND

Legal aid programs funded by the Legal Services Corporation (LSC) are governed by 45 C.F.R. Section 1607 which sets out the process for appointments to boards of directors. Programs must have a specific percentage of board members named by local or state bar associations.

There are five LSC-funded legal services programs that have board members appointed by the State Bar of California:

- California Indian Legal Services
- California Rural Legal Assistance
- Legal Aid Foundation of Los Angeles

- Legal Aid Society of Orange County
- Legal Services of Northern California

When the State Bar established the procedures for making these appointments in 1983, there were transition requirements included in the guidelines, as well as specific time requirements for the amount of notice required to publicize the availability of board positions, the amount of time the legal services program had to review their applications, and other requirements that are now out of date.

Because it is much simpler and faster to publicize available positions through the internet, and because our decades of experience with these procedures have provided insight about where procedures have caused unnecessary roadblocks that have made it more difficult to ensure quality appointments to legal aid boards, this agenda item recommends the modifications described below.

The staff of the Office of Legal Services has held meetings with all affected programs to obtain input from them. Because these appointment procedures are Board policy and therefore this recommendation does not involve a rule change, no further public comment is required unless the Board Committee requests it.

SUMMARY OF KEY PROPOSED CHANGES:

1. Section 2 A – this section is proposed to be updated to remove the transition language that was necessary when these guidelines were originally promulgated in 1983.
2. Section 2 B – this section is proposed to be changed so as to include all information the program has to provide in one place, and to modify the components so that their structure is similar;
3. Section 5 – this section is proposed to be changed to add some flexibility in the reappointment process. Since many of these programs serve remote rural areas, they often have difficulty finding applicants with the skills and ability to serve, and sometimes programs are particularly challenged because their by-laws require board members from specific geographic areas, thereby limiting their ability to draw from a large pool of potential board members.
4. Section 6 – this section is proposed to be changed to reduce the amount of time required to publicize availability of positions, from a minimum of two months to one month.
5. Entire Article 6 – throughout the section, there are minor edits to update the references to specific State Bar offices and to otherwise update the guidelines.

FISCAL / PERSONNEL IMPACT:

None

BOARD BOOK /ADMINISTRATIVE MANUAL IMPACT:

The Board Book topics affected by the proposed changes will be updated accordingly. The Administrative Manual will not be impacted. [See Board Book, Tab 15, Article 6, Sections 1-2, and 4-9, pp. 19 – 22].

RULE AMENDMENTS:

None.

RECOMMENDATION

Staff recommends that the Guidelines for Legal Aid Board Appointments be updated and simplified, as described in Attachment A.

PROPOSED BOARD COMMITTEE RESOLUTION:

Should the Nominations and Appointments Committee agree with the above recommendation, the following resolution would be appropriate:

RESOLVED, that the Nominations and Appointments Committee recommends that the Board approve the recommended change in the procedures for Legal Aid Board Appointments, in the form attached, effective immediately; and it is

FURTHER RESOLVED, Nominations and Appointments Committee recommends to the Board of Trustees that it authorize staff to implement this resolution.

PROPOSED BOARD OF TRUSTEES RESOLUTION:

Should the Board concur with the Nominations and Appointments Committee's recommendation, the following resolutions would be in order:

RESOLVED, that upon the recommendation of the Nominations and Appointments Committee, the Board hereby approves the recommended change in the procedures for Legal Aid Board Appointments, in the form attached, effective immediately; and it is

FURTHER RESOLVED, that the Board authorizes staff to implement this resolution.