

AGENDA ITEM

54-112 NOVEMBER

DATE: November 14, 2013

TO: Members, Board Committee on Operations
Members, Board of Trustees

FROM: Starr Babcock, General Counsel

SUBJECT: State Bar Rules Revision, Non-Material Edit, Removal of
Appendix C: Correspondence of Old Rules to New Rules by
Number

EXECUTIVE SUMMARY

This memorandum identifies non-material editorial changes needed for Appendix C of the Rules of the State Bar. Public comment is not required for such changes.

Board members with any questions may contact Starr Babcock at (415) 538-2070 or starr.babcock@calbar.ca.gov or Mary Yen at (415) 538-2369 or mary.yen@calbar.ca.gov.

BACKGROUND

State Bar Rule 1.10 [Public comment], subsection (B)(1), provides that public comment is not required for changes to State Bar Rules that “correct clerical errors; clarify grammar; improve organization; conform to specific changes in a law; update references or citations; or make similar editorial changes.”

As provided in State Bar Rule 1.5(I), the State Bar Rules include four Appendixes. Appendix C is a correspondence table of new rules to old rules by number. Appendix D deals with the subject of challenge to mandatory membership fees.

ISSUE

Should the Board of Trustees direct staff to remove State Bar Rules Appendix C, New to Old Rules by Number, and then re-designate current Appendix D, Challenge to Mandatory Membership Fees, as Appendix C?

CONCLUSION

State Bar Rules Appendix C, New to Old Rules by Number, should be removed and current Appendix D, Challenge to Mandatory Membership Fees, should be designated as Appendix C.

DISCUSSION

When the Board of Trustees first adopted revised rules in 2006, Appendix C was added to help readers familiar with the old rules readily locate corresponding new rules. The rules revision project encompassed revision of over two dozen sets of program rules and began with the membership rules, which are now in Title 2, Rights and Responsibilities of Members. Of all State Bar Rules, the membership rules arguably have the broadest audience. Because the rules revision project has been under way for seven years, the vast majority of the old rules have not been used or published for some time and there is no longer a need to maintain the table in Appendix C with its cross-references.

Removal of Appendix C is considered an editorial change since the deletion will not affect any duties, responsibilities or rights. Accordingly, the deletion of Appendix C and re-designation of Appendix D amount to an editorial change for which no period of public comment is required.

FISCAL / PERSONNEL IMPACT:

None.

RULE AMENDMENTS:

Remove current Appendix C, New to Old Rules by Number, and designate Appendix D, Challenge to Mandatory Membership Fees, as Appendix C.

BOARD BOOK IMPACT:

None known.

RECOMMENDATION

The Board of Trustees should direct staff to remove State Bar Rules Appendix C, New Rules to Old Rules by Number and re-designate Appendix D, Challenge to Mandatory Membership Fees, as Appendix C, without a period of public comment.

PROPOSED BOARD COMMITTEE RESOLUTION:

Should the Board Committee on Operations agree with the above recommendation, the following resolution would be appropriate:

RESOLVED, that no period of public comment being required, the Board Committee on Operations recommends that the Board of Trustees direct staff to remove State Bar Rules Appendix C, New to Old Rules by Number, and to re-designate Appendix D, Challenge to Mandatory Membership Fees, as Appendix C.

PROPOSED BOARD OF TRUSTEES RESOLUTION:

Should the Board concur with the Board Committee on Operations recommendation, the following resolution would be in order:

RESOLVED, that no period of public comment being required and upon the recommendation of the Board Committee on Operations, the Board hereby directs staff to remove State Bar Rules Appendix C, New to Old Rules by Number and to re-designate Appendix D, Challenge to Mandatory Membership Fees, as Appendix C.