

First Supplement to Memorandum 2000-80

Law Library Board of Trustees: Comments of Shirley David

Shirley David (Director, Sacramento County Public Law Library) has reviewed the staff draft recommendation and provided the attached comments. Her comments focus on proposed Business and Professions Code Section 6301(d), which would define “a member of the bar of the county” for purposes of the statute:

(d) As used in this section, “a member of the bar of the county” means a member of the State Bar who resides in or regularly practices law in the county.

Comment. ...[S]ubdivision (d) is added to clarify that an attorney need not belong to a county bar association to serve on a law library board. It is also unnecessary for the attorney’s principal law office to be located in the county. It is sufficient if the attorney resides in the county or regularly practices law in the county.

Ms. David is concerned that this definition is too narrow.

She explains:

The Sacramento county seat is across the Sacramento River from Yolo County. We have a very committed chair of the Sacramento County Bar Association Law Library committee who is corporate legal counsel for a company whose headquarters is one mile from the Sacramento County Law Library, in Yolo County. Her home is in Yolo County. She has volunteered countless hours to the Sacramento County Public Law Library reviewing contracts, and garnering Sacramento County Bar Association support for library proposals. She would make an excellent library board member should a vacancy occur.

I am concerned that she might not be appointed to the library board because she might not be considered to “regularly practice law in the county.” She has, however, shown her commitment to the local legal community by belonging to the county bar association.

Ms. David suggests revising the proposed definition of “a member of the bar of the county” to include a member of the county bar association.

Previously, however, Ms. Lutke (Director, San Mateo County Law Library) wrote that

several attorneys from San Mateo County have recently moved to Colorado, yet they retain their membership in the San Mateo County Bar Association. Technically, they could be appointed to a county law library board, as they are members of the local bar. However, residency in another state would very likely limit one's active participation on a law library board.

(Memorandum 2000-80, Exhibit p. 1.)

How can the concerns expressed by Ms. Lutke and Ms. David be effectively reconciled? On the one hand, Ms. Lutke is correct that a law library trustee should be available to attend meetings and responsive to the needs of the county. Membership in a county bar association does not guarantee this, particularly because, as Ms. Lutke points out, an attorney can move out-of-state yet retain such membership. On the other hand, the definition of "a member of the bar of the county" should be broad enough to permit selection of a highly capable person involved in the local community (such as the woman Ms. David describes), even if that person does not live in the county or regularly practice law in the county. Moreover, although there may be members of a county bar association who would not be effective trustees, there may also be attorneys who reside in the county or regularly practice in the county who would not be effective trustees (e.g., an attorney who is too busy to devote the necessary effort to serve as a trustee). These persons can be weeded out through the selection process: They may be technically eligible to serve as trustees, but the local trial judges and board of supervisors are likely to select more suitable candidates instead.

Thus, the staff sees no harm in, and potential benefits from, broadening proposed Section 6301(d) along the following lines:

(d) As used in this section, "a member of the bar of the county" means a member of the State Bar who resides in or regularly practices law in the county, or belongs to a bar association of the county.

Comment. ...[S]ubdivision (d) is added to clarify that an attorney need not belong to a county bar association to serve on a law library board. It is also unnecessary for may serve as a law library trustee even if the attorney's principal law office to be is not located in the county. It is sufficient if the attorney belongs to the

State Bar and resides in the ~~county~~ or county, regularly practices law in the county, or belongs to a bar association of the county.

We would refer to “a bar association of the county,” rather than “the county bar association,” because in some counties it may be unclear which of several local bar associations is “the county bar association.”

Respectfully submitted,

Barbara S. Gaal
Staff Counsel

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December 12, 2000

Barbara Gall
 California Law Revision Commission
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 Palo Alto, CA 94303-4739

Dear Ms. Gall:

I have read the staff draft recommendation Law Library Board of Trustees dated December 2000. I understand that the staff drafted additional language to the code section at the direction of the Law Revision Commission at the October 2000 meeting. Staff was asked to define "member of the bar of the county" in section 6301.

The draft language is: 6301(d) As used in this section." a member of the bar of the county" means a member of the State Bar who resides in or regularly practices law in the county.

I recommend that the language be further amended to read: 6301(d) As used in this section." a member of the bar of the county" means a member of the State Bar who resides in or regularly practices law in the county or is a member of the county bar association.

The Sacramento county seat is across the Sacramento River from Yolo County. We have a very committed chair of the Sacramento County Bar Association Law Library committee who is corporate legal counsel for a company whose headquarters is one mile from the Sacramento County Law Library, in Yolo County. Her home is in Yolo County. She has volunteered countless hours to the Sacramento County Public Law Library reviewing contracts, and garnering Sacramento County Bar Association support for library proposals. She would make an excellent library board member should a vacancy occur.

I am concerned that she might not be appointed to the library board because she might not be considered to "regularly practice law in the county." She has however, shown her commitment to the local legal community by belonging to the county bar association.

Please bring my recommendation to the Law Revision Commission when it meets on December 15, 2000.

Sincerely,

Shirley H. David