

AGENDA ITEM

NOV 2015

DATE: November 4, 2015

TO: Members, Regulation and Discipline Committee

FROM: Douglass Hull, Director Mandatory Fee Arbitration

SUBJECT: Proposed Modifications to Rules of Procedure for Fee Arbitrations For the Desert Bar Association

EXECUTIVE SUMMARY

This agenda item is before your Committee to approve the proposed amendments to the Rules of Procedure For Fee Arbitrations for the Desert Bar Association, as set forth in Attachment A.

The State Bar's Committee on Mandatory Fee Arbitration ("CMFA") has reviewed the proposed changes and determined they comport with the Minimum Standards and Guidelines for the Operation of Mandatory Fee Arbitration Programs ("Minimum Standards") as approved by the State Bar Board of Trustees.

Any questions about this item should be directed to Director Douglass Hull (415) 538-2015 or doug.hull@calbar.ca.gov.

BACKGROUND

Pursuant to Business and Professions Code section 6200(d), local bar associations are authorized to sponsor mandatory fee arbitration programs. The programs' local rules of procedure must comply with the Business and Professions Code 6200-6206¹ and the Minimum Standards. Approval by the Board of Trustees gives the local bar programs jurisdiction to arbitrate fee disputes submitted under the auspices of the Mandatory Fee Arbitration Program ("MFA") (Minimum Standards, para. 1) and provides fee arbitration program staff, directors and volunteer arbitrators the same immunity which attaches in judicial proceedings (Bus. & Prof. §6200(f)).

¹ B&P 6200(d) requires that: "Rules of procedure promulgated by local bar associations are subject to review by the board or a committee designated by the board to ensure that they provide for a fair, impartial, and speedy hearing and award."

DISCUSSION

The Desert Bar Association (“DBA”) conducts fee arbitrations pursuant to rules authorized by the Bus. & Prof. Code 6200 eq. seq. and the State Bar of California. The DBA MFA program has been in existence for over 20 years. The last revision to the rules occurred in 2010 when the State Bar Board of Governors (now Trustees) approved the modifications to the rules.

The DBA seeks to modify their rules of procedure in the following ways: spelling out references to statutes, rules and codes, modifying the filing fee structure and increasing the maximum filing fee amount from \$1,000 to \$5,000.

The CMFA reviewed the DBAs proposed changes to their rules and found them to be in compliance with the State Bar’s Minimum Standards and Guidelines for the Operation of a Mandatory Fee Arbitration Programs (“Minimum Standards”). The CMFA recommends that RAD approved the modifications to the Rules of Procedure For Fee Arbitrations for the Desert Bar Association attached hereto as Attachment A.

FISCAL/PERSONNEL IMPACT

None.

RULE AMENDMENTS

None.

BOARD BOOK IMPACT

None.

BOARD COMMITTEE RECOMMENDATIONS

Should the Regulation, Admissions and Discipline Oversight agree with the above recommendation, the following resolution would be appropriate:

RESOLVED, that the Regulation and Discipline Committee approve the proposed amendments to the Rules of Procedure for Fee Arbitrations for the Desert Bar Association in the form attached hereto as Attachment A as being in compliance with the Business and Professions Code section 6200-6206 and the Guidelines and Minimum Standards for the Operation of Mandatory Fee Arbitration Programs.

ATTACHMENT(S) LIST

- A.** Proposed modifications to Desert Bar Association Rules of Procedure for Fee Arbitrations