



The State Bar of California

2021 Annual Report of the California Board of Legal Specialization

January 1, 2021 – December 31, 2021

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Points of view or opinions expressed in this document are those of the author(s). They have not been adopted or endorsed by the State Bar's Board of Trustees and do not constitute the official position or policy of the State Bar of California.

BACKGROUND

Beginning in 1987, an annual report on the Legal Specialization program was produced every year and shared with the State Bar's Board of Trustees, the California Supreme Court, and the public to advise all parties of the program status.

The practice of presenting an annual report to the Board of Trustees or Supreme Court ended in 2014, however, the California Board of Legal Specialization (CBLs) approved updating the annual report each year to document and preserve historical data for the program.

THE PROGRAM FOR CERTIFYING LEGAL SPECIALISTS

The California Rules of Court, rule 9.35 require the State Bar of California to establish and administer a program that would allow attorneys to earn the designation of certified specialist in particular areas of law. The dual purposes of the legal specialization program are to increase public protection and to promote attorney competence.

The program was the first of its kind and has served as a model for other state programs for certifying legal specialists around the United States.

Following the adoption by the Supreme Court of rule 9.35, the State Bar developed the following regulatory structure:

- Rules of the State Bar, The Legal Specialization Rules, Title 3, Division 2, Chapter 2, and the Approval to Certify Legal Specialists, Title 3, Division 5, Chapter 4, ("Rules"), contain the framework for program operations; and
- Standards ("Standards") for Certification and Recertification provide requirements for certification and recertification in each of the 11 legal specialty areas¹.

The program for certifying legal specialists is fully self-supporting. As a result, program costs are paid for by annual fees paid to the program, as well as certification, recertification, education provider, and accreditation fees. The program does not receive any State Bar of California General Fund revenue.

The general requirements to become a certified specialist include:

- passage of a written one-day examination in the certified legal specialty area;
- having practiced law for at least five years, spending at least twenty-five percent of the time given to occupational endeavors practicing law in the specialty area;

¹ The Standards, adopted by the Board of Trustees in the same manner the Rules of the State Bar are adopted, are available on the State Bar's website alongside the rules. See <http://www.calbar.ca.gov/Attorneys/Conduct-Discipline/Rules/Rules-of-the-State-Bar/Title-3-Programs-and-Services>.

- completion of continuing education in the area of specialty greater than that required of the general licensees of the Bar;
- demonstration of broad-based and comprehensive experience in the certified legal specialty area; and
- favorable evaluation by other attorneys and judges familiar with the attorney's work in the certified legal specialty area of law.

Certification is valid for a five-year period. Once certification is received, all specialists must continually meet the following three requirements and schedules to maintain certification:

- pay the \$360 Legal Specialization Program annual fee each year;
- complete a heightened education requirement by reporting 36 hours of Legal Specialist Continuing Legal Education (LSCLE) every three years; and
- demonstrate that they have continued to meet task and experience requirements similar to those for initial certification by applying for recertification every five years.

Certified specialists are not required to take the examination in order to maintain certification, however, if any requirement above is not met, certification may lapse regardless of the five-year certification term end date.

HISTORY

The program for certifying legal specialists was established to:

- give consumers an independent means to verify an attorney's qualifications and experience in a specialty area of law.
- encourage attorney competence through the development of continuing legal education (CLE) programs. Specialists were required to take CLE in their areas of practice long before the inception of the MCLE requirement for all bar licensees. Even now, the CLE requirement of 36 hours in the specialty field for certified specialists is significantly higher than the general State Bar of California requirement of 25 hours.

TIMELINE

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| 1970 | California became the first state to establish a system for certifying legal specialists. Based on a proposal by the Committee on Legal Specialization, the State Bar Board of Trustees adopted a Pilot Program to develop through experience the most feasible and useful certification program. |
| 1972 | The California Supreme Court approved the Pilot Program, which certified specialists in Criminal Law, Taxation Law, and Workers' Compensation Law. |

- 1973 The Program administered its first examinations in Criminal Law, Taxation Law, and Workers' Compensation Law.
- 1979 Family Law was added to the Pilot Program.
- 1984 The Board of Trustees voted to recommend that the Supreme Court make the State Bar of California Program for Certifying Legal Specialists (hereafter, "Program") permanent.
- 1985 The California Supreme Court approved the Program.
- 1986 Immigration & Nationality Law was added to the Program.
- 1988 Estate Planning, Trust & Probate Law was added to the Program.
- 1993 Personal & Small Business Bankruptcy Law was added to the Program.
- 1994 Based upon a proposal by the California Board of Legal Specialization ("CBLs") to streamline and standardize what had become an overly complex certification process, the Board of Trustees requested that the California Supreme Court repeal the Program and adopt new rule of court 983.5² [Certifying Legal Specialists], an enabling rule authorizing the State Bar to adopt rules to establish and administer a program for certifying legal specialists.
- The Board of Trustees also approved new program rules and revised standards for certification and recertification in each specialty area.
- 1995 The Supreme Court repealed the Program and adopted Rule 983.5 pursuant to the recommendation of the Board of Trustees.
- Appellate Law was added to the Program.
- 1996 Rule 983.5 and the new program rules and revised standards went into effect on January 1.
- 1997 The Program rules and standards were revised again effective June 1. The changes were the result of an ongoing effort to make application and certification processes efficient and cost-effective. For the most part, the changes were "housekeeping" amendments aimed at providing answers to the most frequently asked questions about the Program, incorporating past administrative practices, and making other changes based upon the State Bar's experience operating the Program.

² The Court renumbered the rule as 9.35 effective January 1, 2007

New Rule of Professional Conduct 1-400(D)(6)³, approved by the Supreme Court on November 25, 1996, also became effective on June 1, 1997. The rule prohibited a licensee from advertising as a "certified specialist" unless the licensee is certified either by the California Board of Legal Specialization or by an entity accredited by the State Bar to designate specialists pursuant to standards adopted by the Board of Trustees (the accreditation standards became effective on June 1 as well). The rule also requires the licensee to state the complete name of the entity that granted certification.

The National Board of Trial Advocacy's certification programs in civil and criminal trial advocacy were accredited by the State Bar.

- 1998 The American Board of Certification's programs in business bankruptcy law, consumer bankruptcy law, and creditor's rights law and the National Elder Law Foundation's certification program in elder law were accredited by the State Bar.
- 1999 The National Board of Trial Advocacy's certification program in family law trial advocacy was accredited by the State Bar.
- 2002 The American Board of Professional Liability Attorneys' certification programs in accounting, legal malpractice, and medical malpractice were accredited by the State Bar.
- 2003 The Program rules and standards were revised effective January 1. There were two significant changes to the rules: (1) an increase from three to five in the number of years during which the percentage of practice requirement applies; and (2) the addition of criteria relating to discipline and professional negligence that may be used in evaluating an applicant's proficiency and ethics, and the imposition on the applicant of a duty to disclose such criteria within a given time frame.
- 2004 The Program rules were revised effective July 24 to (1) allow suspension and revocation of certification based on non-disciplinary regulatory actions; (2) give voting rights on the CBLS to all advisory commission chairs (prior to the change, only six of the eight chairs voted on a rotating basis); and (3) allow release of confidential information on an applicant's file to the Office of Chief Trial Counsel, which represents the CBLS when an applicant appeals the denial of his or her certification or recertification, without first having to request approval from the Board of Trustees. The Appellate Law Standards were also revised to clarify the education requirement.

Effective September 11, the name of the Personal & Small Business Bankruptcy Law certified specialty was changed to Bankruptcy Law.

³ The Court renumbered the rule as 7.4 effective November 1, 2018

- 2005 The National Association of Counsel for Children’s certification program in juvenile law (child welfare) was accredited by the State Bar.
- Effective October 22, the Program rules were revised to extend the approval period for Legal Specialist CLE single activities to two years, and for approved multiple activity providers to three years. This change conforms the approval periods to those for MCLE activities and providers.
- 2006 Franchise & Distribution Law was added to the Program.
- 2007 The National Board of Trial Advocacy’s program in social security disability advocacy was accredited by the State Bar.
- 2008 Admiralty & Maritime Law and Legal Malpractice Law were added to the Program.
- 2009 The Program administered its first legal specialist examinations for Admiralty & Maritime Law and Legal Malpractice Law.
- 2010 Alternate certification criteria were issued for Admiralty & Maritime Law.
- 2011 The Program began an evaluation process to increase efficiency through improved use of technology. The first project adopted was paperless meeting technology for the CBLS and its advisory commissions.
- 2012 The Program pioneered new examination development and grading procedures to streamline the process while preserving the quality of the examinations.
- 2013 Revised program rules were adopted to conform to State Bar style and with current standards of practice to ensure consumer protection. Examination registrations increased over 20 percent.
- 2014 Revised program rules went into effect on January 1.
- In accordance with the revised program rules, a new governance structure was implemented, which increased the length of terms for members of the CBLS from three years to four years, eliminated the advisory commission chairs as one-year members and decreased the size of the CBLS to fifteen members.
- 2016 The Program prepared to modernize IT infrastructure and evaluate future options for examination delivery.
- 2017 The Program administered the largest examination to date. It also began the process of investing reserves, including funding a one-time annual fee waiver, funding a

reduction examination in fees, hiring a vendor to create a new computer system, and beginning work on an improved examination bank.

The Board of Trustees approved an updated process and fee schedule for approval of Legal Specialist Continuing Legal Education (LSCLE)⁴.

2018 The Board of Trustees approved affirmatively to retain the program for certifying legal specialists, but directed steps to streamline its operations⁵.

2019 In conjunction with the Office of Admissions, the Program launched a new computer system, the Admissions Information Management System (AIMS), to significantly improve the applicant experience in registering with the State Bar and the legal specialization program.

Title 3, Division 2, Chapter 2 (Legal Specialization) of the State Bar Rules were updated to revise the responsibilities of the CBLs consistent with the Board of Trustees' 2018 direction, and discontinued with the eleven advisory commissions.

The Program developed a Legal Specialization Examination Development and Grading (LSEDG) team to professionalize the development and grading of test questions and administered its first examination using this approach.

2020 The Program released Legal Specialist Examination results electronically through the Admissions Applicant Portal for the first time.

The Program, along with the entire State Bar, transitioned to a remote work environment in response to the coronavirus pandemic.

2021 The Program successfully conducted its first remotely-administered examination. This exam was also the first exam since 2015 that saw at least one applicant in each of the 13 specialty area exams.

The CBLs approved exploring with a group of subject matter experts creating a new legal specialization area in Privacy Law.

⁴ The recommendation, adopted by the Board of Trustees at its July 13, 2017 meeting, is available on the State Bar's website. See <http://board.calbar.ca.gov/Archive.aspx>

⁵ The recommendation, adopted by the Board of Trustees at its September 13, 2018 meeting, is available on the State Bar's website. See <http://board.calbar.ca.gov/Archive.aspx>.

NUMBER OF CERTIFIED SPECIALISTS

The following table provides the number of specialists by specialty area as of December 31 in each of the last five years:

Specialty Area	Number of Certified Specialists				
	2017	2018	2019	2020	2021
Admiralty & Maritime Law	38	36	35	29	27
Appellate Law	316	310	316	317	310
Bankruptcy Law	166	166	171	170	160
Criminal Law	420	339	336	335	326
Estate Planning, Trust & Probate Law	1,019	1,043	1,064	1,072	1,059
Family Law	1,423	1,372	1,379	1,368	1,357
Franchise & Distribution Law	52	53	51	51	47
Immigration & Nationality Law	200	214	224	239	232
Legal Malpractice Law	93	96	109	112	105
Taxation Law	317	324	313	310	292
Workers' Compensation Law	991	1,073	1,010	1,041	1,008
TOTAL	4,768	5,142	4,973	5,054	4,923

JUDICIAL SERVICE

Certified specialists engaged in judicial service (those serving as judges of courts of record or in a quasi-judicial capacity, such as court commissioners or referees) are allowed under program rules to have their certification “tolled.” This tolls all requirements while they are serving as neutrals rather than advocates. The Program is honored to have 251 certified specialists who are currently engaged in judicial service. Among them are 84 certified specialists in family law, 77 in criminal law, 57 in workers’ compensation law, 13 in appellate law, 7 in immigration and nationality law, 5 in estate planning, trust and probate, 4 in taxation law, 2 in legal malpractice law, 1 in bankruptcy law, and 1 is a dual specialist in family law/estate planning, trust and probate law. This year saw the largest increase in specialists engaged in judicial service compared to recent years, where the last increase was from 2018 with 231, that increased to 237 in 2019 and 2020.

BUDGET/FISCAL MATTERS

The Program is self-supporting. It is funded entirely by fees collected from applicants, certified specialists, education providers, and accredited organizations. The Program is not subsidized by licensee fees or other general fund revenues collected by the State Bar of California.

For 2021, total revenues were \$2,468,679 Total expenses for the program were \$1,756,078. In 2020, total revenues were \$2,361,364, and total expenses were \$1,081,045. Expenditures are expected to rise in 2022 as the program builds and implements its exam item banking solution, which had been delayed from prior years.

SUBJECT MATTER EXPERTS ARE CRITICAL TO THE PROGRAM'S SUCCESS

The Program is overseen by the CBLS with support from specific groups of subject matter experts, while day-to-day operations are handled by the Office of Admissions staff. Admissions staff continually seek specialists to participate as CBLS members, as paid graders, or exam developers, or, to serve as consultants on working groups, supporting the CBLS.

CALIFORNIA BOARD OF LEGAL SPECIALIZATION (CBLS)

The CBLS, appointed by the Board of Trustees, recommends new certified specialty areas and modifications to existing certified legal specialty areas to the Board of Trustees, and acts upon the recommendations of staff for approval or denial of certification and recertification. The Board of Trustees appoints a Chair and Vice-Chair to lead the CBLS.

The CBLS is composed of seven members, up to two of whom may be public members. The attorney members are a combination of certified specialists and non-specialists. In addition to the ongoing membership⁶, appointments for the 2021-2022 committee year beginning September 10, 2021: Mark A. Lester (certified specialist in Estate Planning, Trust & Probate Law) is serving as Chair; Natalie P. Vance (certified specialist in Legal Malpractice Law) is serving as Vice-Chair; and newly appointed Michael D. Lee (certified specialist in Bankruptcy Law), is serving a four-year term. The CBLS met virtually throughout the year, as COVID restrictions limited in-person meetings, and technology advanced conducting remote meetings.

LEGAL SPECIALIZATION WORKING GROUPS

Legal Specialization Working Groups are groups of specialists in their certified area of law that volunteer to assist staff in the review of complex certification and recertification applications. Working Groups also conduct the final review of the Legal Specialist Examination before each administration.

⁶ The full CBLS roster for State Bar year 2021-2022 is provided in Appendix A of this report.

LEGAL SPECIALIST EXAMINATION DEVELOPMENT & GRADING (LSEDG) TEAM

The LSEDG Team is comprised of experts in exam development and specialists in their certified area of law. They are tasked to develop and grade the Legal Specialist Examination (LSX). LSEDG Team roles are all paid positions, and it is made up of Exam Consultants, Exam Developers, Pretesters, and Exam Graders.

LEGAL SPECIALIZATION CONSULTING GROUPS

From time to time, consulting groups are appointed by the CBLS on an ad hoc basis to develop and make recommendations on certification standards for potential new certified legal specialty areas. At its September 2021 meeting, the CBLS approved conducting additional research to explore establishment of a legal specialization in Privacy Law. The Privacy Law Group is expected to be appointed in 2022.

ACTIVITIES OF THE PROGRAM

CONTINUING LEGAL EDUCATION

Legal Specialist Continuing Legal Education (LSCLE) Compliance

This program piloted the idea of requiring continuing education for attorneys long before there were general Minimum Continuing Legal Education (MCLE) requirements. The Program encourages the creation of high-level educational courses that provide life-long learning for both new and experienced practitioners.

Applicants for certification are required to complete 45 hours of approved education activities during the three years immediately preceding submission of their application for initial certification. To maintain certification, specialists must complete and report 36 hours of LSCLE in the substantive area of their certified legal specialty during each three-year compliance period. The compliance period for each specialist matches his or her MCLE compliance period, and all specialists are responsible to complete MCLE, including the special subject requirements (although most LSCLE credit can be counted toward the MCLE compliance requirements as well).

LSCLE Activity Providers

The CBLS is authorized to approve providers of education programs to confer LSCLE approved education for a period of up to three years. To qualify as a Multiple Activity Provider (MAP), the provider must demonstrate that, in the two years immediately preceding its application, the provider presented at least four qualifying education programs that complied with the requirements for educational program content. As with MCLE MAP status, LSCLE MAP status allows providers to offer an unlimited number of substantively relevant programs for legal specialization credit in the approved area of law for the three-year period.

EXAMINATIONS

The Legal Specialist Examination (LSX) is administered in odd years during the month of October. The LSX was administered on October 22, 2021 largely online to 456 applicants. In-person testing was available to applicants who had extenuating circumstances or received testing accommodations that could not be administered remotely. In-person testing was available in Culver City for applicants in Southern California, and in Burlingame for applicants in Northern California. Results were released to all applicants on March 11, 2022.

ACCREDITATION OF SPECIALTY CERTIFICATION PROGRAMS FOR ATTORNEYS

Rule of Professional Conduct 7.4 prohibits a licensee from advertising as a "certified specialist" unless the licensee is certified by the CBLS or another entity accredited by the State Bar to designate specialists pursuant to standards adopted by the State Bar Board of Trustees and the name of the certifying entity is clearly identified in the communication. The following certification programs have been accredited pursuant to the Rules Governing Accreditation of Specialty Certification Programs for Attorneys⁷:

Certifying Organization	Certification Program(s)	# of CA Attorneys Certified
American Board of Certification	Business bankruptcy law	27
	Consumer bankruptcy law	18
	Creditors' rights law	4
American Board of Professional Liability Attorneys	Legal professional liability	7
	Medical professional liability	27
National Association of Counsel for Children	Juvenile law (child welfare)	190
National Board of Trial Advocacy	Civil trial advocacy	70
	Criminal trial advocacy	10
	Family law trial advocacy	6
	Social Security disability law	6
National Elder Law Foundation	Elder law	30
	TOTAL	395

PUBLIC PROTECTION

In line with the State Bar's mission to protect the public, the Program encourages attorney competence and provides consumers with an independent means to verify an attorney's

⁷ Rules of the State Bar, Title 3, Division 5, Chapter 4-Approval to Certify Legal Specialists.

qualifications through certification. To further support the mission, this is promoted by sharing the benefits of certification to consumers through:

- expanded outreach and communications to the public through the State Bar's social media platforms;
- publication of consumer pamphlets that certified specialists and others can use to communicate the meaning of a certified legal specialization and how it can help consumers; and
- distributing information about certification at attorney conferences to provide new attorneys with guidelines to allow them to prepare for certification.

CBLS LOGO

The CBLS logo is registered as a certification mark with the U.S. Patent and Trademark Office. Certified specialists may use the logo⁸ in their advertising instead of, or in addition to, spelling out "The State Bar of California Board of Legal Specialization."



Use of the logo is intended to present a consistent, identifiable image for specialization apart from general Bar licensure to help consumers identify those who took the steps to earn and maintain certification. The trademark registration was renewed successfully in 2014, providing consumers with an official, consistent means to identify a certified specialist.

STAFF

The CBLS is supported by State Bar staff within the Office of Admissions. The day-to-day operations of the program performed by staff include processing applications for certification and recertification, as well as applications to provide LSCLE activities. Staff responsibilities also include answering inquiries about the program from the public and licensees of the State Bar, providing administrative support to the CBLS, working groups, LSEDG, and consulting groups, and maintaining the Legal Specialization website.

TECHNOLOGY

LEGAL SPECIALIZATION WEBSITE

Public information about the Program is maintained on the State Bar of California website at www.calbar.ca.gov/attorneys/legal-specialization. Additionally, the website allows the public to search for certified specialist by area of law and geographic location, both from the State Bar Attorney Search function, and from the Legal Specialization website. Attorneys interested in becoming certified as specialists can use this site to learn about the Program's rules and regulations, the standards for certification, and the general application process.

⁸ Rules of the State Bar, rule 3.126 provides that, "Certification may be indicated by "Certified by The State Bar of California," the logo of the certified specialization program, or both."

ADMISSIONS APPLICANT PORTAL

The Admissions Applicant Portal (Applicant Portal) is part of the Office of Admissions' case management system and has significantly improved the applicant experience in the administration of the Program. The Applicant Portal moved most of the Program's paper processes onto an electronic platform. Licensees can register for the Legal Specialist Examination, apply for initial certification or recertification, report LSCLE Compliance, or submit other legal specialization requests online. Applicants can also track the status of pending applications or requests online. Current certified specialists can find their initial certification dates, current certification terms, LSCLE compliance dates, and payment history, all of which weren't previously readily available to specialists.

FOCUS FOR THE UPCOMING YEAR

During this reporting period of January 1, 2021 to December 31, 2021, the CBLS identified as its focus the goal of expanding program capacity in furtherance of the Program's role of protecting the public. To meet this goal, for the upcoming year, the CBLS will be exploring:

- Legal Specialist Examination rules, processes, and efficiencies.
- Additional areas of legal specialization and related certification standards.
- Identifying other entities to grant certification.

APPENDIX A

ROSTER OF SUBJECT MATTER EXPERTS FOR THE LEGAL SPECIALIZATION PROGRAM

Board Year 2021-2022

California Board of Legal Specialization

Mark A. Lester	Chair	Camarillo
Natali P. Vance	Vice Chair	Sacramento
Norma L. Acosta	Member	San Jose
Jeffrey T. Hammerschmidt	Member	Fresno
Michael D. Lee	Member	San Jose
Avi Levy	Member	West Hollywood
Jake Yoon*	Member	Inglewood

**Public Member*

APPENDIX B

LEGAL SPECIALIZATION

2021 State Bar Staff Providing Support to the California Board of Legal Specialization

Legal Specialization Program

Amy C. Nuñez	Director	Admissions
Audrey Ching	Program Director I	Admissions
Lisa J. Cummins	Program Manager III	Admissions
Jean Krasilnikoff	Attorney III	General Counsel
Janese Bodin	Staff	Legal Specialization
Latrell Cabrigas	Staff	Legal Specialization
Janelle Delacruz	Staff	Legal Specialization
Adrian Galang	Staff	Legal Specialization
Ana Moreno	Staff	Legal Specialization