

# AGENDA ITEM

**DATE:** April 19, 2013

**TO:** Members, Regulation, Admissions and Discipline Oversight

**FROM:** Douglass Hull, Director, Mandatory Fee Arbitration

**SUBJECT:** Proposed Modifications to Contra Costa County Bar Association Rules for Procedure for Fee Arbitrations

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## EXECUTIVE SUMMARY

This agenda item is before your Committee to approve the proposed rule amendments to the Contra Costa County Bar Association ("CCCBA") Rules of Procedure For the Hearing of Fee Arbitrations & Mediations by the Contra Costa County Bar Association, as set forth in Attachment A.

The State Bar's Committee on Mandatory Fee Arbitration ("CMFA") has reviewed the proposed changes and has determined that 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](mailto:doug.hull@calbar.ca.gov).

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## 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 6200-6206 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 (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)).

CCCBA's rules were last approved in July 2012 by this committee. In March 2013, CCCBA submitted the proposed updates as outlined in this document and attached

hereto as Attachment A. New language is underlined and language to be deleted is stricken.

## ISSUE

In February, 2013, the CCCBA proposed modifications to their Rules of Procedure for handling fee arbitrations. The CMFA reviewed the proposed changes at their March 2013 meeting. The rule modifications were approved with the caveat that the CCCBA accept other changes recommended by the CMFA to help bring the rules into compliance with the Minimum Standards and Guidelines. The CCCBA accepted those modifications.

A summary of the approved rule changes is provided below:

Rule affected	Modification	CMFA Comments
1.C.	Updates the name of the Notice of Client's Right to Fee Arbitration form.	Recommended by the CMFA
3. C. (4)	Adds references to new rule 3.E. below.	A clean up item
3. D.	Defines the amount in dispute	Within the Minimum Standards
3. E.	Adds a procedure to amend the amount in dispute after filing	Within the Minimum Standards
3. K. (2.)	Clarifies the procedures if there is a failure of a party to appear at the hearing.	Within the Minimum Standards
4.A.	Defines who may serve as an arbitrator	This rule was taken directly from the State Bar Model Rules.
5. D. (1.)	Clarifies attorney's responsibility to provide clients with file and copies of all bills.	Within the Minimum Standards
5. E.	Gives the arbitrator ability to clarify issues not mentioned in the requests and subsequent documents.	Within the Minimum Standards
9. B. (4)	Defines in detail the confidentiality/privacy of award and files.	Within the Minimum Standards

**FISCAL / PERSONNEL IMPACT:**

None

**RULE AMENDMENTS:**

None

**BOARD BOOK IMPACT:**

None

**RECOMMENDATION**

The CMFA recommends that RAD approved the modifications to the Rules of Procedure For the Hearing of Fee Arbitrations & Mediations by the Contra Costa County Bar Association.

**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 Committee approves the proposed amendments to the Contra Costa County Bar Association Rules for Fee Arbitrations 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.