

AGENDA ITEM

123 MAY

DATE: April 13, 2012

TO: Members, Regulation, Admissions and Discipline Oversight
Members, Board of Trustees

FROM: Robert Hawley, Deputy Executive Director

SUBJECT: Discipline Costs –Amendment to Board Resolution

EXECUTIVE SUMMARY

At its January 2011, Board meeting, the Board approved an updated cost formula for assessing discipline costs against attorneys found culpable of disciplinary violations in all matters in which a notice of disciplinary charges or a pre-notice stipulation has been filed. In response to the State Auditor's recommendations, the Board also approved a method for adjusting the cost formula automatically to remain current with inflation. These changes became effective January 2012. Staff has recently determined that an amendment to the Board's prior resolution is necessary to include matters initiated by a criminal conviction of a member of the State Bar.

BACKGROUND

The State Bar is authorized to collect costs of disciplinary proceedings from respondent attorneys found culpable of disciplinary offenses. At its January 2011, Board Meeting, the Board approved an updated cost formula for assessing discipline costs. (See Agenda Item, January 122, attachment A). The resolution that was adopted allowed updated costs in all matters in which a notice of disciplinary charges or a pre-notice stipulation pursuant to Rules 132-135, Rules of Procedure of the State Bar, is filed.

Once staff began implementation of the updated cost formula, it was determined that the additional case type, criminal conviction matters, should also have been included in the resolution. Conviction proceedings are initiated in the Review Department of the State Bar Court when the Office of the Chief Trial Counsel files a certified copy of the record of conviction of a member of the State Bar of California.

ISSUE

Before the Board for approval and adoption is the recommendation that criminal conviction matters be added as an additional case type in which the discipline cost formula should be updated.

CONCLUSION

In addition to a notice of disciplinary charges, and pre-notice stipulations, criminal conviction matters is an additional case type which initiates the disciplinary process and therefore discipline costs associated with these types of cases should also be updated.

DISCUSSION

See above in Background.

FISCAL / PERSONNEL IMPACT:

There is no personnel impact. There is no negative fiscal impact. There may be a potential positive revenue impact based upon the collection of costs under this formula

RULE AMENDMENTS:

Not applicable.

BOARD BOOK IMPACT:

Not applicable.

RECOMMENDATION

Approval and adoption of the amended resolution is recommended.

PROPOSED BOARD COMMITTEE RESOLUTION:

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

RESOLVED, that the Regulation, Admissions and Discipline Oversight recommends that the Board approve and adopt the amended resolution to include criminal conviction matters as part of the updated discipline cost formula; and it is

FURTHER RESOLVED, that the updated cost model apply to discipline costs assessed in all matters in which a criminal conviction proceeding is initiated pursuant to Rules 5.340-5.342, Rules of Procedure of the State Bar of California, filed on or after the Board's action this date.

PROPOSED BOARD OF TRUSTEES RESOLUTION:

Should the Board concur with the Regulation, Admissions and Discipline Oversight's recommendation, the following resolutions would be in order:

RESOLVED, that upon the recommendation of the Regulation, Admissions and Discipline Oversight, the Board hereby adopts the amended resolution to include criminal conviction matters as part of the updated discipline cost formula; and it is; and it is

FURTHER RESOLVED, that the updated cost model apply to discipline costs assessed in all matters in which a criminal conviction proceeding is initiated pursuant to Rules 5.340-5.342, Rules of Procedure of the State Bar of California, filed on or after the Board's action this date.